February 7, 2022

Trustees of North Idaho College

Re: Governance Issues – Trustee residence

Dear Trustees:

The purpose of this letter is to give an update on the investigation into the Trustee residency matter. Because these issues have been raised in the broader community, this letter is directed to not only you as Trustees, but to the College community and the public as well. I do not intend this letter to be a confidential attorney/client communication, I anticipate it will be released to the public.

At the December 16, 2021 Board meeting, both Trustees Michael Barnes and Ken Howard invited an investigation into the issues regarding their residency and qualification to be a trustee. The Board subsequently authorized me to look into these issues and to request that the Attorney General’s office conduct an investigation into these residency questions. On December 16, 2021, I wrote a letter requesting the Idaho Attorney General to investigate the residency issues related to Trustees Michael Barnes and Ken Howard. Michael Barnes resigned as a North Idaho College Trustee on January 12, 2022. The Attorney General’s office responded on January 21, 2022, declining to investigate the matter, but providing some guidance on the residency issue.

After noting that there is no clear mechanism to challenge an office-holder’s residency requirement during a term of office, the Attorney General letter discussed factors relating to the subject of “residency.” Residency for our purposes is where one actually resides. In connection with the Idaho elections laws, pertinent factors to determine residency include the following: the address used for voter registration, where one’s business pursuits are maintained, residence of family, situs of personal and real property, where the homestead exemption for property tax is designated, and where motor vehicles are registered. See, Idaho Code Section 34-107.

Since Michael Barnes has resigned as a trustee, the remaining issue to be addressed is whether Trustee Howard qualifies as a trustee on the basis of residency. I presented certain questions to Trustee Howard related to the factors addressing residency. Trustee Howard responded to the questions and provided the answers as set forth below.

**Question:** Do you have a residence in Kootenai County and in the North Idaho College zone to which you were elected?

**Answer:** Ken Howard reports that he has a residence in Kootenai County and in his zone. The residence address is 28822 E. Miracle Rd, Bayview, Idaho (the “Bayview address”).

**Question:** Are you registered to vote in Idaho, and what address do you use?
Answer: Ken Howard reports that he is registered to vote in Idaho and uses the Bayview address.

Question: What state driver’s license do you have?

Answer: Ken Howard reports that his driver’s license is an Idaho license.

Question: Do you pay property tax in Kootenai County?

Answer: Ken Howard reports that he pays property tax on his Bayview residence.

Question: When you file your tax reports, what address do you use?

Answer: Ken Howard reports that he files tax returns in Idaho and uses the Bayview address.

Question: Where are your motor vehicles licensed?

Answer: Ken Howard reports that his motor vehicles are all licensed in Idaho.

Question: Do you have any business licenses in the state of Idaho?

Answer: Ken Howard reports that he has an Idaho law license.

Those are the questions that were asked, along with the responses that were given to those questions.

The Attorney General’s office declined to investigate and issue its opinion on an individual trustee’s residence, but did discuss some of the considerations that should be part of such an analysis. As counsel for North Idaho College and with the Board’s prior direction to look into this question, I considered the guidelines identified by the Attorney General in the January 21 letter and made inquiries of Trustee Howard relevant to the question of residency. Based on the applicable guidelines and the answers to questions provided above, it is my opinion that Trustee Howard meets the residency requirement of Idaho Code Section 33-2106(2).

Sincerely,

Marc Lyons
Attorney for North Idaho College

Cc: Michael Sebaaly
President of North Idaho College