

**OPEN RECORDS AND MEETINGS OPINION  
2016-O-21**

DATE ISSUED: September 23, 2016

ISSUED TO: South Heart City Council

**CITIZEN'S REQUEST FOR OPINION**

This office received a request for an opinion under N.D.C.C. § 44-04-21.1 from Troy Edin asking whether the South Heart City Council violated N.D.C.C. § 44-04-20 by failing to properly notice a meeting.

**FACTS PRESENTED**

The South Heart City Council holds regular meetings on the first Monday of each month at 7:00 p.m., unless that day is a holiday, in which case the regular meeting is rescheduled to accommodate the Council's schedules.<sup>1</sup> As the July 4<sup>th</sup> holiday fell on the first Monday, the July regular meeting was rescheduled for June 28, 2016.<sup>2</sup> The meeting notice was posted at the city hall and in the lobby of the post office on June 24, 2016.<sup>3</sup>

**ISSUE**

Whether notice of the City Council's June 28, 2016, regular meeting was posted in compliance with N.D.C.C. § 44-04-20.

**ANALYSIS**

Unless otherwise provided by law, public notice must be given in advance of all meetings of a public entity.<sup>4</sup> For regularly scheduled meetings, the notice must be posted at the principal office of the governing body, if one exists, at the location of the meeting on the day of the meeting, and for city-level bodies, either filed with the city

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<sup>1</sup> Letter from City of South Heart to Att'y Gen.'s office (received July 15, 2016).

<sup>2</sup> Id.; see also Agenda, South Heart City Council (June 28, 2016).

<sup>3</sup> Letter from City of South Heart to Att'y Gen.'s office (received July 15, 2016).

<sup>4</sup> N.D.C.C. § 44-04-20.

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auditor's office or posted on the public entity's website.<sup>5</sup> For emergency or special meetings, notice must be given to the public entity's official newspaper,<sup>6</sup> and to any representatives of the news media who requested to be notified of the special meetings.<sup>7</sup> Finally, notice must be given for all regular or special meetings to anyone requesting such information.<sup>8</sup>

The City Council posted notice of its June 28, 2016, regular meeting at City Hall and in the display case in the lobby of the post office.<sup>9</sup> City Hall serves as the principal office for the City Council and City Auditor and is the location of the City Council meetings.<sup>10</sup> The City Council therefore provided notice in compliance with N.D.C.C. § 44-04-20.

CONCLUSION

Notice for the South Heart City Council's June 28, 2016, regular meeting was provided in compliance with N.D.C.C. § 44-04-20.

Wayne Stenehjem  
Attorney General

sld  
cc: Troy Edin (via email only)

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<sup>5</sup> N.D.C.C. § 44-04-20(4). South Heart City Council does not have its own website.

<sup>6</sup> If the public entity does not have an official newspaper, then it must notify the official newspaper of the county where its principal office or mailing address is located. N.D.C.C. § 44-04-20(6).

<sup>7</sup> N.D.C.C. § 44-04-20(6). Because this was a regular meeting, notice did not need to be provided to the official newspaper.

<sup>8</sup> N.D.C.C. § 44-04-20(5). City Council has not received a request to be notified of any upcoming meetings. Letter from City of South Heart to Att'y Gen.'s office (received July 15, 2016).

<sup>9</sup> Letter from City of South Heart to Att'y Gen.'s office (received July 15, 2016).

<sup>10</sup> Id.