

**Delta College District
Board of Trustees
Special Meeting
July 10, 2008
Board Room
8:30 a.m.**

Board Members Present: R. Emrich, K. Higgs, R. Stafford, R. Selby, K. Lawrence-Webster, J. MacKenzie, K. Houston-Philpot, T. Lane (by phone)

Board Members Absent: E. Wacksman

Others Present: J. Goodnow, B. Baker, P. Buczek, P. Clark, M. Fulmer, T. Grunow, D. Halog, A. Hill, T. Kubatzke, J. Miller, S. Montesi, L. Myles-Sanders, L. Ramseyer, D. Redman, P. Seidel, T. Stitt, A. Ursuy, B. Webb, K. Wilson, A. Wolfe

Press Present: A. Lackey (Midland Daily News)

Guest Speaker: B. Banasik

Call to Order: Board Chair Selby called the meeting to order at 9:07 a.m.

K. Higgs said that all agendas should include an opportunity for public comment. He noted that the agenda for this special meeting did not allow for public comment as the bylaws require.

R. E. Selby responded that he would call for public comments later in the meeting so that guest speaker, Brad Banasik, could get started with his presentation on the Open Meetings Act.

Open Meetings Act Consultation Session

Brad Banasik, Legal Counsel, Michigan Association of School Boards

L. Myles-Sanders introduced Brad Banasik, Legal Counsel for the Michigan Association of School Boards.

B. Banasik said that he deals with the Open Meetings Act (OMA) on a regular basis, primarily with K-12 Boards of Education. He said that the objective of this session is that attendees will come away with a better understanding of the OMA.

B. Banasik provided a general overview of what he was going to cover in the session. He said that the purpose was not to provide legal opinions but to assist in providing legal information. The session will cover information from the law, the act itself, court opinions and Attorney General Opinions. B. Banasik added that if there is an issue relating to the OMA that is unsettled, an opinion will not be given.

B. Banasik provided the following information as part of his presentation:

- Always go on the side of openness.
- Splintering a quorum – ex. of a tag team meeting.

- Purpose of the act is to promote openness and accountability in government.
- Be careful that you are less than a quorum during an informal meeting.

R. Stafford asked if attending the MCCA Summer Workshop constituted a meeting. B. Banasik responded that the MCCA Workshop falls under permissible gatherings. The important thing to remember is that you cannot discuss issues specific to your Board in these sessions.

B. Banasik gave another example of a permissible gathering. Board members could gather for political matters. For example, 4 Board members could get together to discuss strategy in how to defeat a recall. B. Banasik added that one-on-one communication has always been permissible.

B. Banasik addressed issues relating to e-mail and the OMA. He noted that members of a public body cannot use e-mail communications to decide issue in advance of a meeting and warned against forwarding messages from Board member to Board member. For clarification, R. Emrich asked, "As a Board member if I have an issue that I want addressed, I would send it to the President and the Board Chair to have it addressed. Is this ok?" B. Banasik clarified that it would be OK to send the message.

K. Higgs asked if documents on personal computer are considered public record. B. Banasik responded that on a public server, yes. On private computers there has been no ruling. Mr. Banasik added that his opinion is that documents sent by a public official on a private computer would be a matter of public record.

K. Higgs asked what the appropriate retention schedule for e-mail documents is. B. Banasik said that a policy should be in place. Public documents don't just belong to the public body – they belong to the public in large. He said that he encourages boards to develop an e-mail policy.

A. Lackey asked if a person is working at home and is working through a public server, are they covered under OMA. B. Banasik responded that if it is a document that relates to the person's role on the Board, the State has said that the sender is responsible for maintaining.

B. Banasik said that Board members can participate by conference call. He added that he would limit participation by conference call to situations when the Board member is not within driving distance of the College.

L. Myles-Sanders asked if a conference call for a meeting that needs to be scheduled very quickly (as long as it meets posting requirements) is ok. B. Banasik said yes, for example the Board may want to meet to take a position on a bill, etc.

B. Banasik said that in closed session you cannot take action as a Board (99.9%) of the time. Do not even engage in an informal voting procedure. You never want to get to the point of informal voting procedure in closed session. B. Banasik added that you shouldn't negotiate the President's contract or extension in the closed meeting. You could have people discuss opinions on whether or not a particular goal was met.

K. Higgs asked when the meeting schedule should be adopted. B. Banasik responded that developing the meeting schedule in correspondence with fiscal year or annual year would be ok.

B. Banasik said that the only legal requirement for posting a meeting notice is at the principal office of the public body. J. Goodnow noted that by providing notice on the web, we are exceeding expectations. B. Banasik agreed noting that failure to post on the web does not bring the Board into noncompliance with OMA.

B. Banasik said that the agenda does not have to be posted on the meeting notice. You do need to post the agenda for the required budget hearing. K. Higgs asked if the agenda can take the place of the meeting notice. B. Banasik said yes, as long as you have the required information of the notice on the agenda.

J. MacKenzie asked if the Board is required to adopt rules under public participation. B. Banasik responded that a rule is not required, but the Board may adopt a rule. K. Higgs stated that he has specific Attorney General Opinion and a case that says what those rules must be. B. Banasik noted that he had a difference of opinion. He added that when establishing rules, you must encourage participation.

B. Baker asked if it is appropriate for the Board to establish whether or not the citizen has to be present (instead of being able to conference in). B. Banasik responded that in his opinion, if Board requires presence (in bylaws), it would withstand muster by the OMA.

J. Goodnow asked Mr. Banasik to define “public.” B. Banasik said that you have to be careful not to violate freedom of speech rights. He added that he tells “elected officials that you never take off your elected official hat.”

A. Lackey asked if the members of the Press can be limited. B. Banasik said that the Press should be able to comment to the Board. The Board is not obligated to respond to questions asked during public comment.

R. Emrich asked if the Board can ask the public to identify themselves and ask where they are from. B. Banasik said that you can ask them to identify themselves, but if they fail to provide the information requested, don’t deny them the right to participate.

K. Houston-Philpot asked about board retreats. B. Banasik said that retreats can be held to discuss strategic planning, goals, etc. He added that technically a retreat is just a special meeting as well. The location has to be accessible to the public.

K. Houston-Philpot asked if information that is distributed at closed session should be picked up again. B. Banasik said that if it is in draft form, it might be a good idea to collect the documents.

Mr. Higgs said that in reference to the earlier point regarding rules for public comment, Attorney General Opinion 5716 stated that the right to address the Board during a public meeting is required. B. Banasik said that he would argue that this is dicta. It is not a binding precedent if it doesn’t go to the specific issue that was addressed in the case.

Mr. Banasik concluded his presentation at 11:45 p.m. Copies of the presentation will be on file in the Delta College Library Learning Information Center for the public to view.

R. Earl Selby said that due to the time, the Board would break for lunch and resume at 12:30 p.m. The agenda item “Collaboration and Year-End Review” will be presented by T. Kubatzke and D. Halog at a Future Board Dinner Meeting.

The Trustees reconvened at 12:35 p.m.

Looking Back and Moving Forward

Jean Goodnow, President

J. Goodnow gave a presentation about the accomplishments of 2007-2008 and the goals for 2008-09. Specific information presented included:

- A review of the mission, vision, and values.
- A profile of Delta College's students.
- An overview of our resources with specific information on private donors and grant dollars.
- A look at some of the CQI initiatives of the College:
 - o AQIP Action Projects (Developmental Education, Employee Professional Development Planning, CLARUS, and CCSSE)
 - o Academic Program Assessment
 - o Diversity
 - o Sustainability
 - o Lifelong Learning (including the new 50+ Just Like Gold program).
- Goals for 2008-09

R. Emrich asked for information about our student demographics in relation to the demographics in our local area.

K. Higgs asked for a list of the Federal Grants that Delta College receives.

R. E. Selby asked J. Goodnow what she needs from the Board in relation to the growing number of students that are entering Delta College in need of remediation in the areas of math and reading and the support those students need. J. Goodnow replied that she would think about it.

The Board took a 15 minute break and resumed meeting at 1:45 p.m.

K. Higgs said that he had issues relevant to this meeting. He said that one year ago around this time, he received calls from concerned constituents. Those constituents, Gary Shepard, Harvey Schneider, and Carmel Anderson, were not happy with what happened in the reorganization of the Skilled Trades Program. K. Higgs said that he talked to Carmel Anderson yesterday (7/9/08) to seek her opinions on how things were going now. K. Higgs stated that in Ms. Anderson's perception, things are worse now than they were last year at this time. While she has no problems with the personalities of those working in the Skilled Trades area, she does not believe that the College has the right people in the right positions. K. Higgs said that we should not be cutting back support for this important area.

J. Goodnow said that she would respectfully request that K. Higgs contact her when situations like these arise to make sure that she is aware of the issues. She added that she has met with those stated above since they spoke with K. Higgs last year. To her knowledge, they are satisfied with the changes. In addition, Delta College is not cutting back in the area of Skilled Trades. In addition to a full-time coordinator and a support staff person, a full-time faculty member is being hired.

Board Chair Selby said that he is appointing a Compensation Committee. The committee will be composed of J. MacKenzie, K. Lawrence-Webster, and T. Lane.

K. Houston-Philpot made a motion to go into closed session for the purpose of conducting the President's evaluation. K. Lawrence-Webster seconded the motion. The vote was 8-0 to go into closed session with a roll call vote as follows:

R. Emrich - Yes

K. Houston-Philpot – Yes

K. Higgs - Yes
T. Lane - Yes
K. Lawrence-Webster - Yes
J. MacKenzie – Yes
R. E. Selby - Yes
R. Stafford - Yes
E. Wacksman – Absent

The Board came out of closed session at 3:27 p.m.

Meeting adjourned at: 3:30 p.m.

Respectfully submitted,

Leslie Myles-Sanders, Board Secretary

Andrea Ursuy, Recording Secretary