

**OPEN RECORDS AND MEETINGS OPINION
2011-O-08**

DATE ISSUED: June 28, 2011

ISSUED TO: Grand Forks 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 William J. Couchigian asking whether the Grand Forks School Board violated N.D.C.C. § 44-04-19 when members remained and allegedly discussed public business in the meeting room after the regular monthly meeting had adjourned.

FACTS PRESENTED

On February 28, 2011, the Grand Forks School Board (Board) held its regular monthly meeting. The Board has nine members. Seven of the Board members were present at the meeting: Vicki Ericson, Becca Grandstrand, Tim Lamb, Eric Lunn, Roger Pohlman, Cynthia Shabb, and Mike St. Onge.

After the meeting, the Board members exchanged pleasantries, gathered up their belongings and three of them left the building. Board President, Dr. Eric Lunn remained behind to sign the minutes while Mike St. Onge stayed long enough to help put away the meeting equipment. Tim Lamb and Roger Pohlman discussed the timing of the superintendent's evaluation which was brought up during the meeting.

ISSUE

Whether a quorum of the Board met on February 28, 2011, after the regular meeting had adjourned.

ANALYSIS

For a gathering of a governing body to be considered a "meeting," two primary elements must be considered: whether a quorum was present and the topic of the discussion.¹ A "quorum" generally means one-half or more of the members of the

¹ N.D.A.G. 2010-O-14.

governing body.² The discussion must be about “public business” which means all matters that relate or may foreseeably relate in any way to the performance of the public entity’s governmental functions or use of public funds.³

The requester alleges the Board members remained in the meeting room after the February 28 meeting and discussed what occurred during the meeting. In past opinions, governing bodies have violated the law when a quorum of the governing body continued to discuss public business after the meetings had adjourned.⁴ However, here, only four of nine members remained after the meeting and of those four, only two discussed public business.⁵ Without a quorum of the Board present, one of the elements required for a meeting to occur was missing.⁶ Thus, it is my opinion that the Board did not violate the open meetings law.

CONCLUSION

The four members of the Board who remained after the February 28, 2011, regular meeting had adjourned did not constitute a “meeting” as defined under N.D.C.C. § 44-04-17.1(9).

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² N.D.C.C. § 44-04-17.1(15).

³ N.D.C.C. § 44-04-17.1(12) (definition of “public business”).

⁴ See N.D.A.G. 2007-O-02 and N.D.A.G. 98-O-16.

⁵ Letter from Richard W. Olson to Assistant Attorney General Mary Kae Kelsch (Apr. 1, 2011).

⁶ See N.D.C.C. § 44-04-17.1(9).