

**OPEN RECORDS AND MEETINGS OPINION
2013-O-04**

DATE ISSUED: April 9, 2013

ISSUED TO: Wells County Water Resource District

CITIZEN'S REQUEST FOR OPINION

This office received a request for an opinion under N.D.C.C. § 44-04-21.1 from Preston Meier asking whether the Wells County Water Resource District violated N.D.C.C. § 44-04-20 by holding a meeting without providing public notice in substantial compliance with the open meetings law.

FACTS PRESENTED

A regular meeting of the Wells County Water Resource District (District) was noticed to be held on October 9, 2012, at 8 p.m.¹ Mr. Meier alleges the meeting was improperly noticed because when he arrived at 7:53 p.m., the meeting was already in progress and the Wells County Water Board (Board) was already entertaining a motion.

ISSUE

Whether the Board's October 9, 2012, meeting was noticed in substantial compliance with N.D.C.C. § 44-04-20.

ANALYSIS

The Wells County Water Resource District is a political subdivision and is therefore a public entity subject to the open meetings law.² The Board is the governing body of the Water Resource District.³ All "meetings" of a governing body of a public entity are required to be open to the public unless otherwise specifically provided by law and preceded by public notice in substantial compliance with N.D.C.C. § 44-04-20.⁴ The

¹ See Wells Cnty. Water Res. Dist. Bd. Agenda, Oct. 9, 2012.

² N.D.C.C. § 44-04-17.1(13); N.D.A.G. 2008-O-13; Burlington N. and Santa Fe Ry. Co. v. Benson Cnty., 618 N.W.2d 155, 157 (N.D. 2000).

³ See N.D.C.C. § 44-04-17.1(6).

⁴ N.D.C.C. § 44-04-19; N.D.C.C. § 44-04-20(1).

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notice must contain the date, time, and location of the meeting and, if practicable, the topics to be considered.⁵

The regular meeting was noticed to begin at 8 p.m. on October 9, 2012. Mr. Meier suggests that when he arrived at the meeting at 7:53 p.m., the meeting was already in progress and the Board was already entertaining a motion. Minutes from the meeting indicate that the meeting began at 8 p.m. with the Board reviewing and approving the minutes from the previous meeting.⁶ The Board does not believe it began the meeting early, but explains that if the meeting did begin a few minutes early, the only business it could have conducted during such a short amount of time would have been approval of the previous meeting minutes. By statute, an Attorney General's opinion must be based on the facts provided by the public entity.⁷ Therefore, I must assume that the Board started its meeting at 8 p.m. Thus, it is my opinion that the Wells County Water Board did not violate the open meetings law and that the meeting was noticed in substantial compliance with N.D.C.C. § 44-04-20.

CONCLUSION

The Wells County Water Board did not violate N.D.C.C. § 44-04-20 because the October 9, 2012, regular meeting was noticed in substantial compliance with the law.

Wayne Stenehjem
Attorney General

slv/vkk

⁵ N.D.C.C. § 44-04-20(2).

⁶ Wells Cnty. Water Res. Dist. Bd. minutes, Oct. 9, 2012.

⁷ N.D.C.C. § 44-04-21.1(1).