

**APPROVED MEETING MINUTES
PUBLIC CHARTER SCHOOL COMMISSION MEETING
THURSDAY, NOVEMBER 12, 2009
700 W. State Street, Boise, ID 83709
JRW Building, West Conference Room**

A meeting of the Idaho Public Charter School Commission (PCSC) was held on Thursday, November 12, 2009, at 700 W. State Street, JRW Building, West Conference Room, Boise, ID 83709. Chairman William Goesling presided.

The following members were in attendance:

Brad Corkill
Alan Reed

Gayle O'Donahue

Gayann DeMordaunt

Absent: Esther Van Wart

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

The meeting agenda stands as provided.

1. Commission Work

M/S (Reed/Corkill): To approve March 4, 2010, as the date and Boise, ID, as the location for the regular PCSC meeting to following the January 7, 2010, meeting. *The motion passed unanimously.*

M/S (Corkill/O'Donahue): To approve the minutes from August 14, 2009, as submitted. *The motion passed unanimously.*

2. Commission Discussion: Failure to Substantially Meet Measurable Student Educational Standards

3. Rolling Hills Public Charter School (RHPCS) Financial Update

Rick Hart, Chairmain of the Board for RHPCS; Dr. John Montgomery, Administrator; and Kurt Nailer, Counsel for RHPCS, represented the school for this update.

The students, parents, and teachers have been very happy with the environment this year. The main challenge for RHPCS has been financial. Enrollment declined to 230. The balance sheet as of the end of October presented to the PCSC shows a shortfall of \$67,111. RHPCS will increase enrollment and cut expenses to bring this number down. The three year budget projections use conservative enrollment numbers and show decreased shortfall.

Commissioner DeMordaunt commented that RHPCS has made a positive turnaround. Ms. DeMordaunt lives in the RHPCS community and recused herself from further discussion.

Commissioner Corkill asked when RHPCS is meeting with the bank and lease holder.

Mr. Hart said a meeting with the bank is scheduled for next week and he met with the lease holder on Monday evening, as well as talking to them again over the weekend. There should be a resolution within the next week and will make sure that the PCSC is kept informed of the outcome.

Commissioner O'Donahue asked where the growth in enrollment is coming from.

Mr. Hart said it was across the board. RHPCS is working on informing parents regarding school funding and the importance of the impact of attendance on funding.

Commissioner Reed asked if RHPCS has ever reached the original budget of 295 students and whether RHPCS has gotten more state funding than they should have received based on the 295 enrollment figure.

Tamara Baysinger, PCSC staff, said the July disbursement did go out for the estimated higher number of 295. The difference between that and the actual ADA will have to be made up from disbursements later in the year. The SDE did not anticipate that the school would end up owing the SDE, but rather that later disbursements would be lower to compensate.

Commissioner Reed did not see this reflected in the RHPCS budget, which creates a greater problem.

Mr. Hart said that RHPCS has been at enrollment of between 272 and 274. The 295 number was estimated before the school opened. Niki Crow has assured Mr. Hart that the reduction in SDE funds has been taken into consideration in budgets.

Commissioner O'Donahue asked where RHPCS would stand financially if staff and bank changes occurred, and enrollment does not change.

Mr. Hart said it would be break even or a slight shortfall. With the goal of renegotiation and a push for funding, Mr. Hart believes RHPCS will end in the black, or slightly in the red. Within the next couple of weeks, RHPCS will have a better picture of what to expect.

Dr. Montgomery indicated that the biggest variable is fundraising. The approach is to use a capital campaign, stating the needed funds and then setting a goal.

Commissioner Reed feels the numbers are very worrisome and that a notice of defect should be issued.

Chairman Goesling said that the PCSC looks at schools in three main areas. These areas are governance, academics, and fiscal soundness. If the PCSC feels that the school cannot achieve fiscal soundness, then the PCSC is obligated to issue a notice of defect.

Jennifer Swartz, PCSC counsel, noted that the PCSC has prepared documents for review and the school has presented this information, but with respect to the issue before the PCSC, there are several different circumstances that merit a letter of defect, one of which is the failure to demonstrate fiscal soundness. Whether or not

the PCSC feels that RHPCS is fiscally stable is up to the individual commissioners to determine based on the information provided.

Mr. Nailor said that after the lottery last year, RHPCS showed an enrollment of 273 and he strongly feels that a notice of defect would further complicate the success of RHPCS.

The PCSC directed staff to send a letter requiring RHPCS to provide a more up-to-date picture of their financials for the next three years no later than December 1st.

4. INSPIRE Connections Academy Academic Update

Kris Cochran, Administrator, and Janet Stout, Superintendent, reported for INSPIRE. They focused on PCSC concerns regarding the Direct Math Assessment; ISAT Mathematics, Reading, and Language assessments; and MSES 2 within INSPIRE's charter.

Performance in all areas of the DMA is improving. Students who stay with INSPIRE for more than one year typically do better on the ISAT. PACE, peer tutoring in math, and ISAT prep-tests are being used. Most students are scoring proficient or advanced in ISAT Reading, but returning students are scoring very well.

Objective #2 of the charter states that "standardized test performance school-wide composite ISAT scores equal to or better than the statewide benchmark by year three".

In 2007/2008, INSPIRE achieved 88.43% proficient or better in ISAT Reading. This exceeds the statewide goal of 78% and the state average of 84.57%. INSPIRE achieved 79% or better in ISAT Math. This exceeds the statewide goal and was within 2% of the state average. Scores are continuing to improve in all grade levels. In 2008/2009, INSPIRE made AYP. INSPIRE achieved 89.6% proficient or better in ISAT Reading. This exceeds the state goal of 78% and the state average. INSPIRE achieved 77.92% or better in ISAT Math. This exceeds the state goal of 70% and approaches the state average of 81.57%.

INSPIRE plans to continue to exceed the state average in ISAT Reading, reach the state average on ISAT Math, implement focused professional development for teachers for improvement in Math for all students, conduct PACE intervention, add after school live lesson tutoring sessions in ISAT Math and Reading skills for students in need, and use the State Department's website for sample practice testing for ISAT.

Commissioner DeMordaunt said she would like to see comparisons of DMA from fall-to-fall and ISAT scores spring-to-spring. Ms. DeMordaunt suggested INSPIRE look closely at their charter and address measures stated in the charter, as well as working closely with SDE to see if there are more online resources.

Commissioner Reed expressed concern about the school's attrition rate.

Ms. Cochran said that INSPIRE has hired an additional staff member to provide support to learning coaches, assessing new students to avoid repeating subject work, field trips, social outings, and performing student exit interviews.

Chairman Goesling said he would like to see the goal in INSPIRE's charter set at "exceeding" the state average for all test scores.

5. Global Outreach Academy (GOCA) New Charter Petition (Second Hearing)

The Board of Directors for GOCA has been changed to include local members that are more professional including a lawyer, a businessman, and a finance professional. The budget has been reworked using a new formula.

Commission DeMordaunt asked if there was any abnormality in the review process for GOCA.

Tamara Baysinger indicated that throughout the history of the PCSC and SDE offices' interactions with GOCA, the petitioners have been unresponsive and uncommunicative.

Chairman Goesling noted that today is the second hearing and if GOCA is not prepared, they should have contacted PCSC staff to request a postponement. Unfortunately, the PCSC will have to make a decision based on the information available today.

Commissioner Reed observed that the paperwork for GOCA's federal grant has not been filed, yet the funds are showing as revenue in the budget. Facility costs are not substantiated. From the information provided, GOCA will experience a budgetary shortfall.

Mr. Lukomsky indicated that GOCA was directed not to submit for the grant until the charter school was approved.

Michelle Clement Taylor, federal grant manager, stated that no grant applications have been received from GOCA as expected for a school desiring funds in time for fall.

Commissioner DeMordaunt said she felt there wasn't enough information to make a proper determination regarding GOCA.

Ms. Baysinger indicated that the concerns cited by PCSC staff's November 2, 2009 letter to GOCA were the same as those that have been going out to GOCA throughout the summer and prior to the last meeting.

M/S (Reed/Corkill): To deny the charter petition for Global Outreach Charter Academy on the following grounds as cited in the November 2, 2009 letter:

- 1. Inadequacies in the special education and gifted and talented education section;**
- 2. Need for extensive revision of the measurable student education standards section;**
- 3. Inconsistencies and concerns with regard to proposed staffing at the school;**
- 4. Need for amendments to the articles of incorporation and bylaws;**
- 5. Lack of sufficient facility documentation;**

6. **Budgetary concerns including inconsistency and lack of documentation;**
7. **Formatting errors and lack of administrative completeness;**
8. **History of ineffective communication with state agencies throughout petitioning process; and**
9. **Additional concerns cited previously by the PCSC and staff.**

The motion passed unanimously.

6. Victory Charter School Annual Update

Leslie Mauldin, Board Chair, and Marianne Saunders, Administrator, presented for Victory. They updated the PCSC on the school's student demographics and continued math and science focus, including the opportunity for students to earn concurrent credit from Northwest Nazarene University.

Commissioner O'Donahue recused herself from the discussion due to her affiliations with Victory Charter School.

Commissioner Reed commended the school for all their work and efforts. Victory is a model school and has done a nice job.

Chairman Goesling asked to what Victory credits its success.

Victory has followed proven Harbor School methods, including a culture of frugality and savings; the education curriculum model; the culture of kindness; and the concept of school-to-work.

Chairman Goesling asked if Victory had any board turnover.

There has been one replacement for Joe Huff, due to a change in employment. Dale Dixon was appointed in his place. Mr. Dixon is very familiar with the Harbor Method. Another success factor is the sustainability of a board that understands the delivery and culture of Harbor Method schools.

7. Liberty Charter School Annual Update

Shelia Bryant, Vice Chairman of the Board, provided an update on Liberty's operations, including academic and athletic successes.

Commissioner O'Donahue recused herself from the discussion due to her affiliations with Liberty Charter School.

Commissioner DeMordaunt commended Liberty on their forward thinking on ISAT and SAT preparation testing.

Commissioner Reed commended Liberty on their wonderful job and appreciates what the school is doing.

Commissioner DeMordaunt asked about the difference in attrition rates between Victory at 8% and Liberty at 1.2%.

Liberty had the same problem during the first two to three years. This is due to having a large high school population which come in troubled, gain skills and then

return to their previous schools. It is anticipated that the issue will resolve with time and implementation of a SCORE program.

8. Nampa Classical Academy (NCA) Compliance Investigation

NCA representatives attending were Michael Moffett, Vice Chairman (currently Acting Chairman); Terry LaMasters, Board Treasurer; Irene Ganz, Board Secretary; Erik Makrush, Board Member; Val Bush, Headmaster; and James Lorenzen, Board Member. All current board members have students attending NCA so they are stakeholders and actively involved in the school. There are two board members not in attendance, Mitch Miller and Byron Merrill, who have stated their intention to resign, but have not submitted official resignation letters to NCA. Amy White has been retained as counsel for NCA.

Chairman Goesling asked Michael Moffett why NCA has an ad-hoc member and why that is necessary.

Mr. Moffett indicated that there is one ad-hoc member to be trained to take over the treasury position. Once trained, he could replace the former treasurer.

Ms. White indicated that the ad-hoc member is Byron Merrill, who has intentions to resign but has not submitted a letter.

a. Internal conflict among Governing Board and Founding Board – NCA has experienced considerable tension between its founders and board members, and among current and former board members. Several board members, including former board chairman, Kyle Borger, resigned in October 2009.

Chairman Goesling indicated that throughout the past several months there has been a substantial turnover in the board for NCA. What and why has this happened?

Mr. Michael Moffett reported that until this past month, there has not been much board turnover. In the beginning, two members resigned to allow more non-family members to participate on the board. One board member left in August, which was a planned leave due to conflicting personal priorities and notice was given three months in advance. The emails submitted to PCSC's request provide background regarding recent resignations.

Mr. Lorenzen indicated that there has been a division in the school, but it has been difficult to pin down what has occurred to cause this division. A seven-hour open meeting was held on October 19 where parents were gathered to discuss events. Many issues were addressed and very little details were available. The results of the division were seen, but the cause was not discernable. As much as Mr. Lorenzen can determine, the division is due to an apparent belief that certain aspects of the charter do not run in accordance to some of the former board members.

Mr. Makrush said the new NCA board has been formed in the past three weeks and has been thrown into the fire on these issues.

Chairman Goesling said that the PCSC is also included in that assessment. The PCSC approved a charter that is not being followed, and requires confirmation that the division is one NCA will work through.

Mr. Makrush indicated that in all public meetings NCA's vision is recited to instill understanding of why each individual is present. As a new board, many hours have been spent on previous problems, financials, and working towards solutions.

Chairman Goesling asked what governance structure is in place at NCA and will be in place over the next several years.

Mr. Makrush reported that the NCA board of directors has a lot of talent and expertise. Sub-committees have been formed in many areas. The idea is that NCA's board is a governing board, not a management board.

Chairman Goesling said that a leader in transition is critical. Who does the Chairman report to? How many ad-hoc board members does NCA have and do you intend to have additional ad-hoc board members? Are the sub-committees chaired or led by board members? What is NCA's relationship to outside providers such as Paragon and Shed Development?

Mr. Michael Moffett said that he reports to the NCA board of directors and stakeholders. Currently, there is only one ad-hoc member, Byron Merrill, and there is no intention to have additional ad-hoc members. Some of the sub-committees are led by board members and some by outside individuals. NCA has an ongoing contract with Paragon to provide management services, financial reporting, and human resources (not to include hiring, but arranging benefits and providing forms). Shed Development provides development services and financing for the land and proposed buildings.

Mr. Makrush stated NCA met with Shed Development this past week. A letter is going out to parents detailing the strength of the relationship. Ms. White will provide a copy of the letter to the PCSC.

Chairman Goesling asked what the role of Isaac Moffett is in NCA's organizational chart.

Mr. Michael Moffett indicated that Mr. Isaac Moffett serves on a founder's advisory committee, consisting of the original incorporators of NCA, to provide recommendations, advice, clarification, and guidance to the NCA's board of directors to ensure adherence to NCA's vision.

Chairman Goesling asked why NCA's board of directors is not able to perform these duties on their own as a governance body.

Mr. Michael Moffett indicated that current board members were not involved in the six years of thought processes spent writing and developing the charter. The advisory committee was formed to provide assistance bridging the educational gap of what NCA went through to get to the present.

Mr. Lorenzen indicated that part of the advisory committee's role is to act as subject matter experts.

Chairman Goesling asked how many other school boards have such a relationship with an advisory committee.

Mr. Lorenzen did not know, but the concept of classical education is vastly different than the traditional educational model.

Mr. Makrush has reached out to Victory Charter School and Thomas Jefferson's administrator, Chuck Ward, regarding governance.

Commissioner DeMordaunt said that advisory boards are very often functional on charter schools for the first years of operation.

Commissioner O'Donahue indicated that because she is part of the Nampa community for work and school, she has excused herself from many conversations revolving around these issues.

Commissioner Corkill is concerned regarding the documentation of turmoil surrounding board resignations, purchasing, nepotism, and ethics. None of the NCA representatives seem to be able to address any of it. Specifically, why did so many board members resign?

Ms. White indicated that the new board members were not involved in those activities, so their ability to understand the level of detail of what went on is lacking in their own personal knowledge. NCA's goal now is to prevent the mistakes of the past from recurring by implementing a code of ethics for the board and holding a board workshop.

Commissioner Corkill asked on what background the charter was based.

Mr. Lorenzen said this was beyond his own personal experience and knowledge, but in concept you have the classical education framework, followed by implementation. Along with that, you have instructional methods that deviate from traditional educational models.

Commissioner Corkill has spent 13 years on public school boards and the level of involvement described between a board member and the functions of the school is unheard of for the primary reason that board members are not educators and hire teachers to do that.

Commissioner Reed asked about certification of the administrator and Title 1 staff.

Mr. Michael Moffett indicated that the administrator is certified.

Ms. Baysinger indicated that Mr. Bush is a certified administrator. However, PCSC staff remains concerned that there is a second administrator position at NCA and the individual in that position is not certified.

Commissioner Reed again addressed the issue of the Title I federal grant funds being held up because of failure to provide proper reports and teaching staff.

Mr. Bush said there are two issues still outstanding from the corrective action plan. One was the programmatic audit, which NCA is getting rescheduled for the first week of December. The other was documentation on staff training. Mr. Bush did have Mr. Isaac Moffett as Title I Director, but Mr. Bush took that back over because things were not getting done.

Chairman Goesling asked whether NCA is currently qualified for Title I funding.

Mr. Bush said that Title I funding is based on having highly qualified and certified staff. NCA is working on getting staff reorganized and hiring where needed.

Mr. Michael Moffett reminded the PCSC that he has been chairman for only one month. The previous chairman had knowledge but did not share it.

Chairman Goesling pointed out that, in this meeting, Mr. Michael Moffett had indicated that he was one of the founding members having worked with NCA for over six years.

Mr. Michael Moffett said he was appointed as Vice Chairman in June 2009 and prior to that a founding board member and involved in writing the charter.

Commissioner O'Donahue asked if there was a policy in place that prohibited board members to ask questions directly of the NCA administrator.

Mr. Michael Moffett said that current board members can speak to the administrator anytime they need to. In the past, there was a verbal policy directed at me prohibiting contact with the administrator, but I can't speak for other board members.

Mr. Bush is puzzled by this comment as he has had all board members talk to him about different issues. Perhaps the confusion is that board members cannot tell the administrator what to do individually. Decisions must come from the board as a whole.

Commissioner O'Donahue asked if NCA is in full compliance with their charter with respect to the board of directors.

Ms. Baysinger clarified that Commissioner O'Donahue is referring to the number of board members.

Mr. Michael Moffett said that NCA is in compliance regarding the number of NCA board members.

Ms. White pointed out documentation indicating that the board was complete and receiving training.

b. Potential Fiscal Instability – NCA may be facing fiscal shortfalls due to the inability to access federal grant monies and overspending in certain budget categories.

Commissioner DeMordaunt asked what the budget implication is if NCA is not granted the Title I funds.

Mr. LaMasters said that it would affect the budget negatively due to lost revenue, but NCA is in the process of drafting a new budget. With the current budget, and with future budget cuts, NCA would end the year around zero.

Chairman Goesling asked why Title 1 funds are being held up.

Mr. Bush said it is due to the lack of a programmatic audit and information regarding trainings not done this past summer.

Ms. Clement Taylor said the programmatic audit and training plans have nothing to do with Federal Title I funds.

Mr. Bush indicated it was due to a math teacher not being in place. NCA's management company was responsible for doing reports.

Chairman Goesling asked Ms. Clement Taylor what defines a highly qualified teacher.

Ms. Clement Taylor responded that the federal government is very specific regarding what a highly qualified teacher is and what that teacher can teach.

Commissioner DeMordaunt asked whether, in order to end the year with a positive fund balance, NCA would have to make budgetary adjustments that the PCSC has not yet seen.

Mr. LaMasters said there would need to be adjustments.

Commissioner DeMordaunt further asked whether NCA can end the year in the black without making adjustments to the budget.

Mr. LaMasters said that, with budget cuts, there is a good possibility that NCA would meet budget.

Chairman Goesling indicated that this is not only a budgetary problem, but it an educational problem. NCA has an unqualified teacher providing education to students that need extra help.

Mr. Makrush said he is concerned about the level of education provided to children. Mr. Bush is in the interviewing process for qualified teachers. NCA will report a new budget to Ms. Baysinger as soon as it is available, as well as an update regarding the hiring process.

Mr. Lorenzen reiterated that the new board has not had a regularly scheduled board meeting. As soon as the board gets into a regular session, the budget is one of the priorities.

Commissioner DeMordaunt asked when NCA's next board meeting is and when a revised budget would be available.

Mr. Michael Moffett said November 23, 2009 is the next regular board meeting.

Mr. LaMasters said the amended budget will be reviewed at that board meeting. The plan is to have an approved amended budget by December or January.

- c. Improper Certification of NCA employees – NCA hired several employees who were improperly certified. One employee remains improperly certified for a position that appears to be administrative in nature, and two teachers’ provisional certifications remain in question.**

Mr. Bush said there are two positions that NCA is having trouble filling, specifically, a Latin teacher and a Librarian. NCA applied for provisional certificates for the individuals currently holding both positions.

Chairman Goesling asked how many of NCA’s teachers are not highly qualified.

Mr. Bush indicated that NCA lacks highly qualified individuals for a Latin Teacher, Librarian, and Corrective Math Teacher. The Corrective Math issue is related to Title I funding.

- d. Failure to Submit Required Reports and Requested Documents – NCA has failed to respond in a complete and timely fashion to a public records request and requests for required reports made by Commission staff and Commission Chairman Goesling.**

Chairman Goesling indicated that a letter was sent October 29 requesting particular financial information.

Ms. Baysinger clarified that the notice of defect related to the October 29th letter has been taken care of. There was another notice of defect issued with regard to the failure to comply with public records law by providing the financial information requested in a timely fashion. That information has now been received, though commission staff has not had sufficient time in which to review it. The budget submitted is what was asked for, but does include income for which NCA may be ineligible.

Also, another public records request was submitted on November 2nd for lesson plans and associated materials for a particular lesson. A response to that request was received and that response was a denial. Staff disagrees with the reasons for that denial and has responded to the school with an explanation why that material needs to be provided. It is now overdue.

Mr. Michael Moffett indicated that on the advice of counsel, NCA denied the request.

Ms. White indicated that under public records law various parameters are outlined, such as “a response of three days is traditional. If you cannot respond in three days, alternatively, if a public entity were to deny a request, they must produce a statement denying the request and indicate that they have had the opportunity to consult with legal counsel to deny that request.”

Ms. Swartz stated that it appears, from the response received from Mr. Michael Moffett, the objection to the public records request was that the request was being made to supplement, argument, substitute, or supplant discovery procedures in

the federal litigation. It is counsel's opinion that is not the case. In addition to public records law, there are attorney general rules in the administrative rules of Idaho and according to those rules, state agencies do have a statutory right of inspection despite litigation being ongoing. In this case, the PCSC does have the right to request required reports from the schools to ensure that the schools are complying with their charters and complying with the law. In this case, the request was made to ensure that the school was complying with the law, which it has assured the PCSC it will do in its charter. According to those provisions of law, Ms. Swartz believes that the PCSC is entitled to that information.

Mr. Michael Moffett said his response remains the same.

Chairman Goesling said pursuant to I.C. § 33-5209(2), if the Commission has reason to believe that Nampa Classical Academy "has done any of the following, it shall provide the public charter school written notice of the defect and provide a reasonable opportunity to cure the defect." Since NCA has chosen not to respond, the only information we have is reason to believe that there is a defect.

Mr. Makrush said that NCA has instituted a policy of how to deal with public records requests.

Ms. White indicated that an NCA board email address has been pursuant to the advice of PCSC staff.

Chairman Goesling asked Mr. Makrush to send a copy of the approved public records request policy to Ms. Baysinger.

e. Allegations of Unethical Behavior – Particular NCA employees and board members are alleged to have acted in a manner contradictory to values clearly stated in the school's approved charter and the bounds of the Idaho Teacher Code of Ethics.

Ms. Clement Taylor reported on behalf of the State Department of Education that the SDE's certification's coordinator has received three ethical complaints against NCA. The professional standards commission will review the matter.

Chairman Goesling noted that it appears in communications generated by NCA that Mr. Isaac Moffett is acting as an administrator without proper certification.

Ms. White said that there are differing opinions on this point. Mr. Isaac Moffett's current job duties are purchasing, business, technology, and other functions that do not require administrative certification. He was not involved in Special Education IEP meetings.

Commissioner Corkill asked if Mr. Isaac Moffett is a teacher at NCA.

Ms. White said he is the Director of Operations handling purchasing.

Chairman Goesling noted that he is also a member of the Founding Advisory Committee as discussed earlier in the meeting.

f. Use of Religious Texts – Written documentation provided by NCA and communications from NCA stakeholders indicate that NCA may be using religious texts in the classroom, in violation of the Idaho State Constitution.

Commissioner Corkill asked Mr. Michael Moffett if NCA is using religious texts in the classroom.

Mr. Michael Moffett said they are not.

Ms. White clarified that she represents NCA as it regards education and compliance issues, but she is not involved with the pending litigation.

Ms. Swartz said the lawsuit is primarily based upon the issue of whether or not the Idaho State Constitution prohibits the use of religious texts in the classroom and the infringement on first amendment rights.

Mr. Makrush said that the intent is to protect the integrity of the case and to insure that any evidence is not tainted by additional information being gathered without the appropriate means of discovery.

Commissioner Corkill asked whether NCA is using, or has used any photocopies of religious texts in the classroom.

Mr. Michael Moffett said NCA has not done so.

g. Additional Concerns – These materials include information regarding additional concerns about operations at NCA, which are more general in nature and/or still under investigation.

Mr. Michael Moffett indicated that Mr. Isaac Moffett is no longer a member of the board in any capacity. He is an employee supervised by the headmaster. The Moffetts' half sister by adoption works as secretary, also supervised by the headmaster. The Moffetts' mother works as the custodian, supervised by the head custodian, who reports to the headmaster.

Mr. Michael Moffett said a programmatic audit was scheduled in October. It came to NCA's attention that one of the PCSC staff members, Tamara Baysinger, was scheduled to participate in the audit which NCA felt was a conflict of interest. The audit was rescheduled for December.

Chairman Goesling asked why this was considered a conflict of interest.

Mr. Michael Moffett indicated that the PCSC is listed as the defendant in a pending lawsuit and it was not appropriate for that staff member to participate in the audit.

Chairman Goesling said that it is the responsibility of the PCSC to ensure that the charter school is in compliance with their charter.

Mr. Michael Moffett that is correct, but two other individuals working in the State Department of Education chose to recuse themselves.

Ms. Baysinger said the Idaho Charter School Network (ICSN) is hired by some schools by choice to perform audits. The federal charter school start-up grant requires that ICSN pre-opening audits be performed. This was the audit that was to be done at NCA, but was cancelled.

Mr. Michael Moffett said NCA does not have a problem with an audit, but ask that the audit committee be made of up of staff that do not have a perceived conflict of interest.

Chairman Goesling indicated that Ms. Baysinger is a staff member to the PCSC and the PCSC holds her in the highest regard. To date, the PCSC has had no indication of any bias in any audit that she has completed. An audit is a requirement and to put off an audit into the fourth month of school is inappropriate.

Mr. Michael Moffett said that it is not NCA's intent to put off the audit. NCA wants an audit as much as the PCSC does to evaluate NCA's progress. NCA just asks that they have committee members that do not have a perceived conflict of interest. It is not meant to disparage Ms. Baysinger or her integrity. Mr. Cortman, legal counsel with the Alliance Defense Fund (ADF), advised NCA in this matter as it relates to the curriculum issue.

Commissioner Corkill feels that by denying the audit, the implication is that NCA doesn't want the PCSC to see something.

Mr. Makrush said that it is not that NCA does not want an audit, but that NCA wants to make sure the individuals conducting the audit are truly a third party.

Ms. Jennifer Swartz noted that the fact that the lawsuit is ongoing does not insulate the school from oversight. The PCSC still has the obligation to exercise their oversight authority and act as the authorizing chartering entity for this school. In Ms. Swartz's opinion, the school cannot use the lawsuit as a shield against the PCSC to prohibit it from performing their obligation.

Mr. Makrush clarified that NCA was not the entity that requested the rescheduling of the audit. It was rescheduled at Diane Demarest's request.

Mr. Michael Moffett said that NCA asks that the PCSC designate someone that does not have the perception of being biased.

Mr. Makrush asked if there is an alternative.

Commissioner DeMordaunt said that is incumbent upon the PCSC or its designee, as NCA's authorizer, to do a site visit. This visit may or may not correspond with the programmatic audit.

Moving on to another topic, Ms. Baysinger indicated materials demonstrating that NCA has provided information that directly conflicts with information received from other reliable sources, such as the SDE.

One example is NCA's response to Chairman Goesling's letter, which inquired whether NCA had provided all documentation necessary to receive the federal

charter start grant funds. NCA responded in their report that “NCA has provided to the SDE all reports necessary to secure charter start grant funds.”

Commissioner DeMordaunt asked Ms. Clement Taylor to comment.

Ms. Clement Taylor said that at the end of each year of the grant, there is a continuation report requirement. The report was submitted by NCA, but it was incomplete and contained a number of inaccuracies. Ms. Clement Taylor was told by Headmaster Val Bush that the missing documentation would be submitted October 15th in order to receive the funds. Ms. Clement Taylor did not receive any additional information until yesterday, and that information was also incomplete.

h. NCA has come perilously close to violating open meeting law by deliberating via email and holding un-posted board meetings referred to as “work sessions” at which a quorum appears to have been present.

Chairman Goesling said the attached documents indicate that attendance was mandated by Isaac Moffett and Michael Moffett. Mr. Goesling asked Mr. Michael Moffett to address this issue.

Mr. Michael Moffett said that, in the past, NCA did come close to violating open meeting laws. NCA's new chairman and board have taken steps to make sure that it doesn't happen in the future. Meetings are being posted appropriately and there is no deliberating through email.

Chairman Goesling read an excerpt from an October 9th email sent by Mr. Michael Moffett regarding a NCA board meeting scheduled on Tuesday, October 13, 6:30 pm that was mandatory, including ad hoc members, but was not an open public meeting.

Mr. Michael Moffett said the board was not voting on anything and it was an executive session to discuss the lawsuit.

Chairman Goesling asked why this was an executive session.

Mr. Michael Moffett said because NCA was dealing with the curriculum lawsuit.

Chairman Goesling asked if the lawsuit was the only thing discussed and nothing else.

Mr. Michael Moffett said that is correct.

Chairman Goesling asked if that meeting had been posted.

Mr. Michael Moffett said it was not and that was the area in which NCA erred. At the time, Mr. Moffett was not aware that a posting was needed and was operating on that understanding from previous leadership. Since then, NCA has learned that was incorrect.

Chairman Goesling observed that the quote on all Mr. Moffett's emails reads *"The duty of a leader is pull his own morale out of the mud by the scruff of the neck, so stop complaining and start leading."*

Mr. Michael Moffett said that is what NCA has been doing. More has been accomplished in the last three weeks than we have in the last three months.

Commissioner DeMordaunt asked how long NCA has been under counsel of legal advice.

Mr. Michael Moffett said the school has had legal counsel since August.

Commissioner DeMordaunt finds it perplexing that a board with legal counsel should be unfamiliar with open meeting law.

Mr. Makrush clarified that Ms. White has worked with the NCA board for less than two weeks. These issues have been addressed and everyone is now aware of open meeting laws and NCA will make sure they are being adhered to.

Summary and Public Comments

Mr. Michael Moffett summarized the issues at Chairman Goesling's request. He said the new board is improving over the deficiencies of the old board and NCA's students are enjoying the school.

Chairman Goesling called individuals who wished to make public comment.

Kim Slater, former member of NCA's board of directors, said she resigned in September. As a member of NCA's board, she began in December 2008 and served through September. There was extensive conflict and challenges on the board.

Susan Beard, fourth grade teacher and parent, said the school is doing its best to comply with all requests. Communication issues between previous board members have interfered with this process.

Sue Drincks, NCA teacher, asked the PCSC to examine the accusations made against NCA to determine their objectivity.

Val Bush, Headmaster at NCA, spoke about the hiring process at NCA.

Anne Roe, NCA parent, said she appreciates the PCSC's examination of the schools' governance and finances.

Commissioner Discussion and Motion

Commissioner DeMordaunt said she would feel more comfortable excluding the piece regarding the Professional Standards Commission portion of the motion until they make a determination.

Commissioner Corkill suggested changing the motion to read "Concerns that core values..." instead of "Failure to ensure that core values..."

Commissioner DeMordaunt would rather strike the entire item, but will defer to the majority.

Commissioner Reed concurred with the change.

Commissioner O'Donahue indicated that there are many instances in the meeting materials of NCA board members not modeling their own charter regarding behavior. Ms. O'Donahue prefers that the item remain with the rewording.

Chairman Goesling asked that item 2.c remain as written and NCA address this in the corrective action plan. Items 2.b and 2.c also need to remain as written.

Commissioner DeMordaunt said that, based on answers by NCA board members, NCA is not using religious texts. There is not enough evidence to the contrary and would like to drop this item. The PCSC concurred.

Commissioners agreed to replace 2.d with a statement regarding failure to permit oversight visits.

Commissioner DeMordaunt stated that the role of the PCSC should not be seen as adversarial, rather incumbent by state law and obligation.

Ms. Baysinger said a notice of defect serves as a message to the school that the PCSC has identified what it has reason to believe a defect is occurring at the school. It is not the same as a notice of intent to revoke the charter, but rather is a notification that the PCSC requires the school to provide a corrective action plan, with a specific timeline, so that all parties understand how that defect will be cured. Only if the defect is not cured would the PCSC proceed to issue a notice of intent to revoke the charter, after which time there is further room for correction before an actual revocation would occur.

M/S (Corkill/Reed): A motion to issue a notice of defect on the following grounds:

- 1) NCA has committed a violation of any condition, standard or procedure set forth in the approved charter, specifically:**
 - a. Failure to employ only individuals who meet or exceed qualifications required by state law as required by the approved charter (Tab 6.A);**
 - b. Failure to comply with all aspects of Idaho public records law as required by the approved charter (Tab 10.B); and**
 - c. Concerns that core values such as character, charity, civility, and integrity are modeled by NCA staff and board members as required by the approved charter (Tab 3.A)**

- 2) NCA has violated any provision of law, specifically:**
 - a. Employment of an individual to serve in an administrative capacity without administrator certification (IDAPA 08.02.02.026);**
 - b. Employment of individuals to serve as teachers without teacher certification or SDE approval of provisional certification (I.C. 33-5205(3));**
 - c. Failure to comply with public records law (I.C. 9-339);**

- d. Failure to permit oversight visits by commission personnel as required (IDAPA 08.03.01.301); and
 - e. Failure to notify the Commission of known compliance violations (IDAPA 08.02.04.300.04).
- 3) Failure to demonstrate fiscal soundness, which is defined as fiscally stable on a short-term basis and fiscally sustainable as a going concern.

The motion passed unanimously.

M/S (Corkill/Reed): A motion to adjourn. *The motion passed unanimously.*