

STATE BOARD OF PUBLIC SCHOOL EDUCATION
MINUTES OF MEETING
June 24, 2024

State Board of Public School Education members met in the Pioneer Room at the State Capitol and via Teams on Monday, June 24, 2024. The meeting was called to order by Chairwoman Sonia Meehl at 1:00 p.m.

State Board Members in Attendance:

Chair Sonia Meehl
Vice Chairman Mike McHugh
Board Member Eric Nelson
Board Member Lyndsi Engstrom
Board Member Burdell Johnson

State Board Member Present Virtually:

Superintendent Kirsten Baesler (left at 1:30 pm)

State Board Member Absent:

Board Member Josh Johnson

Others in Attendance: Judge Timothy Dawson (Administrative Law Judge), Shauna Marchus (NDDPI Admin), Bob LaFavor (DPI-NDIT), Alyssa Martin (Director of NDCDE - left at 1:30 p.m.), Joann Humann, Justin Purintun, Nicole Purintun, Rick Diegel, Michael Shirado, Tanner Purintun, John Barry, David Phillips, Rebecca Phillips, Cindy Schmidt, Craig Serr, Katie Serr, and 3 other guests.

Others Present Virtually: Allyson Hicks (Asst. Atty General), Melissa Hamilton (ND Atty Gen. Office), Adam Tescher (NDDPI), Donna Fishbeck (NDDPI), Brandt Dick (Emmons County Superintendent), Corene Purintun, Joseph Hanson, Joe Bata, Bernice Keller, Corbley Ogden, Marlys Ohlhauser, Jeff Frith, 5 other virtual guests.

Chair Meehl called the meeting to order and confirmed that there was a quorum present.

1. APPROVAL OF MINUTES

a. May 20, 2024 – Regular Meeting

Mike McHugh moved to approve the minutes from the May 20, 2024 regular meeting. Eric Nelson seconded the motion. No discussion. The motion carried unanimously.

b. June 20, 2024 – Special Meeting

Lyndsi Engstrom moved to approve the minutes from the June 20, 2024 special meeting. Mike McHugh seconded the motion. No discussion. The motion carried unanimously.

2. **Presentation: North Dakota Center for Distance Education (NDCDE) Cybersecurity & Computer Science Integration Plan – Dr. Alyssa Martin, Director**

Chair Meehl introduced Dr. Alyssa Martin, the director of the ND Center for Distance Education, and explained that this State Board is required to approve the NDCDE's Cyber Security and Computer Science integration plan.

Dr. Martin gave a brief presentation and summarized the NDCDE detailed integration plan. She outlined their process of analyzing both mandatory and popular courses at the NDCDE to ensure alignment with state standards. She noted that in response to finding curricular gaps, especially in elementary grades and digital citizenship education, they are developing a new onboarding course using artificial intelligence aimed at familiarizing students with their virtual learning environment and teaching them about acceptable use policies, cyberbullying prevention, and online behavior. Additionally, Dr. Martin discussed adjustments made for students in the diploma program, ensuring they are exposed to at least 30 standards aligned with cybersecurity and computer science, regardless of their entry year. Dr. Martin concluded by stating that upon board approval, the plan will be made available on their website for other educational institutions to use as a resource in their own integration efforts.

Eric Nelson moved to approve the NDCDE integration plan. Mike McHugh seconded the motion. No discussion.

NAME	VOTE (Yes/ No)
Board Member Lyndsi Engstrom	Yes
Board Member Burdell Johnson	Yes
Vice Chair Mike McHugh	Yes
Superintendent Kirsten Baesler	Yes
Board Member Eric Nelson	Yes
Chair Sonia Meehl	Yes
Board Member Josh Johnson	Absent – No Vote

Motion passed 6-0.

3. **Hold a hearing, discuss, and take action on the appeal of a denial of the annexation of property from the Hazelton-Moffit-Braddock Public (HMB) School District No. 6 of Emmons County in North Dakota to the Linton Public School District No. 36 of Emmons County in North Dakota (Purintun Appeal)**

Mike McHugh recused himself from both the Purintun Appeal hearing and the Serr Appeal hearing due to a potential conflict of interest. He explained that his brother-in-law serves as the Superintendent in Hazelton, which he believes could create a perceived conflict of interest, and he didn't want to cause any problems for the board.

Allyson Hicks confirmed that Mike McHugh has chosen to independently recuse himself from the proceedings due to the disclosed conflict of interest, in accordance with the Ethics Commission's rules. She explained that since he has made this decision, there is no need for a board vote. Chair Meehl emphasized that Mike McHugh will remain in the room but will not participate in the discussion, ask questions, or in any way influence the board's action on these two matters.

Allyson Hicks announced that a special board meeting was held on Thursday, June 20th, and a potential conflict of interest involving Chair Sonia Meehl was discussed. She explained that at the special meeting it was disclosed that Chair Meehl is acquainted with the Purintun family through their children's sports, but has had no recent contact with them. Allyson Hicks explained that the board had to determine whether or not there was a conflict of interest because if Chair Meehl needed to recuse, then there may have been a problem of being able to hold the hearing as scheduled due to a lack of quorum. She added that they held this discussion and vote prior to today's meeting to avoid inconveniencing all attendees traveling to the capitol if a quorum was not able to be reached. She noted that the board voted to allow Chair Meehl to participate in the Purintun Annexation hearing. The full details are available in the special meeting minutes.

Chair Meehl informed the board that there are seven board members in total, with five present in the room and Superintendent Baesler joining remotely from a conference. Superintendent Basler indicated she will only be available for a limited time due to her conference commitments, which will make it unfair for her to participate without hearing all the testimony. Chair Meehl confirmed that she, along with board members Engstrom, Johnson, and Nelson, who are present, constitute a quorum and the board would proceed with hearing the appeals accordingly.

The Purintun Annexation Appeal hearing was held Monday, June 24, 2024, beginning at 1:25 pm and was conducted by Administrative Law Judge Timothy Dawson from the Office of Administrative Hearings, pursuant to North Dakota Century Code Chapter 15.1-12. This was an evidentiary hearing for the board to hear testimony and consider other evidence as presented on issues as outlined in the Purintun Annexation packet. The annexation packet from Emmons County was entered into evidence and marked as Exhibit 1. Judge Dawson explained the rules and procedures of the hearing as well as the penalties for perjury. He noted that the board wished to waive the rules of evidence per North Dakota Century Code Section 28-32-24. Only relevant evidence will be admitted at the hearing. He explained that at the close of testimonies, the State Board of Public School Education will make the final decision. If any party does not agree with the final decision, they may appeal under North Dakota Century Code Chapter 28-32, the Administrative Agencies Practices Act. The proceedings were recorded, and all persons testifying were sworn in by Administrative Law Judge Timothy Dawson.

Brandt Dick, Emmons County Superintendent of Schools, testified that a county hearing was held on April 5th, 2024, regarding the Purintun's petition for annexation of a portion of their land to the Linton School District. He mentioned that Mrs. Purintun teaches at the Linton Public School, and their children are open enrolled to attend the Linton school. He

stated that the petition strategically included narrow strips of land to minimize the impact on the HMB School District. He mentioned that Emmons County expressed acceptance of this approach to maintain contiguous farmland access to the Linton School District. He described the main reasons for the petition was for the petitioners to have voting rights in the Linton school board elections and for the potential to serve on the Linton School Board where their children attend school. He noted that the county committee voted 5-0 to deny the petition, leading the Purintun family to appeal the decision of the county to the State Board of Public School Education.

During questioning from the board, Brandt Dick clarified that the petitioners themselves chose the specific parcels of land to include in their annexation request, including the alternating strips of land along the road, and that the Purintuns own the land where the farm is located, but they do not own all the land on the strip. He asserted that he did not influence their selection. He noted that before submitting the petition, there was a collaboration between the petitioners and the county, which facilitated the process. He also confirmed that the parcels shown on the map, each representing a quarter of land, are approximately 3.5 miles before reaching a half section of land. Brandt Dick explained that the taxable valuation of the petitioned parcels was determined in collaboration with the county, and the county provided a breakdown of the land and its taxable values. Allyson Hicks asked Brandt Dick whether there has been communication with all of the property owners involved regarding the annexation's impact on their taxation and asked if they gave their opinion on modifying the school district boundaries. Brandt Dick responded that the petitioners communicated with all affected landowners about the strips of land being transferred from Hazelton Moffit Braddock (HMB) to Linton and noted that all the landowners expressed approval.

Joann Humann, Emmons County Reorganization Board member, testified against the Purintun annexation. She highlighted the requirement in the North Dakota Century Code that annexed property must constitute a single contiguous area to the school district. She also contrasted this annexation with past annexations where land was contiguous and done before open enrollment was available. She argued that approving the Purintun annexation would burden the remaining taxpayers with increased tax responsibilities. She expressed concerns that allowing such annexations could set a precedent statewide, undermining the integrity of the school district boundaries and governance. She noted that through open enrollment the Purintun family does still have the right to discuss their children's education with any teacher, board member, or administrator, but they do not have the ability to vote or be on the school board. She concluded by urging the board to deny the Purintun annexation to uphold the county committee's decision.

Allyson Hicks asked Joann Humann if the States Attorney advised the county committee on the single area requirement in the century code or did the county committee receive legal advice on that point. Joann Humann responded that the county committee had a letter from State's Attorney Joseph Hanson, and he questioned if it constituted a single area of land, but stated it would be left up to the State Board to decide.

Justin Purintun, Petitioner, testified that he attended Linton Public School as a child, his wife currently teaches at Linton Public School, and his children attend school there through open enrollment. He acknowledged the petition's previous denial at the county level but discussed the importance of appeals in American governance, citing historical precedents where higher courts have overturned lower court decisions. He addressed the complexities of decision-making at the local level and stated that voting members might feel pressured by family and social connections or worry about the impact their decisions may have on their business or livelihoods and that those pressures can influence decisions that may not align with true convictions. He stated this was a reason he had brought this appeal to the State Board level, as he believes the State Board is able to decide impartially based solely on the merits of the case and make objective decisions free from local pressures and concerns that may have influenced the county level's denial. He noted that during the county hearing, the attorney representing the HMB School District argued that these petitions were invalid and should not be referred to the State Board despite Emmons County State's Attorney Joe Hansen expressing the belief that the petitions were sufficient and should be reviewed by the State Board. He then responded to accusations of attempting to circumvent the spirit of the law by annexing land in strips; He clarified that this method was chosen to minimize the land involved and minimize the impact on both districts' taxes. He affirmed that his intention was not to harm the HMB School District but to secure representation within the Linton School District, understanding that representation necessitates taxation. He concluded by asking the board to consider the validity of the petition in light of similar annexations approved in North Dakota's history.

During questioning from the board, Justin Purintun clarified that after discussing previous cases with Superintendent Rick Diegel, the petitioners were the ones to propose using 10-acre strips for annexation to avoid complications seen with smaller amounts of land annexations. He acknowledged potential tax increases if this annexation is approved, and he confirmed discussing this tax increase with all affected landowners, who all gave their approval. He confirmed that he and other petitioners own additional land within the HMB School District and pay taxes accordingly. He also noted his occupation as a farmer, and that he has ownership of a business in Bismarck; then he explained that because he generates off-farm income, he is not eligible for the farm exemption on his residential property. Chair Meehl questioned why he did not subdivide his parcel further to include only his immediate residence. Justin Purintun responded that he considered future possibilities for his children, who might choose to build homes on the property within the newly proposed school district boundaries. He also commented that he was not aware of any other buildings that would be taxable on the 10-acre strip included in the annexation.

Nicole Purintun, Petitioner, testified that she has been an educator at the Linton Public School for the last eight years. She discussed the potential benefits of the proposed annexation, stating that if approved, it would provide her children with enhanced resources and expanded opportunities. She highlighted her desire to vote for the school board members where her children attend school and be able to influence educational policies directly. She recognized that she has some say about educational opportunities, but she believes as a voting member of the public she would be more effective. She acknowledged

that her children are currently open enrolled in the Linton School, but noted that their continued enrollment is not guaranteed. She would like to secure the ability for all her children to attend school there. She concluded by stating that while there are many compelling reasons to pursue annexation, the most critical is the power of parental choice in shaping educational experiences for her children.

During the board's questioning, Nicole Purnintun expressed concerns about the current disparity in educational opportunities between Linton Public School and the HMB School, particularly in terms of class sizes and open enrollment policies. She stated that the Linton school has separate classrooms for each grade, and the HMB classrooms are different. Allyson Hicks asked if there was any policy that allows a teacher's children to attend the school their parent is teaching at, even if there is no open enrollment. Nicole Purintun stated that she is not aware of any such policy. Nicole Purintun also confirmed that she is not aware of any upcoming change in policy about open enrollment.

Rick Diegel, Superintendent of Linton School District, testified in support of the Purintun annexation. He highlighted that annexations are not uncommon in the state. He emphasized that the Purintuns followed the required procedures and laws for annexations, including annexing the least amount of land necessary, filing all the required paperwork, and getting written authorization from Emmons County for tax purposes. He argued for adherence to existing rules and regulations for annexations, which he believed this petition met. He noted previously approved annexations that had land that touched at corners, which were considered contiguous, relating it to the proposed land strips in this petition. He also discussed the importance of allowing families to reside in the school district where their children attend, enabling them to participate more actively in their children's education by voting in elections and running for school board.

During the board's questioning, Rick Diegel confirmed that there are no current discussions within the Linton School District about closing open enrollment. He noted that the level of expressed interest of people running for school board positions fluctuates. Regarding questions about previously annexed land shapes, he referred to his research, which included examples from the Williston District, and stated that he did not recall specific dimensions of annexed strips of land but more the general practice focused on including the least amount of land necessary. When asked how long he would be the Linton Superintendent, he answered that he would be in this role for 6 more days, after which he plans to return to Kidder County. He commented on the question of whether there was a school policy that allows the children of an employee of the school to attend the school regardless of open enrollment, and he noted there is no such policy. In response to questions about potential influxes of annexation requests, he noted that annexations are infrequent in the same area and typically involve a small number of residents. He emphasized that eligibility for annexation requires having children attending the school district in question, which limits the number of eligible participants.

Michael Schirado, Current Linton High School Principal and incoming Linton School District Superintendent, testified in support of the Purinton annexation appeal. He emphasized the family's desire for greater involvement in the Linton School District, and he discussed that annexations have been permitted in accordance with the century code as a way for families to take a more active role in their children's education, including voting rights and the ability to run for school board positions, which open enrollment does not provide. He urged the board to approve the Purinton annexation, citing the family's high level of participation in their children's education and adherence to state guidelines for this annexation.

Tanner Purinton, Brother of Petitioner, testified in support of the Purinton annexation appeal and commented on open enrollment policies, emphasizing that while current policies allow participation based on open enrollment, future changes cannot be predicted. He cited examples of policy shifts from his involvement in sports committees, and noted that the ability of the family to have their children attend the Linton School and the ability to vote in that same district should not be left to chance of open enrollment policies.

John Barry, Superintendent of Hazelton-Moffit-Bradock School District, testified in opposition to the Purinton annexation appeal. He highlighted that the county committee had already unanimously rejected the annexation. He argued that there is no educational benefit to the Purinton students to be gained by the proposed annexation since they already receive services like busing, co-op sports participation, and academics through open enrollment at Linton Public School. He emphasized that approving the annexation would lead to a permanent reduction in HMB's taxable valuation and a decreased operating budget. Additionally, he noted that the property in question is closer to the HMB school than the Linton school and he warned of setting a precedent of annexations so far away from school district boundary lines. He concluded by urging the board to reject the annexation.

During the board's questioning, John Barry commented that after his research, previous annexations were approved for needs like busing, and stated that the Purinton family already receives all services through open enrollment. When asked about the number of people who run for school board in his district, he responded that they had a few this year, and he hopes people continue to run in the future since it's not an easy job. Then he answered that he has been a superintendent for 14 years, and agreed quality school board members make a difference in schools.

David Phillips, Attorney for HMB District, testified in opposition to the Purinton annexation appeal. He mentioned that the County Committee rejected the annexation unanimously, and he stated he is requesting the State Board to also deny it. He emphasized that there is no educational reason to approve this annexation since the Purinton students already access services of Linton Public School through open enrollment. He noted the residential property proposed to be annexed is more than 3 miles into the HMB district, highlighting the far distance from Linton Public School. He also discussed the "bizarre" shape of the strip of land to be annexed and suggested district lines should not be permanently redrawn in this pattern because it does not meet the legal requirements and

seems to be aimed at meeting technical criteria rather than educational needs. He then raised another concern stating the proposed annexed land does not meet the statutory requirement of constituting a single area and cited N.D.C.C 15.1-12-03 (1). He agreed the contiguousness is met, but argued that the single area requirement may not be met. He noted that the county committee made a finding that it was not a single area. He asked the State Board to address this finding. He also warned against setting a precedent for future annexations without educational benefits.

Chair Meehl asked for clarification on the term “bizarre shape”. David Phillips stated that it is a subjective term often used in legal contexts, stating it means “I’ll know it when I see it”. He referenced the annexation map and showed that the annexed area extends over 3 miles into the district with a narrow strip 165 feet wide. He discussed that this annexation divides unique tax parcels, unlike other annexations considered previously in which entire tax parcels were included, and noted that the current annexation’s smaller size and lower taxable valuation do not align with typical precedents. He highlighted HMB District's opposition, echoing concerns from the local county committee about the annexation's shape and intentions, which he argued prioritize parental involvement in another district's school board over educational benefits for students.

Upon further questions from the board, David Phillips responded that the intention of the Purintuns may have been to minimize the burden on the districts by using the strip of land, but stated that this should be rejected as a matter of policy based on the idea that meeting the statutory conditions in a bizarre way should not be encouraged and is indicative of a violation of the spirit of the statute. When asked if the per-student taxable valuation is reasonable, he stated he did not have an opinion.

Rebecca Phillips, Resident of HMB, testified in opposition to the annexation due to concerns about boundary alterations increasing the potential for future annexations. She emphasized the community's pride in their school and advocated maintaining current boundaries to protect against future disruptions.

Additional Testimony:

Joseph Hanson, Emmons County States Attorney, provided his opinion on the annexation petitions, stating that initially, he had concerns but ultimately found both the Purintun and Serr petitions to meet legal requirements after reviewing the details. He acknowledged discussions with the county GIS coordinator and tax director and found out the reason behind the proposed district boundaries, which aimed to minimize the impact on existing districts, and he stated he found that commendable. Joseph Hanson clarified that when he offered his final opinion, he did advise the county redistricting board that he believed the petitioners did satisfy the requirements under the law and with regard to statutory requirements. He added that he did not see any improvements necessary for the petitions.

Eric Nelson asked Joseph Hanson if he had researched the distinction between multiple contiguous areas and a single contiguous area. Joseph Hanson confirmed that he had

specifically looked into defining a single contiguous area but did not find any definitive rule that would disqualify the petition based on those requirements.

Allyson Hicks asked Joseph Hanson if he received any follow-up questions after issuing his final opinion to the county committee, particularly regarding concerns about whether the petition constituted a single area. Joseph Hanson responded that he did not receive any follow-up questions or requests for clarification from the county committee members. He noted that he did not attend the county hearing, and stated that his opinion was given to the county board weeks prior to the hearing date with no response, so he did not anticipate the opposition or the necessity for follow-up at the hearing.

Lyndsi Engstrom asked Joseph Hanson if he knew about the process of splitting parcels and how it works in the context of annexation petitions. Joseph Hanson replied that it was not his area of expertise.

Eric Nelson asked Joseph Hanson if he delved into the definition of "bordering" in relation to proximity to the school district for eligibility requirements. Joseph Hanson clarified that he did not specifically look into whether the actual parcel where the child lives needs to border the school district, but noted that in cases he reviewed, there was not a requirement that the parcel must directly border the district without going through another piece of property.

Cindy Schmidt, HMB School Board Member, expressed her opposition to the annexation, noting that her county reorganization committee unanimously opposed it. She raised concerns about how irregular district lines would affect the HMB school if annexations like this were granted. After questions from the board, Cindy Schmidt commented that she has served on the school board for 13 years, and is not aware of any other annexations from HMB to Linton School.

Justin Purintun clarified that in spite of previous testimony by others, the Purintun family has never received busing services from Linton School. He stated that he and his wife are currently responsible for transporting their children to and from school.

In response to further board questioning, Justin Purintun confirmed his interest in annexing into the Linton District for school board election voting rights. He also stated interest in running for the school board in the future. He noted that some residences were avoided in the development of the annexation tract due to a lack of relationship with those property owners, and he wanted to avoid involving additional people unnecessarily. He discussed his participation in chairing his local church board and participating in local basketball officiating. There were questions about the taxable valuation discrepancies between the 10 acres listed in the petition and the larger 160-acre tax statement, with Purintuns attributing the 10 acres' valuation to the Linton district. Additionally, the board discussed the taxable valuation per student and confirmed that Purintun's household included a child whose age is below the board's consideration of age range, but Justin Purintun noted that the family intends for this child to attend school in Linton. When asked

if busing would be available to him if he were annexed into the Linton School district, he responded yes, and that securing bussing is a reason for his petition.

Rebecca Phillips commented that bussing is already afforded to other families that are open enrolled, so she questioned whether anyone asked if bussing could be provided to the Purintun family without the need to approve the annexation.

Brandt Dick was called back up by board members, and when asked how the taxable valuation was determined, he testified that he did not know the process used. He noted he made sure he had a note from Emmons County stating that they approved splitting up the parcels. Brandt Dick submitted a signed letter from the Emmons County GIS Coordinator approving the parcels. The letter from Emmons County was admitted into evidence as Exhibit 2.

Chair Meehl read the letter dated June 4th, 2024, from Josh Odden, Emmons County GIS coordinator, regarding the proposed annexation. The letter explained that Emmons County could split the current tax parcels to include the smaller tracts described in the annexation request, but emphasized that this needed to be done before June 30th due to county valuations being certified with the state after that date. The letter highlighted challenges if the annexations were approved later, especially with the recent resignation of the tax equalization director. Brandt Dick stated that he interpreted the letter as approval from Emmons County regarding the parcel split for tax purposes and could implement it if the annexation was approved in time, ensuring proper taxation alignment.

Rick Diegel was called back up by board members, he was asked about transportation provided by Linton School District. He confirmed that they offer transportation to residents within their district, but for open-enrolled students, transportation availability depends on whether a bus route passes by a family's location, and if not, the family may need to arrange transportation themselves.

There being no further testimony, Judge Dawson closed the evidentiary hearing at approximately 3:31 pm and returned the meeting to Chair Meehl.

Discussion:

Chair Meehl read the Finding of Facts from the Purintun annexation packet as received from the county committee. Regarding section C2, Allyson Hicks stated that the school district did not fill this out because they did not have any bonded indebtedness, so this would default to the language in N.D.C.C 15.1-12-08 if the board approves. Chair Meehl explained that since there is no bonded indebtedness, the board does not need to make a decision on what bonded indebtedness the petitioners would be subject to.

Chair Meehl noted that the petition lists two children between the ages 4-17, and Allyson Hicks added that there is an infant child also residing on the property who can not be factored into the calculations, but for accuracy of the findings, the child would be added to Findings.

Chair Meehl noted that the petition stated that Linton currently provides transportation to the Purintun family to attend Linton School. She noted that there was testimony that indicates that is not the case. Allyson Hicks agreed there was conflicting testimony on that. She explained that the board does not have to include that in their findings. Chair Meehl clarified that Superintendent Diegel indicated that they currently provide transportation to all students that reside in the Linton district, and Justin Purintun testified that the school had never provided transportation to the family going back to 2005. The other three board members agreed.

Allyson Hicks read section M - change in disparity in current per-student valuation

Single Area Requirement:

Chair Meehl noted that the annexation committee documented in their findings that the petitioned land did not meet the requirement of a single area to be annexed.

Allyson Hicks clarified that the annexation committee's findings do not have to be the same as what the State Board lists as their findings. She warned about adopting legal opinions from the annexation committee, as they were not legal advisors to the State Board. She stressed the importance of distinguishing between factual statements supported by evidence and testimony rather than being perceived as conclusions of law.

Allyson Hicks advised the board to address the single area dispute, given the conflicting testimony regarding it. Chair Meehl asked Allyson Hicks if she would advise the board if the area in this petition is indeed a single area and contiguous to the school district. Allyson Hicks answered yes, and emphasized the precise interpretation of statutory language, particularly focusing on the term "area" in annexation matters. She pointed out that the legislature's choice to use the term "single area" instead of terms like "single property" or "single parcel" carried legal significance. She referenced legal precedents where multiple properties were stacked up to make it contiguous to the other school district, noting that such consolidations had been consistently upheld by the Supreme Court. She mentioned that there is no legislative definition, but she explained the plain definition of the word area as opposed to parcel or property. She also noted that this is why it is important to have multiple petitioners or property owners sign a petition, because you can stack multiple properties into a single petition. She clarified by stating that what the law prohibits is a single annexation that includes multiple families or multiple separate properties being in one petition because they are different areas of property, not together, even if they are going from the same district to the same district.

Allyson Hicks stated that in order for the board to grant this petition, the board has to determine whether the petition met the legal requirement of constituting a single area. Her legal advice is that it is a single area.

Eric Nelson moved to accept as a fact that the petition meets the criteria of a single area and is contiguous to the school district to which it is being attached. Lyndsi Engstrom seconded the motion.

NAME	VOTE (Yes/ No)
Board Member Lyndsi Engstrom	Yes
Board Member Burdell Johnson	No
Board Member Eric Nelson	Yes
Chair Sonia Meehl	Yes
Vice Chair Mike McHugh	Recused
Superintendent Kirsten Baesler	Absent – No Vote
Board Member Josh Johnson	Absent – No Vote

Motion passed 3-1.

Board members listed the following relevant factors:

- A school-aged learner in the household is already open enrolled in the Linton School, and there are two more children in the household that would be open enrolled in the Linton School in the future.
- The local committee voted to deny the petition by a vote of 5-0
- The family would like to vote in school board elections
- Bussing may be made available to open enrolled students but is not secured unless they are residents of the district.
- The petitioners took a reasonable amount of land to minimize the impact of the petition on the HMB School District
- Testimony indicated there was no educational benefit
- Petitioners are searching for the school district residency versus the uncertainty of open enrollment.
- The petition meets the criteria of a single area and contiguous to the school district it is being attached to
- Petitioner are aware that their taxes will increase slightly should the petition be approved.
- There is no evidence that this petition will result in additional annexations
- Change in per-student taxable valuation is reasonable

Lyndsi Engstrom moved to approve the Purinton petition based on the facts presented, including:

- The family would like to vote in school board elections
- The petitioners took a reasonable amount of land
- Transportation may be available to current open enrolled students, but is not secured unless living within the district.
- The petition meets the criteria of a single area and contiguous to the school district it is being attached to
- Change in per-student valuation is reasonable
- Petitioners are aware that their taxes will increase slightly

Eric Nelson seconded the motion.

The board members held further discussion that included appreciation of local control, the importance of school board members in education, encouragement for the family to run for school board, the distance of land into the neighboring district, past experiences with other annexations while serving on this board, and the factors listed in the motion.

NAME	VOTE (Yes/ No)
Board Member Burdell Johnson	No
Board Member Lyndsi Engstrom	Yes
Board Member Eric Nelson	Yes
Chair Sonia Meehl	Yes
Vice Chair Mike McHugh	Recused
Superintendent Kirsten Baesler	Absent – No Vote
Board Member Josh Johnson	Absent – No Vote

Motion passed 3-1.

Chair Meehl outlined the next steps in the annexation process, stating that the board's attorney and her team would compile a findings of fact document, and that document would be reviewed by the board at their next meeting. Chair Meehl confirmed that the board's decision made during the current meeting was sufficient to allow the annexation to take effect on July 1, 2024, in time for the next school year.

4. Hold a hearing, discuss, and take action on the appeal of a denial of the annexation of property from the Hazelton-Moffit-Braddock Public School District No. 6 of Emmons County in North Dakota to the Linton Public School District No. 36 of Emmons County in North Dakota (Serr Appeal)

The Serr Annexation Appeal hearing was held Monday, June 24, 2024, beginning at 4:34 pm and was conducted by independent Administrative Law Judge Timothy Dawson, from the Office of Administrative Hearings, pursuant to North Dakota Century Code Chapter 15.1-12. This was an evidentiary hearing for the board to hear testimony and consider other evidence as presented on issues as outlined in the Serr Annexation packet from Emmons County which was entered into evidence and marked as Exhibit 1. Judge Dawson explained the rules and procedures of the hearing as well as the penalties for perjury. He noted that the board wished to waive the rules of evidence per North Dakota Century Code Section 28-32-24. He explained that at the close of testimonies, the State Board of Public School Education will make the final decision. If any party does not agree with the final decision, they may appeal under North Dakota Century Code Chapter 28-32,

the Administrative Agencies Practices Act. The proceedings were recorded, and all persons testifying were sworn in by Administrative Law Judge Timothy Dawson.

Brandt Dick, Emmons County Superintendent of Schools, testified that a county hearing was held on April 5th, 2024, regarding the Serr's petition for annexation of a portion of their land from the HMB School District to the Linton School District. He noted that the Serr County hearing was held in conjunction with the Purinton annexation hearing, and there are many similarities between the two petitions. He noted that the Serr children are open enrolled to attend the Linton school, and the petitioners expressed interest in participating in school board elections and running for the Linton School Board. He indicated that the petitioners structured their request for a strip of land to be annexed to minimize the impact on the HMB School District in terms of land use and taxable valuation. He presented a letter from Josh Odden indicating Emmons County's support for splitting land parcels into 10-acre strips to facilitate access to the Linton School District from residents' homes. He reported that the petition for annexation was denied at the county hearing by a vote of 5-0, and stated that the reasons for denial included that the committee did not feel it was a single area, and concerns about setting precedents allowing residents from anywhere to annex into neighboring districts via narrow strips of land.

Judge Dawson accepted the Emmons County Letter as Exhibit 2. The board members accepted this letter to be entered into the record.

Chair Meehl asked Brandt Dick how the valuation was calculated for the 10-acre strip. He responded that he did not know how the valuation figures were determined.

During questioning from the board, Brandt Dick explained that the taxable valuation of the petitioned parcels was determined by Emmons County and stated he does not know how Emmons County calculated the numbers. He stated that he used the information from the document that Josh Odden presented for the taxable valuation in the petition. He referenced page 23 of the Serr annexation packet and mentioned that the ag land, residential land, and residential structure had a total taxable valuation of \$14,307. He confirmed that the 165-foot strip of land to be annexed is three miles north and half a mile west. He mentioned that it is his understanding that, currently, Linton does provide transportation for the Serr family. He also clarified that he does not know of any other residents of the HMB or Linton School Districts considering moving forward with annexation. When asked if all property owners who had land involved in this petition were notified and how they responded to this annexation, Brandt Dick answered that the petitioners contacted the two land owners whose strips of land would be changed from HMB to Linton district, and they all gave their verbal agreement to move forward with the petition, but he noted that none of them testified at the county hearing.

Joann Humann, Emmons County Reorganization Board member, testified against the Serr annexation. She highlighted the requirement in the North Dakota Century Code that annexed property must constitute a single contiguous area to the school district. She also contrasted this annexation with past annexations where land was contiguous and done before open enrollment was available. She argued that approving the Serr annexation would burden the remaining taxpayers with increased tax responsibilities. She expressed concerns that allowing such annexations could set a precedent statewide and take away power from the boards. She noted that the Serr family is open enrolling in Linton and

mentioned that they do have a say in the children's education through discussions with teachers, administrators, and board members, just not through voting. She concluded by urging the board to deny the Serr annexation to uphold the county committee's decision to deny the annexation.

Rick Diegel, Superintendent of Linton School District, testified in support of the Serr annexation. He highlighted his experience of 37 years in education, including 24 years as superintendent. He stated that annexations like the one under consideration are not uncommon and occur more frequently than generally perceived. He recounted a previous annexation experience involving Kidder County, and described his research on past annexations that were approved by the State Board. He noted that in past approved annexations, the same language was used, stating the petitioner took the least amount of land necessary, which he believes the Serr petition also has done. He explained that in researching past annexations, the State Board has consistently supported the ability of parents to reside in the school district where their children go to school for active participation in their children's education by voting in school elections, running for school boards, and voting in referendums, and stated the Serr family would also like that opportunity. He stated that the Serr family had followed all required procedures and laws, filed all paperwork, and obtained necessary authorizations from Emmons County for tax purposes. He urged the board to approve this petition.

During the board's questioning, he confirmed that he is not aware of any other annexations planned between HMB and Linton. He explained that Linton does provide transportation for all learners in the district, but only provides transportation for some of the open enrolled students, based on whether they are located close to the existing bus route. He confirmed Linton does currently provide transportation for the Serr children. Additionally, he stated that there is no current discussion of any policy changes that would stop open enrollment. Chair Meehl asked if there are any students open enrolled from Linton into the HMB District, and Rick Diegel answered yes.

Craig Serr, Petitioner, testified that he has 3 children currently open enrolled at the Linton District as incoming 1st, 7th and 9th graders. He noted that his children have never attended the HMB District, and have always been open enrolled at Linton. He mentioned that his children are currently being bussed to Linton schools, but stated that is something that is reviewed along with their open enrollment status annually. He discussed reasons for his annexation petition, including ensuring bussing for all his children for the next 12 years. He stated this is a growing fear of theirs, considering the lack of bus drivers and school budget cuts, which can jeopardize the opportunity of bussing they currently receive. He mentioned that bussing was a factor in the sections of land they included because that is the current bus route today. Another reason he gave for the annexation was to secure their children's enrollment at Linton schools permanently to avoid the possibility of the open enrollment policy changing. He discussed neighboring schools, specifically mentioning Menoken and Apple Creek, which had recently closed their open enrollment options within the Emmons and Burleigh County area. He noted the importance of being able to participate in school board elections, advocating for the ability to vote on decisions that affect their children's education, including future bonds, school board elections, and

other school-related matters. He stated he and his wife intend to run for school board positions and noted the lack of willing individuals to run in the school board elections in his community. He explained the methodology behind selecting this parcel size, mentioning their consultation with Josh Odden, the GIS coordinator for Emmons County. He noted that they took a minimal amount of land to minimize the impact on HMB's tax base while maintaining the integrity of their own residential property. He testified that they had received verbal approval to move forward with the annexation petition from the only two adjacent landowners, and he stated those landowners are aware of the potential changes in their tax obligation. He noted there are no other families living on the land and no other residential structures. He outlined multiple examples of previously approved annexations that were comparable to his petition. He stated that he had also secured letters of support from the County Tax Equalization Office and Emmons County State's Attorney Joe Hanson, which affirmed that their proposed annexation plan met all legal requirements under the state century code.

During the board's questioning, Craig Serr confirmed he is aware his taxes will increase slightly if the annexation is approved. He stated his occupation is farming but has an off-farm income as well. He stated that he chose not to be tax-exempt on his home, so he pays the full taxes on his residential property. He confirmed he is not on any other community boards, but he spends his extra time coaching youth, and he noted that his wife serves on a board. He clarified that he moved back from Bismarck to his family farm, and does farm with his parents. He mentioned that his family property got split when the district went in, and now half of his taxes go to Hazelton, and half go to Linton. He emphasized that he has no ill will against the Hazelton community; they still love the community and are part of it.

Katie Serr, the Petitioner, began by expressing gratitude to the board for their time. She explained that 3 years ago, she discovered she could not vote or run for the Linton School District board despite her children attending school there, which motivated her to pursue the current annexation appeal.

She described a tense atmosphere at the recent county annexation hearing and stated that Mr. Barry, the HMB Superintendent, filled the school bus with teachers and staff to attend the county hearing, and she noted the presence of local media and the county sheriff as well. She stated that the pressure from the large amount of opposition was felt by petitioners. She contrasted this experience with a previous annexation out of the HMB District into the Manning BHS district, which she stated passed unanimously with zero resistance, noting they did not have a lawyer present, no bus filled with teachers, no press, and no sheriff. She highlighted how visibility may have influenced the committee to vote to deny her petition.

She discussed multiple factors in response to the county committee's reasons for denial. She noted that there have only been two previously approved annexations out of the HMB district in 26 years to indicate there is not a high incidence of annexations. She mentioned how her property straddles the district line and has always been viewed as between the two communities, so her proximity is unique. She noted that you have to be open-enrolled to annex, which limits the number of additional annexations possible. She added that none of

the other open enrolled families have inquired about the annexation process or expressed any interest in annexing. She stated that other families have mentioned they do not want the publicity she has received for attempting an annexation. She noted that this annexation process has been difficult and time consuming, making it unlikely for a domino effect of other annexation requests. She stated she wants to vote and run for the Linton school board and is seeking security for her children's future at the Linton school. In response to the HMB lawyer's claim that their property to be annexed did not meet a single area requirement, she noted that the Emmons County States Attorney, Joseph Hanson approved the Serr petition. She raised concerns about the proceedings during their county annexation hearing and questioned why committee members relied on the HMB attorneys rather than the Emmons County State's Attorney for advice about a single area, and she stated the differing legal opinions seemed to cause confusion for the committee leading to a denial. She then addressed the opposition's claims of there being no educational benefit of this annexation; Katie Serr argued that having a voice in voting for her school district directly affects her three children, citing recent decisions made by the school board within the last five months including the selection of the Superintendent, high school principal, and the 1st-grade teacher. She noted that this new teacher will spend 30 hours a week with her child, and that is an example of how these matters directly affect her children, and she would like to be part of those decisions by voting. Lastly, Katie Serr addressed the opposition's claim that open enrollment is sufficient by countering that open enrollment does not grant her the ability to vote or run for the school board in her children's district; it does not provide bus security or school choice, which are all reasons to approve the annexation petition.

During the board's questioning, Katie Serr confirmed that she works in both communities as a registered nurse; she intends to run for school board in Linton, and she is aware that her taxes will increase.

Michael Schirado, Current Linton High School Principal and incoming Linton School District Superintendent, testified in support of the annexation. He noted the difference between open enrollment and the desire to annex by emphasizing that open enrollment is a valuable tool allowing families to choose schools, but it does not give voting rights or a say in school board decisions. He stated that the petitioners have shown a strong passion for being more involved with their school district. He stated that he fully supports their desire to have a more direct role in their children's education and school governance.

Tanner Purintun testified in support of the Serr annexation petition and voiced strong support for the petitioners' desire to annex and participate in school board elections. He noted that having worked with the petitioners' children, he praised them as dedicated, involved parents and noted their positive influence on the community. He also argued that while open enrollment is useful, it does not provide the same benefits as having direct involvement in school governance. He did mention he believes it is hard to separate the pressures of serving on a board at a local level, but there is not the same pressure at the state level.

David Phillips, Attorney for HMB District, testified in opposition to the Serr annexation appeal. He argued that there is no educational benefit due to the availability of open enrollment. He proposed that the annexation violates the spirit of the statutory contiguousness requirement connecting a remote piece of property with strips of land and additionally raised the same objection that the single area requirement is not met. He then highlighted concerns about local control, noting that local officials and residents overwhelmingly opposed the annexation, as evidenced by a petition and sign-in sheet. He urged the state to respect the local community's wishes and not disregard their input. He also warned that approving the annexation could set a troubling precedent and undermine local authority.

During questions from the board, David Phillips acknowledged that legal requirements are often the main focus of the decision-making process but emphasized that the board's responsibility extends beyond just legality to consider community impact. He argued that the board should weigh these differing perspectives carefully, particularly because annexations result in permanent changes to school district boundaries that affect the entire community, not just the involved families. When asked why he questioned whether this constitutes a single area, he pointed out that the annexation involves a series of connected strips rather than one continuous area, which he argued does not meet the statutory definition. In response to the question of if he thought that the county board could have been swayed by that lack of clarity or difference of opinion between the state's attorney on the single area issue, David Phillips responded by stating that the county committee's decision to deny was based on multiple reasons, not just the issue of clarity about a single area but also because of the potential complications from annexing distant properties.

John Barry, Superintendent of Hazelton-Moffit-Bradock, testified in opposition to the Serr annexation appeal. John Barry's written testimony was introduced into evidence, and it was stated that it was the same testimony that he read during the Purinton hearing. Hearing no objection from the board, Judge Dawson admitted John Barry's written testimony into evidence as Exhibit #3.

Chair Meehl mentioned that it was testified earlier that a busload of people attended the county hearing on April 5th, 2024, in Linton, and John Barry agreed that as a fact. She asked John Barry if it was a Hazelton school bus that took the people to Linton for that hearing. John Barry answered yes. When asked if he was aware of any other petitions being developed to annex in a similar fashion, he answered that it is unknown, but he is not in favor of the HMB District's taxable valuation going to the Linton district.

There being no further testimony, Judge Dawson closed the evidentiary hearing and returned the meeting to Chair Meehl.

Discussion:

Chair Meehl read the Finding of Facts from the Serr annexation packet as received from the county committee. Regarding section C2, Chair Meehl noted it has been determined that there is no bonded indebtedness, and she stated that there is no decision to be made by the board.

Allyson Hicks read section M - change in disparity in current per-student valuation

Board members listed the following relevant factors:

- The petition fits the definition of a single area and is contiguous to the school district to which it is being attached
- There are three school-aged learners in the petition who are currently open enrolled in the Linton district and always have been while living at their current residence
- The petitioners are aware that their taxes will increase should the petition be approved.
- Petitioners are looking for long-term security in schools of choice with an uncertain open enrollment situation.
- There is no evidence that the approval of this petition will result in additional annexations
- Family wishes to vote in school elections
- Family indicates the possibility of wanting to serve on the school board in which there's children attend school
- Petitions took a reasonable amount of land
- The per-student taxable valuation is reasonable
- Transportation is provided to those living within the district
- Linton is already providing transportation to the children
- County committee voted 5-0 to disapprove the annexation

Eric Nelson moved to approve the Serr petition based on the facts presented, including:

- The petition constitutes a single contiguous area
- There are three school-aged learners in the petition that are currently open enrolled in the Linton district
- Petitioner are aware of the tax increase
- Petitioners are looking for long-term security in schools of choice
- Petitioners want to vote in school elections in which their children attend
- Petitions took a reasonable amount of land
- The per-student taxable valuation is reasonable
- Transportation is provided to those living within the district

Lyndsi Engstrom seconded the motion.

The board members held further discussions that included Eric Nelson's appreciation for the quality of the petition as well as the amount of detail that was put into the opposition. He stated respect for local control, including the number of people who attended the county hearing. He also emphasized support for the security of school choice and self-determination in political activities in the school district where their children are being educated. Sonia Meehl noted she appreciated the passionate and well-researched petition and appreciation for local control, but discussed the balance of local control with individual rights to choose where your children go to school and noted that is a reason for

annexation in the century code. She also mentioned that she wanted to honor their choice of participating more fully in the district.

NAME	VOTE (Yes/ No)
Board Member Eric Nelson	Yes
Board Member Lyndsi Engstrom	Yes
Board Member Burdell Johnson	No
Chair Sonia Meehl	Yes
Vice Chair Mike McHugh	Recused
Superintendent Kirsten Baesler	Absent – No Vote
Board Member Josh Johnson	Absent – No Vote

Motion passed 3-1. Chair Meehl stated it will be effective on July 1, 2024.

5. Final approval of the Findings of Fact, Conclusions of Law and Order for the annexation of property from the Beulah Public School District No. 27 of Mercer & Dunn Counties of North Dakota to the Killdeer Public School District No. 16 of Dunn County in North Dakota (Duttenhefner Petition)

Mike McHugh moved to approve the Duttenhefner Findings of Fact, Conclusions of Law and Order. Eric Nelson seconded the motion. There was no discussion.

NAME	VOTE (Yes/ No)
Board Member Eric Nelson	Yes
Vice Chair Mike McHugh	Yes
Board Member Lyndsi Engstrom	Yes
Board Member Burdell Johnson	Yes
Chair Sonia Meehl	Yes
Superintendent Kirsten Baesler	Absent – No Vote
Board Member Josh Johnson	Absent – No Vote

Motion passed 5-0.

There being no other business before the board, the meeting was adjourned at 6:14 p.m.

NEXT MEETING: The next meeting is scheduled for September 23, 2024, at 1:00 p.m.

Minutes taken and prepared by Shauna Marchus

Respectfully submitted,

ATTEST:

Sonia Meehl
Chairwoman

Date

Kirsten Baesler
Executive Director & Secretary

Date