

**OPEN RECORDS AND MEETINGS SUMMARY OPINION
2018-O-15**

DATE ISSUED: July 19, 2018

ISSUED TO: McKenzie Township

CITIZEN'S REQUEST FOR OPINION

This office received a request for an opinion under N.D.C.C. § 44-04-21.1 from Dominick Johnson and Fred Johnson asking whether McKenzie Township violated N.D.C.C. § 44-04-20 by holding a special meeting without providing notice.

FACTS PRESENTED

The McKenzie Township Board of Supervisors held a special meeting on May 31, 2018.¹ During the meeting, the Board passed Truck Route Ordinance No. 100.² No notice was provided for this special meeting.³

ISSUE

Whether McKenzie Township provided notice of its May 31, 2018, special meeting in substantial compliance with N.D.C.C. § 44-04-20.

ANALYSIS

A township is a "public entity"⁴ subject to open records and meetings law. As such, meetings of a township's Board of Supervisors must be noticed in compliance with

¹ Letter from David R. Bliss, Att'y, McKenzie Twp., to Att'y Gen. Office (July 9, 2018); see also Minutes, Bd. of Supervisors, McKenzie Twp. (May 31, 2018).

² Letter from David R. Bliss, Att'y, McKenzie Twp., to Att'y Gen. Office (July 9, 2018); see also Minutes, Bd. of Supervisors, McKenzie Twp. (May 31, 2018).

³ Letter from David R. Bliss, Att'y, McKenzie Twp., to Att'y Gen. Office (July 9, 2018).

⁴ N.D.C.C. § 44-04-17.1(13)(b) (definition of "public entity" includes "governmental bodies, boards, bureaus, commissions, or agencies of any political subdivision of the state"); N.D.C.C. § 44-04-17.1(11) (definition of "political subdivision" includes townships). See also N.D.A.G. 2016-O-18.

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N.D.C.C. § 44-04-20.⁵ McKenzie Township admits it failed to post notice of its May 31, 2018, special meeting, in violation of the open meetings law.

CONCLUSION

McKenzie Township violated the open meetings law when it failed to post notice of its May 31, 2018, special meeting in compliance with N.D.C.C. § 44-04-20.

STEPS NEEDED TO REMEDY VIOLATION

The McKenzie Township Board of Supervisors should review its May 31, 2018, special meeting minutes and update them to be as detailed as possible, and include all comments and conversations that can be recalled by the Board members. The updated, detailed meeting minutes should be provided to Mr. Dominick Johnson and Mr. Fred Johnson, 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 under N.D.C.C. § 44-04-21.2.⁶ It may also result in personal liability for the person or persons responsible for the noncompliance.⁷

Wayne Stenehjem
Attorney General

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cc: Dominick Johnson (via email only)
Fred Johnson (via email only)

⁵ Numerous past opinions outline township's responsibilities under the open meetings law including posting proper notice of upcoming meetings: N.D.A.G. 2016-O-08; N.D.A.G. 2015-O-03; N.D.A.G. 2015-O-02; N.D.A.G. 2012-O-05; N.D.A.G. 2012-O-04; N.D.A.G. 2011-O-16; N.D.A.G. 2011-O-04; N.D.A.G. 2009-O-18; N.D.A.G. 2000-O-03; N.D.A.G. 98-O-09.

⁶ N.D.C.C. § 44-04-21.1(2).

⁷ *Id.*