REFERENCE: APPROVED MINUTES – February 15, 2006 Public Charter School Commission Meeting

PUBLIC CHARTER SCHOOL COMMISSION MEETING
WEDNESDAY, FEBRUARY 15, 2006
AMERITEL INN – BOISE SPECTRUM
ARROWROCK ROOM – SOUTH
7499 WEST OVERLAND ROAD
BOISE, IDAHO

A meeting of the Idaho Public Charter School Commission was held on Wednesday, February 15, 2006 at the ArrowRock South Room in the AmeriTel Inn at 7499 West Overland Road, Boise, Idaho. Chairman Hammond presided. The following members were present:

Kirk Miller	Bill Goesling	Marianne Donnelly
Paul Powell	Ann Souza	

Commissioner Esther Van Wart was absent. Commissioner Powell joined the meeting late.

Chairman Hammond called the meeting to order at 10:05 a.m.

1. Commission Work

The Commission agreed to switch the order of agenda items 3 and 4 to accommodate presenters' schedules.

The Commission considered a date and time for the next regularly scheduled meeting.

M/S (Hammond/Donnelly): To set April 13, 2006, at a location to be determined, as the date and location for the next regular Commission meeting. *The motion passed unanimously.*

The Commission considered minutes submitted from the December 5, 2005; December 20, 2005; and January 20, 2006 meetings.

M/S (Donnelly/Souza): To approve the minutes from December 5, December 20, and January 20 as submitted. *The motion passed unanimously.*

2. Academy at Roosevelt Center

Annie Dixon, chair of the ARC school board, described the advertising efforts ARC has made throughout the fall. Their lottery meeting was held January 19, 2006 and all 121

applicants who applied by the January 16 deadline were enrolled.

Cathy McMurtrey, secretary for the ARC board, said late applications have increased enrollment to 184 with K-2 full and only one slot left for 3rd grade. The school will continue accepting applications until the enrollment cap of 225 is reached.

Ms. Dixon said there have been some changes to the ARC board. Dr. Kitty Pumphrey has replaced another member who resigned due to illness, while Ms. Dixon herself replaced the prior chairman.

Commissioner Miller asked Ms. Dixon to describe the configuration of ARC's board.

Ms. Dixon said although their board is designed to have nine members, seven voting members plus two community representatives, they currently have six active members. The skill sets represented on the board include a retired secondary education and at-risk teacher, a local businessman, a politician, and an accounting professor/CPA. Four of the board members are parents.

Commissioner Goesling asked what adjustments the ARC will make to its budget if enrollment is significantly lower than the 200 students on which the budget is based.

Ms. Dixon said the school could eliminate 8th grade and/or scale back on classroom technology. Ms. McMurtrey added that new board member Dr. Pumphrey is working on budget amendments.

Commissioner Donnelly suggested combining grades as a means of reducing costs.

Ms. McMurtrey and Ms. Dixon agreed that a 7th/8th grade combination is possible; however, the other grades each have at least 15 students enrolled already.

Commissioner Goesling asked what kind of relationship the ARC has with District 25, in which it is located.

Ms. Dixon said there is currently no working relationship, but they hope to cooperate with the district to develop bussing and/or lunch programs.

Gretchen Tower, member of the ARC board, said the school's parent group has tried unsuccessfully to develop a nutrition services agreement with the district.

Chairman Hammond suggested the school consider having a district representative be a voting member of the ARC board, rather than an ad hoc member, to increase the perception of the value ARC holds for such a member's input.

Ms. Dixon said the board has considered doing this and chosen not to do so, but change is possible.

Commissioner Souza asked how many special education students have enrolled and how the school will handle them without district support.

Ms. Dixon said special education services will be contracted through a local provider.

Commissioner Souza seconded Chairman Hammond's recommendation that the ARC board include a voting member from District 25.

Chairman Hammond asked about the school's progress in preparing facilities.

Ms. McMurtrey reported that the school has an exceptionally good working relationship with its contractors. Ms. Tower described the facility as having twelve classrooms, a gym/multi-purpose area, special education facilities, and a media center.

Commissioner Miller inquired whether a lease has been signed for the building.

Ms. Dixon said the ARC has signed a five-year lease and affirmed that the cost is in accordance with the school's budget.

Commissioner Miller asked whether the building owner is on the school's advisory board, and Ms. Dixon clarified that the owner is on the advisory board but is not and has never been a voting member of the ARC board.

Commissioner Miller asked how many special needs students have enrolled and whether the ARC has been in touch with the district regarding the transfer of student records.

Ms. Dixon said the school has not yet obtained records, but they do know about 5% of the students are on IEPs. She said she anticipates parents will request the transfer of student records. The ARC hopes to hire a special education teacher within about two months, and that person will begin preparing IEPs for the upcoming school year.

Commissioner Hammond thanked the ARC their encouraging report.

3. Liberty Charter School

Karen Echeverria, Commission staff, explained that both Liberty Charter School and Victory Charter School submitted amendments to their charters, and that only these amendments could be discussed at the current meeting. She said staff had suggested additional changes and Liberty had expressed willingness to make a number of changes.

Sheila Bryant, vice chair of the Liberty school board, explained the proposed amendments regarding the governance structure of the school, health and safety of

pupils and staff, definition of the attendance area, and procedures for dissolution.

Commissioner Souza asked Ms. Echeverria whether more than a code number should be included in the charter in certain sections.

Ms. Echeverria explained that if Idaho code changes and only the code number is referenced the charter, no amendments to the charter will be necessary because the code changes will be automatically included in the charter.

Commissioner Miller confirmed with Ms. Bryant that the Treasure Valley attendance area had been removed.

M/S (Donnelly/Miller): To approve the amendments to Liberty's charter.

Commissioner Goesling suggested a modified motion to include that additional revisions be approved through staff rather than bringing them before the Commission, unless a dispute should arise.

Modified M/S (Donnelly/Miller): To approve the amendments to Liberty's charter, including additional revisions suggested by Commission Staff, subject to final review by Commission Staff, unless dispute should arise. *The motion as modified passed unanimously.*

4. Victory Charter School

Leslie Mauldin, chair of the board for Victory, described the proposed amendments to Victory's charter including the specification of grades in which the ISAT will be taken. She said Victory plans to petition in the future for the addition of grades 9-12. She asked whether the State Board of Education would allow ABCTE certification of teachers.

Ms. Echeverria explained that even if teachers go through alternative certification, they still need to be certified teachers, so Victory should remove from the charter the terminology regarding waivers.

Ms. Mauldin continued describing the proposed amendments, including the deletion of a reference to another charter and a change to the admission preference section.

Ms. Echeverria suggested citing Idaho Code for the admission preference section, simply referring to the statute so amendments are not needed upon changes to the statute.

Ms. Mauldin said the proposed addition of information regarding the school's initial lottery will be removed, as the lottery has already taken place. She also said she had been unaware that transportation must be provided to special education students both

inside and outside the attendance area and while the need for such has not arisen, they will amend the charter and make appropriate preparations.

Commissioner Miller suggested the school also prepare for the possible financial burden of transporting students over long distances.

Commissioner Souza asked whether parents of special education students have the right to place their children in any school they wish.

Ms. Echeverria said special education students must be entered in the lottery like all other students.

Ms. Mauldin read the section of the charter regarding when and how enrollment opportunities are to be advertised.

Ms. Echeverria said Victory may wish to refer directly to the rule regarding enrollment opportunities.

Ms. Mauldin said the names of board members will be removed from the charter in favor of a list of positions.

Commissioner Donnelly confirmed with Ms. Mauldin that the names will still be included in Victory's annual report.

M/S (Donnelly/Goesling): To approve the amendments to Victory's charter, including additional revisions suggested by Commission Staff, subject to final review by Commission Staff, unless dispute should arise. *The motion passed unanimously.*

5. Falcon Ridge Public Charter School

Derry Shaul, new board member for Falcon Ridge, said the school's current K-8 enrollment is 271, and the school hopes to add 9th grade for 2006-2007. The current waiting list consists of 123 names. The next lottery is scheduled for May and plans have been laid for advertising enrollment opportunities. Mr. Shaul gave an overview of Falcon Ridge's debt, which includes $525,000 in property debt plus another $319,000 for improvement costs to add city services. Approximately $160,000 has been paid off to date. He said the remainder is to be paid off by August.

Mr. Shaul outlined two financing possibilities Falcon Ridge has explored. He said the first, a building lease agreement with the Van Alfen Group, remained as only a very slight possibility which would not be discussed in any detail unless a letter of intent were to be received in the future.

Mr. Shaul said the second scenario, in which Falcon Ridge would receive a loan from

Mr. Bob Barnes and remain in portables, is the only realistic plan up for discussion at this time.

Commissioner Miller asked Mr. Shaul to describe the assumptions on which the budget is based.

Mr. Shaul said he believes the numbers in the budget are realistic. The budget does not include a number for child reimbursement for lunches because of the difficulty of predicting the amount. There are no year two transportation dollars included in the budget because none will be received from the state. The budget does include a $100,000 loan from Mr. Barnes in April, though Mr. Shaul would prefer to cut costs rather than borrowing money.

Commissioner Miller inquired about the possibility of another $200,000 in costs assessed by ACHD for site improvements.

Mr. Shaul and Falcon Ridge board member Brenda Lamphere clarified that the $200,000 was already included in the $319,000 debt for site improvements. Ms. Lamphere said she felt the remaining $75,000 would be sufficient to cover the remaining improvements required by ACHD.

Commissioner Miller asked whether the school had acquired a written agreement showing the actual costs of the improvements.

Mr. Shaul said there is no written agreement, although he has been in contact with ACHD regarding the improvements and ACHD has donated some improvements.

Commissioner Powell asked whether, assuming Falcon Ridge remained in good standing with the Commission, there were any other issues that could stall the loan from Mr. Barnes.

Mr. Shaul said he believed that if the Commission started revocation proceedings, it would be very difficult for Falcon Ridge to obtain a loan and, conversely, there would not be a problem if the school remained in good standing with the Commission.

Commissioner Powell confirmed with Mr. Shaul that Falcon Ridge had no reservations about its ability to acquire funding if the school was in good standing with the Commission.

Commissioner Miller referred to the budget and requested clarification that the loan payments of $2,400 starting in May were for the possible $100,000 loan.

Mr. Shaul confirmed and said he had budgeted for a 4-year payoff of the $100,000 loan at 7% interest.

Commissioner Goesling stated that after the January 20 special meeting, the Commission sent a letter through Commission Staff directing Falcon Ridge to procure commitment letters and/or signed loan documents. He asked whether Falcon Ridge had obtained such a letter.

Mr. Shaul said he had a prior letter from Mr. Barnes but was unsure whether it comprised a commitment letter and had therefore asked Mr. Barnes to attend the current meeting.

Commissioner Goesling said he had only the letter provided during the January 20 meeting, which was, as noted in the letter to Falcon Ridge from the Commission, inadequate.

Mr. Shaul agreed that the letter provided at the January 20 meeting, which described Mr. Barnes' intent to make the loan if he felt assured that Falcon Ridge would remain in good standing with the Commission, was the only document showing any level of commitment to the loan.

Chairman Hammond said he would consider the letter from Mr. Barnes a letter of interest rather than a letter of commitment. He said the Commission is looking for assurances that Falcon Ridge will have the financial resources to continue operations, and a letter of commitment would provide assurance that Falcon Ridge could obtain a loan if necessary.

Commissioner Goesling cited the letter of January 23, 2006 from Commission Staff to Falson Ridge as saying, "Please note that the fax submitted to Commission Staff on January 20, 2006 fails to express unqualified commitment to the investment." He said such commitment was essential to the process.

Mr. Shaul described the issue as a "chicken and egg" problem in which the school would be unable to obtain the loan commitment without Commission support, yet would be unable to obtain Commission support without the loan commitment.

Commissioner Goesling stated that nothing had changed since the January 20 meeting and Falcon Ridge was therefore in good standing with the Commission. However, if Falcon Ridge was unable to provide evidence that it could remain in financially solvent, it would no longer be in good standing with the Commission.

Mr. Shaul stated that without the $100,000 loan from Mr. Barnes and/or delayed site improvements, Falcon Ridge would run into a financial deficit of about $58,000 by June 2006.

Commissioner Powell inquired how much of the $75,000 in site improvements was optional.

Mr. Shaul said he believed the expenditure would be reduced through his own bargaining skills.

Commissioner Powell asked what, without the $100,000 loan, would be eliminated from the budget in order to break even.

Mr. Shaul said he would approach the City of Kuna and ask to have the improvements delayed.

Commissioner Miller noted that the budget reflected a $100,000 loan in year one and another $100,000 loan in year two, but at the end of June in year two the school would have a negative balance of $32,000. He asked what plans Falcon Ridge had for lines of credit to cover this shortfall.

Mr. Shaul said although he was concerned about the negative numbers, the school still had plenty of time to work out a solution, and he planned to reduce previously agreed-upon costs with the portables provider and similar entities.

Commissioner Goesling asked how Falcon Ridge planned to use the Albertsons grant.

Ms. Lamphere said the majority of the grant money went toward January payroll, and the remainder went toward the building lease and land.

Commissioner Goesling asked whether those uses were within the restrictions of the grant and said he believed the grant money needed to be tracked separately.

Ms. Lamphere said the grant restrictions were minimal and the grant money had been tracked separately.

Commissioner Goesling expressed confusion regarding the use of “CR” in the budget spreadsheet, as it sometimes represented a credit and sometimes a debit.

Mr. Shaul said he did not compile the accounting records.

Commissioner Goesling said he was unable to follow the data, and he still could not see a comparison of the original budget to the actuals in the spreadsheet.

Mr. Shaul said the budget and actuals were both on the spreadsheet.

Commissioner Goesling said he saw actuals from July to January and budget thereafter, but no way to compare budget and actuals from July to January.

Mr. Shaul said he could not change without due process the budget the school had been using to date. He said his spreadsheet is closer to actuals than the original budget.

Commissioner Goesling said he would like to compare budget and actuals to judge the quality of financial management. He would like reason to believe that the new budgets are accurate based on the accuracy of past budgets.

Mr. Shaul said Gerald Chouinard, Falcon Ridge administrator, originally created the spreadsheets and the collapsed cells contain budgeted line items and budgets associated with them.

Commissioner Goesling chose the utilities line item as a case study and said he wanted to see good reason for the vast differences between the budget and actuals.

Commissioner Powell said he may have provided inaccurate direction in telling Mr. Shaul prior to the meeting that what the Commission wanted was actuals rather than the original budget, since the budget was very inaccurate.

Chairman Hammond said he was still trying to ascertain where the school actually is financially. He asked whether Mr. Shaul could provide information as to the bottom line in terms of actuals versus budgeted figures.

Mr. Shaul said he hadn't had time to look the differences between the budget and actuals. He said he had compiled information regarding where the school was to date and what budgets would be reasonable going forward, and that at a recent meeting the board had not seen any red flags in the budgets.

Chairman Hammond referenced column S (January) of the spreadsheet in which the funds remaining showed as $155,000; however, the actual fund balance appeared to be $38,000.

Mr. Shaul said the difference was due to the arrival of the Albertsons grant later than anticipated. Upon further inspection, he realized this may not be accurate.

Chairman Hammond said his point is that the spreadsheets fail to give a reasonable picture of where the schools is financially, and where it is expected to be, at the end of the year. He said the Commission was still not able to project for the next year or two and asked Commissioner Powell for his thoughts as he had worked with Falcon Ridge more directly.

Commissioner Powell said his review indicates that Falcon Ridge is halfway through the school year and approximately halfway through its budget, and he felt comfortable with the total level of expenditures regardless of line items. He also pointed out that he was pleased to see Falcon Ridge being realistic about the low probability of securing a deal with the Van Alfen group.

Commissioner Souza asked Commissioner Powell whether he was comfortable that,

with a loan from Mr. Barnes, Falcon Ridge would be solvent and not in debt at the end of the year given that the one-time Albertsons grant had been used for ongoing costs such as salaries.

Commissioner Powell said a charter school's first year is often quite different from its budget and he was not disturbed by the use of the grant to cover cash flow. He said he was sure the actuals at the end of the year would again be different but manageable and pointed out that Falcon Ridge could explore fundraising possibilities.

Commissioner Souza asked what the Barnes loan would be used to cover and whether Falcon Ridge intended to use the loaned money for ongoing expenses.

Mr. Shaul said the loan would be used for ongoing expenses; however, his preference was to lower spending rather than borrow. The loaned money would be used at the school's discretion over the next four years.

Commissioner Souza again expressed concern about the use of one-time money for ongoing expenses.

Mr. Shaul said expenses would go down because $319,000 in debt would have been paid off and the dollars that had previously gone toward those payments would help cover ongoing costs in the future.

Commissioner Souza asked whether Falcon Ridge believes the state dollars to come in will cover all ongoing expenses once the one-time loan monies are spent.

Ms. Lamphere said they believe it will come close, though there may be additional costs upon adding grades.

Commissioner Souza inquired whether Commissioner Powell agreed with this assessment.

Commissioner Powell said other schools have managed it, though whether Falcon Ridge will be good stewards remains to be seen.

Scott Christie, Commission staff, asked why the budget did not include line items for classified building care staff and nutritional staff in year two.

Mr. Shaul said he didn't know as he did not prepare the spreadsheet originally and said Mr. Chouinard may have included those items in other lines.

Chairman Hammond asked whether anyone was present who could answer those questions. He received no answer.

Mr. Shaul said the spreadsheet had gone through many revisions in the last couple

weeks. He indicated an updated spreadsheet that included the line items in question.

Mr. Christie noted that the staff instructional program cost $30,000 in year one and only $5000 in year two and inquired whether the larger amount was a one-time expense.

Mr. Shaul confirmed that the Harbor Institute charges $30,000 in year one and $5000 per year thereafter.

Commissioner Powell said he understood nutritional staff was in the original budget on the assumption that the school would have nutritional facilities; however, in the portables scenario this was not the case.

Mr. Christie asked whether Falcon Ridge had intended to contract out the nutritional program.

Ms. Lamphere said that was the original intention but instead the school was able to the kitchen belonging to the church next door. She said they are still talking with the church about a similar agreement for year two.

Commissioner Miller asked why the lunch costs dropped from $4,000 in the actuals to $2,000 in year two.

Mr. Shaul said one of their staff would be working to lower food costs through a co-op food service.

Donia Jefferies, chair of the Falcon Ridge board, noted that the lower food costs in the budget did not reflect state reimbursements.

Mr. Christie expressed confusion regarding the cash balance report for December.

Mr. Shaul said he had done little accounting for public entities and said he too was confused about how it worked.

Ms. Lamphere said the general fund beginning balance was $242,226, of which $51,000 was spent in December, leaving an ending balance of $190,000. $104,552 of the charter grant money has been spent so far and Falcon Ridge has been trying to get Title 10 money. The Title 10 money was just received last Friday. $1,200 was spent in December on Title 10, leaving the balance of $105,000.

Mr. Christie confirmed with Ms. Lamphere that the actuals show expenditures that would be reimbursed with Title 10 monies.

Stephanie Clark, State Department of Education, said federal government funds were not released until mid-January so expenditures occurred before the funds were released for reimbursement.

Mr. Christie noted that October of year three (column E) contained a plugged figure and asked why that was.

Mr. Shaul said the plugged figure was an error.

Chairman Hammond said he was concerned about how the meeting was evolving and said trying to establish how Falcon Ridge's accounting has worked in the past may not be the best use of the Commission's time. He reminded the Commission that at the last meeting, they directed staff to send a letter to Falcon Ridge asking for, "monthly balance sheets to date including assets and liabilities, an income statement identifying sources and uses for funds, and a budget/actual comparison," and "commitment letters and/or signed loan documents." He said the letter also read "should Falcon Ridge fail to produce these reports, the Commission is prepared to issue a written notice of defect at its next regular meeting." He said the Commission needed to decide whether the request has been honored according the letter and whether the Commission feels Falcon Ridge is making sufficient progress continue operation. He said the bottom line is how best to ensure the education of the students enrolled at Falcon Ridge.

M/S (Goesling/Souza): To direct Commission staff to issue a written notice of defect to Falcon Ridge Public Charter School for failure to provide items requested in the letter of January 23, 2006 and direct Falcon Ridge to provide a response to such written notice within 30 days.

Chairman Hammond called for discussion on the motion.

Commissioner Powell said he adamantly disagreed with the motion as the school did provide item one in the letter and, while they did not provide item two, they put together an alternate plan in a good-faith effort. He urged the Commission not to take such an aggressive step.

Commissioner Miller agreed that Falcon Ridge had provided item one and said he was concerned that only a letter was needed to satisfy item two. He suggested an agreement that the letter be provided within a specified period.

Commissioner Hammond directed the question to Mr. Barnes.

Bob Barnes said the possible loan would come from his retirement money and he needed assurance it would be secure. He said Falcon Ridge had shown responsibility through its budgeting despite the deficit problem that resulted from surprise, up-front costs and he felt the school had made great effort on their own to pay off the loans. He referenced his previous letter's stipulation that the Commission commit to standing behind the school, saying he would write the contract if the Commission's backing were guaranteed. He asked whether such a guarantee could be written into the contract.

Chairman Hammond said because there was a motion on the floor, the Commission could not enter discussion on that issue, but the Commission cannot be a third party to any contract between the lender and the school board.

Commissioner Souza asked for details regarding Falcon Ridge's required response should a notice of defect be issued.

Chairman Hammond said the school will have thirty days in which to show how they will remedy the defect, then the Commission will have thirty more days in which to hold a hearing at which to decide how to deal with the school's response.

Commissioner Miller asked whether the school's response should be a letter of intent or a loan contract.

Commissioner Goesling said the remedy should also include a clear and accurate budget. He said this is the third meeting without any change, and it is time to take a hard line and require Falcon Ridge to produce a plan showing how they will continue operations.

Commissioner Powell said he understood Mr. Barnes to be saying that if the school were in good standing with the Commission, he would loan the money. It appeared Mr. Barnes was willing to accept the risk of the school's unknown future actions, so the money would be loaned if no notice of defect were issued.

Mr. Barnes acknowledged that Commissioner Powell was correct.

Commissioner Powell said the cure is a loan, but a loan will be impractical if a notice of defect is issued.

Chairman Hammond suggested the Commission consider more than whether the two issues were met, as the deeper concern is whether Falcon Ridge will be able to keep its doors open. He advised the Commission to reflect on whether they felt Falcon Ridge's management is such that the school will be able to continue to operate.

Commissioner Miller observed that originally, Falcon Ridge projected a negative fund balance in January and now was not projecting such until June. He said the extension of this critical point showed significant improvement.

Kent Nelson, Commission counsel, noted that Section 5209, Idaho Code, says if a notice of defect is issued, the response is to be a corrective action plan. Falcon Ridge could come back to the Commission with a corrective action plan including accurate budgets and a commitment letter from Mr. Barnes. The notice of defect itself would not be an act of revocation. He suggested the Commission focus less on potential revocation and more on direction as to how Falcon Ridge could correct the defect.

Commissioner Hammond agreed that the notice of defect is to point out a problem and is not the same as revocation.

Commissioner Powell said he struggles with the definition in statute of "generally accepted principles of fiscal management." He asked whether having budget struggles fits under that definition and noted institutions may get a clean audit even if bankrupt.

Mr. Nelson said that, financial mismanagement aside, a notice of defect could be issued for failure to provide requested reports.

Commissioner Goesling clarified that the intent of his motion was to express the Commission's identified concern that Falcon Ridge has serious budgetary problems, and despite the Commission's request for clear reports defining the problem and demonstrating a cure, Falcon Ridge failed to submit the requested reports.

Chairman Hammond called for a vote on the motion.

Commissioner Powell stated once again that he was comfortable Falcon Ridge had submitted the first requested report consisting of financial statements.

The motion passed 3-2 with Commissioners Powell and Miller voting nay.

Chairman Hammond reiterated that the motion means the Commission will meet with Falcon Ridge again regarding their ability to solve the problems identified. He thanked Mr. Barnes for his interest in helping the school, asked the Commission to specify to staff that which they wanted to see from Falcon Ridge, and asked staff to review the information in lieu of the Commission reviewing budgetary details at the follow-up hearing.

Commissioner Goesling said he wanted to see the relationship between budget and actuals, as well as a balance sheet, income statements, and cash flow sheets that work together. He also wanted to see the collateral for Mr. Barnes' loan defined.

Chairman Hammond asked for clarification that what Commissioner Goesling wanted was a greater level of comfort that the budget will realistically predict actual expenses and Falcon Ridge will remain solvent.

Commissioners Goesling, Souza, and Donnelly agreed.

Chairman Hammond said it was the Commission's desire to see Falcon Ridge succeed and that the notice of defect should be viewed as an attempt to clarify rather than to criticize or discourage.

6. Legislative Update

Ms. Echeverria updated the Commission on the status of three pieces of legislation before the legislature regarding charter schools. She said Senator Gannon and Senator Schroeder's SB1281 deals with inconsistency in the statute regarding attendance areas and admission preferences for new schools. She testified against the bill because the revision as written would only increase confusion; however, she presented Senator Gannon with alternative revisions to remedy the confusion.

Ms. Echeverria said Senator Schroeder's SB1282 would require charter schools' boards of directors to have annual elections, secret ballots, etc. Senator Goedde's SB1378 would raise the cap on the number of charter schools that could be authorized in a year to 12, only 6 of which could be authorized by the Commission. She said that if the cap was raised to 6 Commission schools annually, the Commission would require staff to manage the workload and that the State Board of Education had requested funding for such as staff person from JFAC.

Commissioner Powell asked whether it would be appropriate for the Commission to take a position on SB1281, as he would like to see language similar to that in last year's SB1170, which would correct the ambiguity while allowing the schools flexibility.

Chairman Hammond said it would be appropriate if the majority of the Commissioners agreed.

M/S (Powell/Miller): To direct staff to communicate to Senator Gannon the Commission's preference that SB1281 contain language similar to that in last year's SB1170. *The motion failed 2-3 with Commissioners Donnelly, Souza, and Goesling voting nay.*

Chairman Hammond asked for the reasoning behind the nay votes, and several Commissioners expressed confusion as to the impact of the decision.

Commissioner Goesling asked to have the motion brought back on the floor for discussion.

Commissioner Powell explained the background of the bills and said SB1170 included a list of admissible preferences including founders' children, siblings, children living in the attendance area, and children of school employees, but allowed schools to select the order of those preferences.

Reinstated M/S (Powell/Miller): To direct staff to communicate to Senator Gannon the Commission's preference that SB1281 contain language similar to that in last year's SB1170.

Commissioner Souza asked how much the issue of siblings living out of the attendance

area had to do with the motion.

Commissioner Powell said there are differences of opinion about how to interpret existing statutes that have caused problems at his own school. He said there is no one-size solution and wants to allow schools the flexibility leave trust in the hands of authorizers who can make sure the flexibility is not abused.

Commissioner Souza asked whether there is flexibility in the current statute.

Commissioner Powell said the only flexibility is due to the ambiguity.

Ms. Echeverria explained that Section 5206 says charter schools “shall” use the attendance area as a preference, while Section 5205 says “may.”

Mr. Nelson clarified that “may” allows a decision whether or not to have preferences and “shall” applies if the school does decide to have preferences. The ambiguity is in how the “shall” regarding attendance area in 5206 dovetails with the admission preferences listed in 5205.

Commissioner Powell asked whether there was any reason the attendance area should not be a preference, especially since traditional public schools serve a primary area and the issue has financial implications for the school and state.

Commissioner Miller noted that although the Hidden Springs conflict contributed to the perception that an attendance area preference would cause exclusivity in wealthy attendance areas, an attendance area preference could also assist charter schools in serving an underprivileged population, as exemplified by Garden City Community School.

Commissioner Powell said the Hidden Springs conflict may be clouding the issue and that as the conflict had been widely misrepresented, he would be happy to answer questions.

Chairman Hammond called for a vote on the motion.

The motion passed 3-2, with Commissioners Souza and Donnelly voting nay.

Chairman Hammond adjourned the meeting at 12:55 p.m.

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