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OPEN RECORDS AND MEETINGS OPINION
2022-O-11

DATE ISSUED: September 29, 2022

ISSUED TO: Lewis & Clark Public School Board

CITIZEN'S REQUEST FOR OPINION

This office received a request for an opinion under N.D.C.C. § 44-04-21.1 from Shari Powell regarding whether the Lewis & Clark Public School Board violated N.D.C.C. § 44-04-20 by failing to properly notice a meeting.

FACTS PRESENTED

The Lewis & Clark Public School Board (Board) held a special meeting on October 27, 2021, via Zoom.¹ Shari Powell alleges the Board failed to provide notice of the October 27, 2021, meeting to the county auditor or its official newspaper.²

ISSUE

Whether the Lewis & Clark Public School Board provided notice of its October 27, 2021, special meeting in substantial compliance with N.D.C.C. § 44-04-20.

ANALYSIS

Unless otherwise provided by law, public notice must be given before each meeting of a public entity.³ Meeting notices must be posted at the principal office of the governing body, if such an office exists, and at the location of the meeting on the day of the meeting. For school boards, notice also must be filed in the office of the county auditor⁴ or posted on the public entity's website.⁵ For emergency or special meetings, notice also must be given to the public entity's official newspaper and any representatives of the news media who requested to be notified of the governing body's special meetings.⁶

¹ Letter from Shane Erickson, President, Lewis & Clark Pub. Sch. Bd., to Annique M. Lockard, Ass't Att'y Gen., Att'y Gen.'s Off. (Dec. 7, 2021).

² E-mail from Shari L. (DeGrofft) Powell to Att'y Gen.'s Off. (Nov. 13, 2021, 5:58 PM).

³ N.D.C.C. § 44-04-20.

⁴ A school board is considered under "all other bodies" in N.D.C.C. § 44-04-20(4). *See also* N.D.A.G. 2021-O-10; N.D.A.G. 2020-O-04; N.D.A.G. 2012-O-06.

⁵ N.D.C.C. § 44-04-20(4).

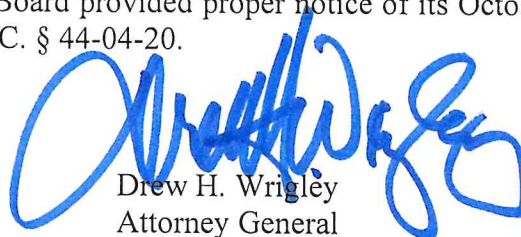
⁶ N.D.C.C. § 44-04-20(6).

Opinions issued by this office must be based on the facts given by the public entity.⁷ According to the Board, the Board's president, Shane Erickson, decided at approximately 11:30 a.m. on October 27, 2021, to call a special board meeting for later that day.⁸ The school's superintendent, Marc Ritteman, posted notice on the website "shortly after" 11:46 a.m.⁹ Around noon, notice of the special meeting was posted in the Berthold Public School "by the school front office, the main entrance, outside the conference room door, and in the entrance to the commons area."¹⁰ Notices also were posted around the same time in the North Shore Plaza School "on the high school bulletin board, the bulletin board outside the main office, and on the main entrance window."¹¹

At 12:19 p.m., the Board's co-business manager, Mrs. Lindahl, e-mailed Kent Olson, the managing editor of the Minot Daily News notice of the special meeting.¹² In 2019, the Minot Daily News "had directed [the Board] to send all notices of meetings to Mr. Olson."¹³ The Board had not received "any additional directions from the Minot Daily News after 2019 directing [the Board] to send notices of meeting to any other contact."¹⁴ It is my opinion that the October 27, 2021, meeting of the Board complied with the notice requirements of N.D.C.C. § 44-04-20.

CONCLUSION

The Lewis & Clark Public School Board provided proper notice of its October 27, 2021, special meeting in compliance with N.D.C.C. § 44-04-20.



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cc: Shari Powell (via email only)

⁷ N.D.C.C. § 44-04-21.1(1).

⁸ Letter from Shane Erickson, President, Lewis & Clark Pub. Sch. Bd., to Annique M. Lockard, Ass't Att'y Gen., Att'y Gen.'s Off. (Dec. 7, 2021).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*