

**OPEN RECORDS AND MEETINGS OPINION
2021-O-08**

DATE ISSUED: August 26, 2021

ISSUED TO: City of Velva

CITIZEN'S REQUEST FOR OPINION

This office received a request for an opinion under N.D.C.C. § 44-04-21.1 from Terry Peterson asking whether the City of Velva violated N.D.C.C. 44-04-20 by failing to properly notice a special meeting.

FACTS PRESENTED

The Velva City Commission (City) held a special meeting at the Velva City Hall on April 15, 2021.¹ The agenda for the special meeting was posted on the front entrance door of City Hall at approximately 1:40 p.m. on April 15, 2021.² Meeting notices are posted on the front entrance of City Hall along with general information relating to city business.³ An e-mail, to which the special meeting agenda was attached, was also sent to the City's official newspaper, the Velva Area Voice, on April 15, 2021, at 1:40 p.m.⁴ Notice for the special meeting was filed with the City Auditor's office.⁵ Terry Peterson alleges that the April 15, 2021, special meeting was improperly noticed.⁶

ISSUE

Whether the Velva City Commission provided notice of its April 15, 2021, special meeting in compliance with N.D.C.C. § 44-04-20.

¹ Letter from Bryan Van Grinsven, Att'y at Law, to Att'y Gen.'s Office (May 17, 2021); Notice, Spec. Meeting, City Council (Apr. 15, 2021).

² Letter from Bryan Van Grinsven, Att'y at Law, to Att'y Gen.'s Office (May 17, 2021).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ E-mail from Terry Peterson to Att'y Gen.'s Office (Apr. 23, 2021, 9:05 AM).

ANALYSIS

Unless otherwise provided by law, public notice must be given in advance of all meetings of a public entity in substantial compliance with N.D.C.C. § 44-04-20.⁷ Meeting notices must include the date, time, and location of the meeting, and, if practicable, the topics to be discussed.⁸ The notice must be posted at the principal office of the governing body holding the meeting, if one exists, at the location of the meeting on the day of the meeting, given to anyone who asks to receive notice of upcoming meetings, and for city level entities, either filed with the city auditor or posted on the public entity's website.⁹ For special meetings, notice must be provided to the public entity's official newspaper and to any representatives of the news media that had asked to be notified of the special meeting.¹⁰

Terry Peterson alleges that the City failed to post the notice¹¹ of the April 15, 2021, special meeting at the City Auditor's office, on the City's official website, and that notice was not provided to the City's official newspaper.

The City was not required to *post* notice at the city auditor's office. The statutory requirement is that the City *file* notice with the city auditor.¹² Additionally, there is

⁷ N.D.C.C. § 44-04-20(1).

⁸ N.D.C.C. § 44-04-20(2).

⁹ N.D.C.C. § 44-04-20(4); N.D.A.G. 2018-O-28; N.D.A.G. 2018-O-04.

¹⁰ N.D.C.C. § 44-04-20(6); N.D.A.G. 2018-O-28.

¹¹ While not raised in this request, the City's April 15, 2021, special meeting notice/agenda did not disclose the location of the meeting, which is a violation of N.D.C.C. § 44-04-20(2). Failing to include the location prevents members of the public from obtaining proper advance notice of special meetings. A second issue is the insufficient nature of the special meeting notice/agenda. Notices of special meetings are required to be thorough and precise due to their often time-sensitive nature. Here, the agenda merely stated "1. Ordinance Change – 1st Reading." As stated in numerous previous opinions, special meeting notices cannot use "catch-all phrases" and must be specific and limited in scope. The vague reference of "ordinance change" does not adequately specify the topic that would apprise the public of what would be considered during the special meeting. N.D.A.G. 2019-O-17; N.D.A.G. 2018-O-28; N.D.A.G. 2014-O-13 (general and vague agenda topics that could have numerous meanings are not detailed enough to apprise the public of the topics that would be considered during the special meeting).

¹² N.D.C.C. § 44-04-20(6); N.D.A.G. 2005-O-07.

no statutory requirement that the meeting notice be filed with the city auditor *and* posted to the website. North Dakota Century Code § 44-04-20(4) provides “notice must be filed in the office of . . . the city auditor . . . *or* posted on the public entity's website.”¹³ Either filing notice with the City Auditor’s office or posting to the City’s official website was sufficient.

According to the City, notice for the April 15, 2021, special meeting was posted at the location of the meeting, filed with the city auditor, and sent to the city’s official newspaper on the day of the meeting.¹⁴ This office is required to base its opinions “on the facts given by the public entity.”¹⁵ Therefore, it is my opinion that the City provided proper notice of its April 15, 2021, special meeting.

CONCLUSION

The City of Velva provided notice of its April 15, 2021, special meeting in substantial compliance with N.D.C.C. § 44-04-20.

Wayne Stenehjem
Attorney General

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cc: Terry Peterson (via email only)

¹³ N.D.C.C. § 44-04-20(4) (emphasis added).

¹⁴ Letter from Bryan Van Grinsven, Att’y at Law, to Att’y Gen.’s Office (May 17, 2021).

¹⁵ N.D.C.C. § 44-04-21.1(1).