

October 2, 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; John O'Keefe; Callahan Beck; John Carroll; Oliver Olsen; Stacy Weinberger, Dan French.

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

Others: Gail Conley, Huntington; David Clark, WNESU/BFUHS; Randall Scott, Barnard; Carin Park, Barnard; Scott Thompson, Calais; Dorothy Naylor, Calais; Margaret MacLean, Peacham; Jody Normandeau, Dummerston; David Kelley, Greensboro; Liz Adams, Putney; Paul Susen, Huntington; Pamela Fraser, Barnard; Senator McCormack, Bethel.

Item A: Call to Order

Chair Huling called the meeting to order at 8:36 a.m. and asked members to introduce themselves: Huling, Carroll, Perrin, Mathis, French, Olsen, Peltz introduced themselves. Chair Huling asked if there were any amendments to the agenda. There were none. O'Keefe and Weinberger arrived after introductions.

Item B: Welcome from the Superintendent

Superintendent Bruce Labs introduced himself and Andra Bowen and Owen Bradley, principals, and spoke to the merger activity of his region. They are not a finished product yet, they are a work in progress and they are looking forward to increased opportunities to build a great middle school. There is excitement about new course offerings and what Chelsea and Tunbridge are doing together and what Rochester and Stockbridge are doing together under their new structures. He spoke to the many retirements this year that resulted in the hiring of about 40 new teachers, which has been positive with new energy and ideas. They are working hard towards their 5-year strategic plan and working with Dr. (inaudible) to bring students back from placements, are working on developing a data warehouse, and have also hired the chef from Three Stallion Inn, Willy Walker, as food service director, so the food is great. Bowen shared that she had been here 19 years and worked with Bradley for the last four years. She spoke about working with teachers across two campuses. Bradley thanked the Board for coming and said that they were honored to host the Board. Bradley shared that it took three

votes to merge. In 149 days, they ran a school and made a school and asked so much of so many. It was quite a feat and it was many who were involved. Last year there were 655 students and this year they are drawing tuition students. Bradley stated that his goal is to be the best school in the nation. This summer, 15 facility projects were added: all three gyms, greenhouse, shop, and science lab. Transferable skills were used to accomplish this. Chair Huling thanked Labs and his staff for the student involvement throughout this process and for the hard work of their successful merger.

Bradley asked a student to lead the group in the Pledge of Allegiance.

Chair Huling asked the student-parent panel to introduce themselves: Laurie Smith, health teacher, educator and parent; Eliza Beattie, White River Valley High School; Grace Cowans, White River Valley Middle School; Casey Knisselberger, White River Valley Middle School; Rodney Rainville, school board member and parent; John Olmstead, Royalton, study committee member, grandfather; Gracie Framboise, White River Valley High School, school board representative.

Chair Huling asked the group to speak about challenges and successes.

Students spoke about their experiences with the merger as an upcoming senior, feelings about losing identity as a senior, that many classmates attended school board meetings, and that they have not noticed many changes except a few new classes and have enjoyed combining two school's traditions. They spoke about being opposed to the merger but realizing increased opportunities and not having to choose and make sacrifices around classes, and not liking having to wait twenty minutes to catch a bus home. Rainville spoke about bussing being their biggest problem but that the opportunities have more than offset this. Olmstead spoke about his history with school boards and that it is clearly the right decision because there were expanded opportunities and that smaller schools cannot survive and offer the opportunities that students need, previous attempts at merger, folks grumbling about the same things they would be grumbling about without a merger, that the coming together is a true benefit to the most important component, the kids. Olmstead continued that it was exhilarating, even though tough. Students spoke about not having any negative feelings, but being excited about it right from the start, that South Royalton School felt like home right away, that AP courses are available and wouldn't have been offered at Bethel, things have changed and they are definitely for the better, merger process was rocky but had a strong student voice component, and that they are having a great year. Smith spoke about how proud she was of all the students, that the kids have been amazing, middle schoolers were at home from the start, the kids are better than fine, proud of new programming at the high school and middle school level (new advisory program, new clubs, private music lessons with professionals, outdoor education programs), bringing the best of both campuses together, and growing in equity and opportunity for all students. She added a note of caution, that adults have been working extremely hard and that because of this merger, they are having to work even harder because along with the merger work they are trying to implement new initiatives such as PBL and the staff is completely exhausted.

There were questions about the extra work being done by the adults, appreciation for new mandates and the need to communicate this to legislators, any dissension among fellow students on the student council, some decision-making around combining two student bodies, student contributions to future activities, transportation issues and if there might be other issues with student transportation, statewide shortage of bus drivers, and change in division with sports.

Bradley thanked the students and parents for taking time out of their day to be here, he shared a communication used during the merger, and spoke about the difficulty in changing school colors, the sense of community, working on Continuous Improvement with the AOE, that they are a learning community and are all learners, and his goal for this year of having every student at grade level for literacy and numeracy.

Item D: Public to be Heard

Chair Huling invited any additional members of the public to sign up. She explained that she would allot three minutes per person and explained the process for keeping time during public comment.

The following people addressed the Board: Gail Conley, Huntington; David Clark, Westminster; Carin Park, Barnard; Randall Scott, Windsor 1 district; Margaret MacLean, Peacham; David Kelley, Greensboro; Scott Thompson, Calais representative on the U-32 board; Liz Adams, Putney; and Paul Susen, Huntington. Jody Normandeau read a letter from Pamela Frazer, Barnard. There were questions and discussion on having members of the public read letters from those who are not present and then speak again on their own behalf, especially since the Board is accepting written comments. There were objections from Olsen and O'Keefe on setting precedent for having letters read when written comments are an option. They concurred to yield on this for this time only. The following people addressed the Board: Jody Normandeau, Dummerston; Dorothy Naylor, Calais; and Senator McCormack, Bethel.

Chair Huling offered anyone who had additional comments to forward them in writing.

Chair Huling called a break at 9:55 a.m. to reconvene at 10:10 a.m.

Chair Huling reconvened at 10:14 a.m.

Item E: Working Session on the State Plan

Chair Huling reviewed page 19 of Act 46. She shared that they were going to start with obligations and duties and then move on to guiding principles. She added that the Secretary was able to do this in a differently, but that the Board would be working through this in a very different and public manner. She acknowledged that this was going to be very hard, as this group of individuals come together as a deliberative body, and that there might not be any consensus on the guiding principles today. She expressed hope that the Board would continue to be respectful and collaborative. She also thanked the Agency for their work in turning this around so quickly. Russo-Savage, Simmons and James came forward and were available to discuss the document titled "Legal Requirements and Legislative Guidance." Chair Huling walked the Board through this document.

There was discussion on Act 46 having no preclusion of voting, exemptions for anomalies, the process of starting this with input requested from the AOE and that ultimately the Board needs to understand the law and interpret it, page 3 number 8 where it says, “must adhere to the provisions governing the Secretary’s proposal,” defining possible and practicable, how many districts failed to provide a written proposal by the deadline, that there were discussions in lieu of proposals, that the deadline was loose, one of the goals of Act 46 being transparency, the importance of knowing who and how many submitted a robust proposal, self-evaluation of meeting the goals, and that the Board and municipalities are all creations of the General Assembly.

Chair Huling walked through the letter from Molly Bachman, General Counsel, addressing a request for an opinion as to whether a district vote against a merger is a barrier to merger under the State Plan. There was discussion on the interpretation that the Secretary’s proposed plan agreed with 32 of the 47 decision points and using the 706(b) votes on the electorate for comparison purposes. Carroll offered two emerging principles: that the Board has the authority to overrule the governance of districts who have presented AGS proposals and that the will of the people/local vote that matters is what got to the General Assembly and wrote this legislation and that further time does not need to be spent on specifics of the votes. Discussion continued on addressing *possible* and *practicable* and varying levels of debt assumption, difference between obligations and principles, the obligation of carrying out the directives of the General Assembly to the best of their ability, sticking to the plain meaning of what the statute says, leadership throughout this process and the importance of remembering this during discussion, how we come out of this will define how we deliver education, education and democracy are always a work in progress and democratic involvement of town citizenry.

Chair Huling suggested transitioning to guiding principles. Chair Huling started with *possible* and *practical* as referenced on page 25. There was discussion on using these definitions, “possible” being that it complies with like structures and Section 9 and no exemptions apply and connecting the criteria on this page to language in statute. Olsen suggested a definition for *possible*: any connotation that is not statutorily prohibited, is possible. There was discussion on “practicable” including history of working together, capacity and being reasonably merged. There was discussion on the slippery slope of seeing adversarial relationships as impracticable, seeing *possible* as a clinical definition and *practicable* as fulfilling the intent of the law, union high schools and their demonstrated capacity and ability to work together, governance vs. buildings, defining impracticable (the obstacles) first, debt and distance being obstacles. Chair Huling asked the group to look at page 96, proposal 11, where this is deemed impracticable, because it doesn’t advance the goals of Act 46. Olsen noted that there is inconsistency in this section. Russo-Savage and Weinberger clarified that 1) it wasn’t practicable and possible *at that time* and 2) that benefits were minimal. Olsen disagreed with this assessment and saw benefits with sharing resources and school choice. Chair Huling directed the group to page 132, proposal #24 and the group discussed the resistance of Danville, asserting the authority to redraw SU boundaries, differential debt, equity and fairness of one community taking on the debt of another, considering that merger is *practicable* if there is already movement to work together in a formalized way that it would not be practicable to disrupt, instituting a broad based statewide tax to address such situations, and lack of construction aid in this state.

Chair Huling shared that lunch was available for the public in the cafeteria at noon, promptly.

Chair Huling shared that they would continue with proposals #24, #26, #28, #29, #32 and #33 after lunch. Chair Huling asked if the Board would like to look at what is deemed practicable or not practicable. Carroll offered that we continue to look at both practicable and impracticable as it is a good path.

Chair Huling called recess at 11:57 a.m. and asked the group to reconvene at 12:35 p.m.

Chair Huling called the meeting back to order at 12:46 p.m.

Item F: Working Session on the State Plan

Chair Huling asked Weinberger to read what had been accomplished regarding *possible* and *practicable*. She addressed *possible* – any combination that is not statutorily prohibited is possible. And she addressed *practicable* – if a district or districts have demonstrated progress in moving toward smaller governance units/districts, then it would not be practicable to disrupt this process. Carroll offered that another way to see it would be that there are obstacles and to decide what obstacles cannot be overcome. It was suggested that they focus on very clear things that make a merger impracticable. There was discussion on varying levels of indebtedness, starting point of last years equalized spending per pupil of these districts and picking a threshold (20%) and working around that variance, disparity caused by indebtedness, where debt is accounted for, affordability of debt, dynamics of looking at differences in tax rates, practicability of merging districts with very different tax rates, debt issues are not in isolation, broadening the district to mitigate the debt burden, using permissible and achievable (instead of *possible* and *practicable*), importance of keeping the statutory language, *possible* being a binary question and *practicable* being a continuum, coming back to the goals of the law, and that the movement to collaborate is positive and isn't a hurdle. There was discussion on how to incorporate these themes into Weinberger's notes on guiding principles to be vetted out later.

Chair Huling referenced/discussed proposal #28 on page 157 and how it speaks to why this proposal is not practicable, per the Secretary's State Plan. These are three different operating structures, making merger not possible and the surrounding districts have just merged and are not ready to take on more, making it impracticable. Chair Huling referenced/discussed proposal #29 on page 165 which is impracticable because it does not advance the goals of Act 46. French referenced a good discussion on debt at the bottom of page 163. Chair Huling referenced/discussed proposal #32 that is deemed impracticable because they are already in motion working with an interstate district, making it not possible and needing congressional action. Chair Huling referenced proposal #33 on page 184 where a merger could not be required because of exemptions, but they could be asked. There was discussion on how to incorporate these themes into Weinberger's notes on guiding principles to be vetted out later. Chair Huling referenced page 60, the *Overview of MUUSD and NMED Structures and Issues*. There was further discussion on perpetuating a complex system, three boards (elementary, union and SU), goals of the law (transparency and accountability), exploring the depth of practicality of forced mergers, redefining the SU so that it becomes an SD, non-member of the MUUSD being exempt, changing the SU boundary so the remaining SU can become an SD and receipt of a written, timely, duly-authorized AGS proposal that meets the requirements under the law. Chair Huling referenced pages 125 and 131. There was discussion on compliance with Section 261(a), back to

the law of creating sustainable governance structures, people as the greatest asset a community has, sending the wrong message to keep exempting those who are already not following the law, looking at the reason why the law is not being followed, separate concern on what are we doing as a Board for the long-term, leadership turnover, and being fair to who we merge with a dysfunctional SU. Chair Huling referenced page 185, districts for which merger is either not possible or not practicable or both. There was discussion on geographical distance from any districts with similar operating structure, contiguous districts, movement into larger unified districts, meaning of contiguous, that the State Plan should include SU boundary re-drawing, operating district rule as a barrier, constitutional and statutory issues.

Chair Huling called a recess at 2:26 p.m. to resume at 2:45 p.m. She asked Weinberger to make a copy of her notes to share with the Board following recess.

Chair Huling reconvened at 2:52 p.m.

Item G: Working Session on the State Plan

Chair Huling shared that the working draft had been distributed during the break:

Any combination that is not statutorily prohibited is possible. All concurred; there was no discussion on this.

Chair Huling asked Weinberger to explain her notes. Weinberger explained that these are factors to be considered to determine if a merger is practicable. There was discussion on that one or more of the following factors might suggest the proposal to be impractical:

- Districts who have formal agreements and/or processes underway to merge governance, i.e.: joint operation of a school, interstate compact model. There was consensus on this.
- Districts are non-contiguous and/or geographically distant from like operating systems. There was discussion on adding “unless proposed under the Section 9 proposal.” There was consensus on this.
- Lack of community connections/orientation of students. There was discussion on orientations breaking down over time for secondary schools, that this shouldn’t be a hurdle to governance, that this is a supporting factor to consider, differential tuition rates, this being too subjective to consider, community connection being very important even though it is so subjective, having a clearly defined process since we are already on notice that this will be litigated, difficulty of quantifying this, subjectivity will be an issue with or without this. Chair Huling offered for Mathis to wordsmith this and revisit this at the end, as there was no consensus to keep this.
- If equalized per pupil spending is greater than +/- 20% of the mean equalized per pupil spending of the existing district. There was discussion on if this was caused by debt and if not, that it would still be practicable. There was further discussion on debt not being

an issue without a significant variation as it wouldn't dramatically affect the tax rates, not getting into other variables, not having a +/- 20% threshold, starting at 20% and drilling down for clarity, without a 706(b) study there is no modeling, looking at spending per pupil as the first cut, looking at all debt regardless of what it is for, clarifying the language. O'Keefe asked for language. French provided this: If equalized per pupil spending is greater than 20% of the mean equalized spending per pupil, then examine debt ratios.

- “No” votes in towns related to the merger. There was discussion on Act 46 being the continuum of several voluntary processes that came before, submitting a 706(b) plan, inherent issue of fairness with districts who get a pass for a no vote, importance of how many times it was voted on, that many of these issues are alluded to in the Act for consideration, that there is no provision in Sections 9 and 10 of this Act on community sentiment, community vote as an indicator of practicability and the Board's interpretation of this, Board's purpose here is not to gage or anticipate community or political fallout, the law is clear on this point, Bachman's memo, that nothing this Board does is final and that the General Assembly has the authority to make changes, need to respect public votes, irrelevance of no votes if goals of Act 46 are not being met, Board's responsibility to ensure equity and equal access to quality education for VT students and Act 60 and its connection to statewide control vs. local. Chair Huling asked for some language on this principle and acknowledged that this is a difficult internal struggle for many. French offered this language: In the case where there was a no vote on a 706(b) merger, this might be an indication of the impracticability of a merger for these districts. There was discussion on communities that didn't submit a 706(b) proposal, having a trigger that signals further consideration, that this might cause Act 46 to implode, Section 9 plans being the real key to consideration, examples in Act 49 where community votes are considered (2x2x1 and 3x1), why this is impracticable, and only looking at those who have submitted a Section 9 proposal. Olson offered that we add, “and that they submitted a valid Section 9 proposal that was duly authorized by the board by the deadline.”

Russo-Savage shared that there were six areas that did not submit an AGS proposal, but she thought there were some important points to consider: 1) level of analysis varied greatly 2) there was some confusion on the deadline, the deadline was changed and the Secretary agreed to take proposals any time after the deadline because of this confusion 3) AOE let all districts who participated in a 706(b) study know that this study would be considered by the Secretary and the Board and there were at least three that didn't submit in writing, but at least two thought the Section 9 requirements were satisfied by the 706(b) study. There were three others that didn't submit anything in writing but had submitted an unsuccessful 3x1 application, so AOE considered this to be a Section 9 proposal. Canaan and Thetford didn't submit anything in

writing prior to the meeting with the Secretary, but they are considered impossible and impracticable.

There was discussion on the difference in quality between 706(b) study and Section 9 proposals, Section 9 being an alternative and that requirements were very specific. Chair Huling asked for language. French provided: In the case where there is a no vote on a 706(b) merger. Carroll, Olson and O'Keefe expressed that they are not in agreement with this as a guiding principle.

- Newly-merged districts will not be asked to accept new districts/SUs. Weinberger reworded this: District/SU involved was newly merged. There was discussion on what is newly merged, striking this completely, looking at the SU level, clarification that newly formed does not involve a NMED or MUUSD, capacity issue of districts, need for predictability, and the burden on newly merged districts. Chair Huling asked for language. French offered: The district/SU is newly merged and is not an MUUSD or an NMED. O'Keefe asked that "within the last two fiscal years" be added.
- Chair Huling introduced the idea of NMEDs in a MUUSD and any MUUSDs and asked if anyone had a statement to offer on this. There was discussion on undesirable circumstances that might make a merger impracticable, what is possible, and what is practicable, that MUUSDs and NMEDs are presumed to be practicable and all other districts are deemed to be practicable except and unless consideration of the factors make it otherwise. There was discussion on practicability being the ability to achieve the goals of the law, virtues of forcing a district to become part of a MUUSD outweighing any other practicability considerations, disagreement with this, some uncomfortableness with this and the no votes, wanting to have conversations, leaving the MUUSD off the last one.

Chair Huling asked if Mathis had reworded his principle. He thought about including AHS connections, business and community connections, and needy children but thought this would encumber things. Weinberger stated that this is evidence of how complicated this can be and expressed that this is not needed as it was used as only one point of the rationale.

Chair Huling asked about voting on this today or at the next meeting. Carroll asked if the list included community orientation; Chair Huling said no. Olsen asked French to read through the complete list again. There were some minor edits from the group. It was realized that we didn't get to the factor on the back side of the handout: There was a Section 9 proposal submitted and it is timely, duly authorized and the district currently adheres to the specifics in the law. There was discussion on wording of the working document, non-submittal being considered exempt, a separate class of evaluation (no proposals), using this as a gate for other factors, not using these factors if Section 9 proposal was not submitted, considering the timeliness and confusion with deadlines for receipt.

Perrin proposed a vote on this today. Perrin moved and Peltz seconded. Olsen suggested a recess to draft a solid motion. Chair Huling called a 5-minute recess at 4:24 p.m. French

suggested emailing draft language to Olsen to draft on behalf of the Board. Chair Huling reconvened at 4:39 p.m.

Item H: Adoption of Guiding Principles

Chair Huling asked Olsen to read the proposed motion. Olsen read: Any merger scenario that is not statutorily prohibited is deemed to be *possible*. Proposed mergers under the Acting Secretary's plan shall be deemed to be *practicable* unless a school district or group of districts submitted a duly authorized AGS proposal by January 31, 2018 and some or all of the following factors are present, in which case the SBE will give due consideration to the same:

- 1) Districts have formal agreements or processes underway to merge governance (i.e. joint school district or interstate compact).
- 2) Non-contiguous to a like operating structure unless offered under an AGS proposal.
- 3) If spending per equalized pupil is greater than 20% of the mean spending per equalized pupils for potential merger partners, then the Board will examine the impact of debt.
- 4) The case where there was a no vote on a 706(b) merger.
- 5) District/supervisory union was merged within the last two fiscal years and is not a MUUSD or NMED.

Chair Huling reminded the Board that the Perrin made a motion and Peltz seconded. Carroll asked for the motion. Perrin clarified that it was to adopt the work of the day as evidenced by adoption of the proposed guiding principles. Carroll suggested amending the name of this document to a "working understanding." Mathis seconded. Peltz asked to have the motion and amendment read again. Perrin moved to accept the work of the day as a working understanding of the principles to get us to the State Plan. Chair Huling clarified that Carroll's was a friendly amendment. Carroll explained his no vote. He said the he would be opposing this because of #4, which he feels extends import to a no vote and he does not understand the law to make any provisions for the Board to take this into account. There was discussion on understanding Carroll's reservations, the importance of the public giving feedback on this and the importance of understanding the principles that will be uniformly applied. Chair Huling called the vote and then a hand vote. The vote passed. YES: Peltz, Weinberger, Olsen, Mathis, Perrin. NO: Beck, O'Keefe, Carroll.

Carroll asked for the Agency to go through all the proposals that meet the test of this understanding and provide a simple spreadsheet that will indicate if any of these five conditions are applicable. This would help to determine where the impracticality is.

Item J: Consent Agenda

Mathis moved to accept the consent agenda. Carroll seconded. Chair Huling called a vote; the vote passed unanimously.

Item K: Calendar Review

Chair Huling shared that the next meeting is scheduled for Hartford High School on October 17, 2018. Chair Huling added that we are needy guests and the Teacher of the Year school was not able to accommodate the size of this group this year.

Chair Huling suggested starting with the *possible* mergers for the next meeting. Carroll asked for those that were not possible, Huling said those are listed on page 185. Russo-Savage clarified that this was decisions 34-43 and that they might want to be revisited. Chair Huling suggested starting with these instead. There was discussion on voting on them individually or as a group, the need to read the page on decision points and decide if those are the right options, that we will vote on these all at the end of the process as part of the state plan. Chair Huling suggested reviewing this document. The group concurred. Carroll suggested taking a vote on the Secretary's assessment that a merger is not possible. There was discussion on starting at the top of the list and moving down, how much of the votes to warn, warning them all to ensure flexibility, warning everything in subsequent meetings to ensure flexibility, and that materials will provided electronically again as there is not enough time to turn them in around to be mailed to members.

Adjourn

Beck moved to adjourn; Carroll seconded. The vote to adjourn was unanimous. The meeting adjourned at 5:01 p.m.

Minutes recorded and prepared by Maureen Gaidys.
