



STATE OF NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL

STATE CAPITOL
600 E BOULEVARD AVE DEPT 125
BISMARCK, ND 58505-0040
(701) 328-2210
www.attorneygeneral.nd.gov

Wayne Stenehjem
ATTORNEY GENERAL

June 23, 2021

Dr. Tim Rector, President
Mandan School Board
901 Division Street NW
Mandan, ND 58554

RE: Alleged Violation of Open Meetings Law

Dear Dr. Rector:

This office received the enclosed opinion request under N.D.C.C. § 44-04-21.1 regarding an alleged violation of the Open Meetings law. The opinion request alleges that Mandan Public School Board failed to provide public notice of a special meeting. To prepare this opinion, this office requests that you or another person prepare a thorough summary on behalf of the Mandan Public School Board (Board) describing the circumstances surrounding the alleged violation. The summary should include the Board's position on why a violation of state law has not occurred in these circumstances or an explanation as to why a possible violation may have occurred, and what, if anything, has been done to remedy the violation. In addition, to assist us, please provide the following information:

1. Please state who the Board members are and their positions on the Board.
2. Did the Board hold a meeting on June 8, 2021? If so, was the June 8, 2021, meeting a special or regular meeting?
3. Was an executive session held during the June 8, 2021, meeting?
4. Was an agenda prepared for the June 8, 2021, meeting? If so, please provide a copy of the agenda to this office.
5. Was a notice prepared for the June 8, 2021, meeting? If so, please provide a copy of the notice to this office.
6. Please state when and how the notice and/or agenda for the June 8, 2021, meeting was provided to the Board members.
7. Was the notice for the June 8, 2021, meeting provided to the newspaper and, if applicable, any representatives of the news media which requested notification of special meetings? If so, please explain when that notice was provided and to which newspaper(s) or representatives.
8. Was the June 8, 2021, meeting notice posted? If so, please specifically state when (including the date/time) and where each notice was posted.

Dr. Tim Rector
June 23, 2021
Page 2

9. Please explain who called the June 8, 2021, meeting and the purpose for the June 8, 2021, meeting.
10. Please explain what topic or topics were discussed at the June 8, 2021, meeting.
11. Please provide a copy of the June 8, 2021, meeting minutes to this office.

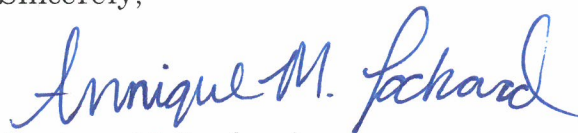
The summary, information, and any other materials submitted in response to this request must be sent to me at the address listed above or by email at alockard@nd.gov within 15 days of the date of this letter or an opinion may be issued without your input. After reviewing your response, we may contact you seeking additional information.

When this office's review is completed, an opinion may be issued to the Mandan Public School Board indicating whether a violation occurred. This office will not issue an opinion for this request if this matter is informally resolved and the request is withdrawn or if a civil action arising from these events is commenced. Please notify this office if a civil action is filed based on the alleged violation.

If the opinion concludes that a violation occurred, the Board will have seven days after the opinion is issued to correct the violation or face mandatory attorney's fees and costs if the Board loses in a civil action based on the alleged violation. Failure to comply with the opinion also may result in potential personal liability for the person or persons responsible for the noncompliance.

I appreciate your prompt attention to this matter and look forward to your response by Thursday, July 8, 2020.

Sincerely,



Annique M. Lockard
Assistant Attorney General

amj

Enclosure

cc: Dr. Mike Bitz, Superintendent
Mandan Public School District

Date: June 28, 2021
To: Annique M. Lockard
ND Assistant Attorney General
From: Mike Bitz, Superintendent *mbt*
Re: June 8, 2021, Special Board Meeting of the Mandan School Board

Please consider this letter a response to your June 23, 2021 letter requesting information about the June 8, 2021 Special Board Meeting of the Mandan School Board.

1. Please state who the Board Members are and their positions on the Board?

- Dr. Tim Rector President
- Sheldon Wolf Vice President
- Marnie Piehl Board Member
- Kama Hoovestol Board Member
- Rick Horn Board Member
- Lori Furaus Board Member
- Darren Haugen Board Member
- Caroline Kozojed Board Member
- Ross Munns Board Member

2. Did the Board hold a meeting on June 8, 2021? If so, was the June 8, 2021 meeting a special or regular meeting?

The Mandan School Board met in a special meeting on June 8, 2021, at 5:30 p.m. in room C-106 of Brave Center. The Brave Center is the location of the central office for the Mandan School District.

3. Was an executive session held during the June 8, 2021 Meeting?

The Mandan School Board DID NOT meet in executive session on June 8, 2021.

4. Was an agenda prepared for the June 8, 2021 meeting? If so, please provide a copy of the notice to this office.

An agenda was prepared and sent out to all board members, the media, and all person who had previously requested to be notified. The agenda is included as "ATTACHMENT A" in this mailing.

5. Was a notice prepared for the June 8, 2021 meeting? If so, please provide a copy of the notice to this office?

A notice was prepared and emailed out along with an agenda at 4:05 p.m. on June 7, 2021, to all board members, the media, and all person who had previously requested to be notified. That email is "ATTACHMENT B" and it is included in this mailing.

6. Please state when and how the notice and/or agenda for the June 8, 2021 meeting was provided to board members?

A notice was prepared an emailed out along with an agenda at 4:05 p.m. on June 7, 2021 to all board members, the media, and all person who had previously requested to be notified. That email is "ATTACHMENT B" and it is included in this mailing.

7. Was the notice for the June 8, 2021, meeting provided to the newspaper and, if applicable, any representatives of the media which requested notifications of special meetings? If so, please explain when that notice was provided and to which newspapers(s) or representatives.

The media including The Mandan News, The Bismarck Tribune (Blake Nichols & Sam Nelson), and Dakota Media Access (Mary Van Sickle) were all notified of the meeting in the same email in which the Mandan School Board members were notified of the special meeting. That email is "ATTACHMENT B" and it is included in this mailing.

8. Was the June 8, 2021 school board meeting notice posted? If so, please state when (including the date/time) and where each notice was posted?

Notice of the 5:30 p.m. special board meeting was posted at approximately 10:00 a.m. on the morning of June 8, 2021 on the front door of the Brave Center and also at the entrance of the meeting room (C-106).

9. Please explain who called the June 8, 2021, meeting and the purpose of the June 8, 2021 meeting?

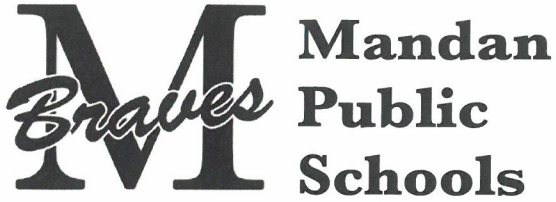
The special meeting was called by the Mandan School Board President, Dr. Tim Rector and Superintendent Mike Bitz. The purpose of the meeting was twofold; 1) to approve purchase agreements to acquire land & 2) to approve the new negotiated agreement with the Mandan School District Administrators.

The real estate agent involved hand delivered the two signed purchase agreements at approximately 3:30 p.m. on Monday June 7, 2021. Once those agreements were at the school with the seller's signatures, the notice for the special meeting was sent out at 4:05 p.m. that same afternoon.

10. Please explain what topic or topics were discussed at the June 8, 2021 Meeting?

The meeting lasted only 11 minutes and the only items discussed were the two agenda items.

1. Consider Approval of Purchase Agreements for Land Acquisition
2. Consider Approval of 2-Year Negotiated Agreement with the MPS Administrators



901 Division Street
Mandan, ND 58554
T: (701) 751-6500 F: (701) 751-6674
Dr. Mike Bitz, Superintendent
Mr. Jeff Fastnacht, Asst. Superintendent
Mr. Ryan Lagasse, Business Manager

11. Please Provide a copy of the June 8, 2021, meeting minutes to this office.

The minutes for the June 8, 2021 Mandan Public School District Special Board Meeting at included as "ATTACHMENT C" in this mailing.

It is our belief that the June 8, 2021, special board meeting of the Mandan School Board was properly noticed. Please feel free to contact me if you need additional information via email mike.bitz@msd1.org or by phone (701) 751-6500 (office) or (701) 391-8664 (cell).

Attachment A

MANDAN PUBLIC SCHOOL DISTRICT #1
Brave Center
Room C-106
901 Division St. NW, Mandan, ND 58554
Tuesday, June 8, 2021 at 5:30 p.m.

SPECIAL MEETING AGENDA

- I. Call to Order
- II. Consider Approval of Purchase Agreements for Land Acquisition
- III. Consider Approval of 2-Year Negotiated Agreement with the MPS Administrators
- IV. Adjourn

Subject: Special Mandan School Board Meeting - June 8, 2021
Date: Monday, June 7, 2021 at 4:05:45 PM Central Daylight Time
From: JILL MILLER
To: District Administrative Staff, Tim Rector, Lori Furaus, Darren Haugen, Kama Hoovestol, Rick Horn, Caroline Kozojed, Ross Munns, Marnie Piehl, Sheldon Wolf
CC: BARBARA LUETZEN, Wayne Papke, Tammy Ross, Susan Beehler, Mary Van Sickle, Mandan News, Lee Fleischer, Kari N. Moore, JESSICA PETRICK, Dawn Rhone, TYLER STEINWAND, CARLY RETTERATH, Blake Nichols, Sam Nelson, LISA BACHLER, Tom Peters, Stacey Bendish, Ellie Shockley, KARA BLASKOWSKI, Jessica Hummel
Attachments: AGENDA JUN 8, 2021 SPECIAL.pdf

Good afternoon,

A Special School Board meeting will be held tomorrow, June 8 at 5:30 pm, at the Brave Center, 901 Division St NW, in Room C-106. The agenda for the meeting is attached.

Jill Miller
Administrative Assistant
Superintendent's Office
Mandan Public School District
901 Division St NW
Mandan, ND 58554
701-751-6500

NOTE: This email may contain PRIVILEGED and/or CONFIDENTIAL information and is intended solely for the use of the specific individual(s) or entity to which it is addressed. If you have received this email in error, please delete it and immediately notify the sender named above by reply email. If you are not the intended recipient of this email, you are hereby notified that any unauthorized use, dissemination or copying of this email or the information contained in it or attached to it is strictly prohibited.

Attachment C

MANDAN PUBLIC SCHOOL DISTRICT #1

Mandan, North Dakota

June 9, 2021

SCHOOL BOARD MINUTES

A special meeting of the Mandan Public School Board was held on Tuesday, June 8th, 2021 at 5:30 p.m. in room C-106 of the Brave Center, 901 Division St NW. Members present: Lori Furaus (via phone), Darren Haugen, Kama Hoovestol, Rick Horn, Caroline Kozojed, Ross Munns, Marnie Piehl, Sheldon Wolf and Dr. Tim Rector. Others present: Dr. Mike Bitz; Superintendent of Schools, Ryan Lagasse; Business Manager, Jill Miller, Barb Luetzen, Wayne Papke, Tory Otto, Stacey J. Bendish, Cam Knutson and Eric Belanger.

Members absent: None.

Dr. Bitz reviewed land that is for sale for the new high school to be built. Mel Heck and Pat & Mike Wachter have land located between 8th Ave NW and Hwy 1806 and includes 49.42 acres, at a cost of \$4,426,000. Dr. Belanger has 52 acres for sale about one-half mile north of the Middle School, at a cost of \$4,670,000.

On behalf of the school board, Mr. Wolf would like to thank all of the sellers involved and the work they put into looking at the future of Mandan.

Moved by Mr. Wolf, seconded by Mr. Horn to approve a purchase agreement for land acquisition of approximately 49.42 acres between 8th Ave NW and Hwy 1806 with Mel Heck, and Pat & Mike Wachter. On a roll call vote, all members present voted Yes. Motion passed 9-0.

Dr. Bitz reviewed changes made to the administrator negotiated agreement for 2021-2023. Changes were made regarding attendance at national conferences, additional payment for doctorate degrees, specialist degrees and money toward additional schooling. Twelve month administrators will no longer receive personal days. The salary increase is 2.6% per year.

Moved by Mr. Horn, seconded by Mr. Munns to approve the administrator negotiated agreement for 2021-2023. On a roll call vote, all members present voted Yes. Motion passed 9-0.

The special board meeting adjourned at 5:41p.m.

ATTEST _____
Dr. Tim Rector, President

Ryan Lagasse, Business Manager

DATE June 14, 2021

Jill Miller, Recorder

address the Board are requested to make arrangements with the Board President or the Superintendent prior to the meeting. Comments should be made to the Board and not to individuals in the audience and be related to school operations and programs. The Board will not hear personal complaints against any person (employee or student) connected with the school district. Comments must address topics that are on the agenda. If a citizen would like to add a topic to the school board agenda, arrangements must be made in advance with the Superintendent or School Board President. The Board reserves the right to eliminate or restrict the time allowed for public participation. The Board requests that comments are limited to five (5) minutes or less. Groups of individuals addressing a common concern are asked to designate a spokesperson.