

**OPEN RECORDS AND MEETINGS SUMMARY OPINION
2019-O-20**

DATE ISSUED: October 24, 2019

ISSUED TO: Frontier Village Association

CITIZEN'S REQUEST FOR OPINION

This office received a request for an opinion under N.D.C.C. § 44-04-21.1 from the Jamestown Sun asking whether Frontier Village Association violated N.D.C.C. § 44-04-20 by failing to post notice of a special meeting.

FACTS PRESENTED

The Frontier Village Association¹ held a special meeting on September 29, 2019.

ISSUE

Whether Frontier Village Association provided notice in substantial compliance with N.D.C.C. § 44-04-20 for its September 29, 2019, special meeting.

ANALYSIS

A governing body of a public entity must post notice for its meetings in substantial compliance with N.D.C.C. § 44-04-20. This includes preparing an agenda with the date, time, location, topics to be considered, and notice of any executive session.² Section 44-04-20, N.D.C.C., also mandates where this agenda must be posted, which includes the entity's principal office, the appropriate central location of either the auditor's office or on the entity's website, the location of the meeting on the day of the meeting, and also given to anyone who asks to receive personal notice.³ For special meetings, the

¹ The Frontier Village Association receives public funds from Jamestown Tourism and the Jamestown Capital Construction Fund and is therefore considered a public entity subject to open meetings and records law. See N.D.C.C. § 44-04-17.1(13) (definition of "public entity"). See also Letter from Matthew W. Sorensen, att'y for Frontier Village Ass'n, to Att'y Gen. Office (Oct. 21, 2019).

² N.D.C.C. § 44-04-20(2).

³ N.D.C.C. § 44-04-20(4).

agenda must also be provided to the official newspaper.⁴ “Topics that may be considered at an emergency or special meeting are limited to those included in the notice.”⁵

The agenda for the September 29, 2019, special meeting was provided to the Stutsman County Auditor but was not posted otherwise.⁶ The newspaper was not notified, nor were the Jamestown Sun reporters who had asked to receive personal notice of all upcoming meetings.⁷ Finally, the Association’s agenda did not include a location for the meeting, failed to specify the time of the meeting, and failed to cite legal authority for closing the meeting⁸ for attorney consultation and negotiation strategy session under N.D.C.C. § 44-04-19.1.⁹

CONCLUSION

The Frontier Village Association failed to provide notice for its September 29, 2019, special meeting in compliance with N.D.C.C. § 44-04-20.

STEPS NEEDED TO REMEDY VIOLATION

I urge the members of the Association to review its obligations under the open meetings law by utilizing the materials available on the North Dakota Attorney General’s website. The Association must review its September 29, 2019, meeting minutes and update them to reflect the detailed recollections of any conversations held during the meeting. The minutes should also reflect the legal authority for closing the meeting. The updated meeting minutes must be provided to the Jamestown Sun, and anyone else requesting them, free of charge.

Failure to take the corrective measures described in this opinion within seven days of the date this opinion is issued will result in mandatory costs, disbursements, and reasonable attorney fees if the person requesting the opinion prevails in a civil action

⁴ N.D.C.C. § 44-04-20(6).

⁵ *Id.*

⁶ Letter from Matthew W. Sorensen, att’y for Frontier Village Ass’n, to Att’y Gen. Office (Oct. 21, 2019).

⁷ *Id.*

⁸ It was not requested and therefore this opinion does not address whether the executive session was authorized by law.

⁹ Agenda, Frontier Village Ass’n (Sept. 29, 2019); see also Emails from Matthew Sorensen to Att’y Gen. Office (Oct. 22, 2019, 8:41 AM and 9:20 AM).

under N.D.C.C. § 44-04-21.2.¹⁰ It may also result in personal liability for the person or persons responsible for the noncompliance.¹¹

Wayne Stenehjem
Attorney General

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cc: Keith Norman, The Jamestown Sun (via email only)

¹⁰ N.D.C.C. § 44-04-21.1(2).

¹¹ *Id.*