



STATE OF NORTH DAKOTA  
**OFFICE OF ATTORNEY GENERAL**

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**OPEN RECORDS AND MEETINGS OPINION**  
**2025-O-03**

DATE ISSUED: March 6, 2025

ISSUED TO: City of Great Bend

**CITIZEN'S REQUEST FOR OPINION**

Guy Otto requested an opinion from this office under N.D.C.C. § 44-04-21.1 asking whether the City of Great Bend violated N.D.C.C. § 44-04-20 by failing to properly notice city council meetings.

**FACTS PRESENTED**

The Great Bend City Council (City Council) is composed of four council members and a mayor.<sup>1</sup> It holds regularly scheduled meetings on the third Tuesday of the month at the Great Bend Rural Fire Protection District Hall (Fire Hall).<sup>2</sup> The City Council usually posts its meeting notices on the Fire Hall door and on the mailbox cluster in town a week in advance of the meeting.<sup>3</sup> The City also has a community bulletin board on a small shop building.<sup>4</sup> However, that building is not an office or city hall, and no meetings or business is conducted there.<sup>5</sup> The City Auditor informed this office that the only place to hold a meeting within the city is at the Fire Hall, and City Council meetings have been held there for many years.<sup>6</sup>

The City Council held two regular meetings at the Fire Hall on August 16, 2022, and September 20, 2022.<sup>7</sup> The notices for the meetings included the date, time, and agendas with topics for discussion, but the notices did not include the location of the meetings and did not identify the City Council as the entity holding the meetings.<sup>8</sup> According to the City Auditor, the notices were posted

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<sup>1</sup> Letter from Patty Zietlow, City Auditor, City of Great Bend to Annique M. Lockard, Assistant Att'y Gen., Off. of Att'y Gen. (Nov. 16, 2022).

<sup>2</sup> Id.

<sup>3</sup> Id.

<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> Agenda, Regular Meeting, Great Bend City Council (Aug. 16, 2022); Agenda, Regular Meeting, Great Bend City Council (Sept. 20, 2022).

<sup>8</sup> Letter from Patty Zietlow, City Auditor, City of Great Bend to Annique M. Lockard, Assistant Att'y Gen., Off. of Att'y Gen. (Nov. 16, 2022); Agenda, Regular Meeting, Great Bend City Council (Aug. 16, 2022); Agenda, Regular Meeting, Great Bend City Council (Sept. 20, 2022).

on the Fire Hall door and on the mailbox cluster.<sup>9</sup> The City Council did not post the notices on the community bulletin board.<sup>10</sup> The City does not have a website, and all notices are filed with the City Auditor.<sup>11</sup>

The City Council held a special meeting at the Fire Hall on September 27, 2022.<sup>12</sup> The special meeting notice included the date, time, and an agenda indicating the meeting was to discuss the application for a local permit for the medical benefit.<sup>13</sup> The notice did not include the location of the meeting.<sup>14</sup> Notice of the special meeting was posted on the Fire Hall door and on the mailbox cluster and was filed with the City Auditor.<sup>15</sup> In response to this office's inquiry, the City Auditor indicated that the local newspaper was not notified about the special meeting.<sup>16</sup>

### ISSUE

Whether the Great Bend City Council properly noticed its August 16, 2022, September 20, 2022, and September 27, 2022, meetings 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 in substantial compliance with N.D.C.C. § 44-04-20.<sup>17</sup> These public notices must include the date, time, and location of the meeting, an agenda with topics to be considered, and the general subject matter of any expected executive sessions.<sup>18</sup> Notice must be posted at the principal office of the governing body, if one exists, and at the location of the meeting on the day of the meeting, and must be given to anyone requesting to receive notice of upcoming meetings.<sup>19</sup> For city councils, notice must be filed with the city auditor and posted on the city's website, if a website exists.<sup>20</sup> For emergency or special meetings, notice must also be given to the public entity's official

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<sup>9</sup> Letter from Patty Zietlow, City Auditor, City of Great Bend to Annique M. Lockard, Assistant Att'y Gen., Off. of Att'y Gen. (Nov. 16, 2022).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*; Notice, Special Meeting, Great Bend City Council (Sept. 27, 2022).

<sup>13</sup> Notice, Special Meeting, Great Bend City Council (Sept. 27, 2022).

<sup>14</sup> *Id.*

<sup>15</sup> Letter from Patty Zietlow, City Auditor, City of Great Bend to Annique M. Lockard, Assistant Att'y Gen., Off. of Att'y Gen. (Nov. 16, 2022).

<sup>16</sup> *Id.*

<sup>17</sup> N.D.C.C. §§ 44-04-19, 44-04-20.

<sup>18</sup> N.D.C.C. § 44-04-20(2).

<sup>19</sup> N.D.C.C. § 44-04-20(4).

<sup>20</sup> N.D.C.C. § 44-04-20 (5). The notice requirement changed to require meeting notices be posted on the entity's website if they have a website. S.B. 2232, 68th N.D. Legis. Assemb., Reg. Sess., 2023 N.D. Laws, ch. 394, § 4. However, at the time of these meetings, the law required a public

newspaper and to any representatives of the news media requesting to be notified of the special meeting.<sup>21</sup>

August 16 and September 20, 2022, Regular Meetings

Section 44-04-20, N.D.C.C. requires that the location of the meeting be included in the meeting notice.<sup>22</sup> The City Auditor acknowledges that the City Council failed to include the location on the meeting notices for the August 16 and September 20, 2022, regular meetings. She explained the failure to include the location was an oversight because the only place to hold meetings within the city is at the Fire Hall and meetings have been held there for many years.<sup>23</sup>

I have stated that “the fact that a meeting regularly occurs at the same place does not excuse the [public entity’s] responsibility to include the location on the meeting notice.”<sup>24</sup> This is because “[t]he location of a meeting is a material element of the notice’ and a notice that fails to list the meeting location does not substantially comply with N.D.C.C. § 44-04-20.”<sup>25</sup> As a result, the City Council’s meeting notices for the August 16 and September 20 regular meetings do not substantially comply with the open meetings law because the notices failed to list the location of the meetings.

The requester alleges the City Council violated the open meetings laws by not posting the notices for these meetings on the community bulletin board. The City Council posted notice for each meeting at the location of the meeting on the day of the meeting and filed the notices with the city auditor as required by the open meetings law.<sup>26</sup> The only other posting requirement is for the City Council to post notice at its principal office if it has one.<sup>27</sup> If a public entity has no principal office, the requirement to post notice at the principal office does not apply.<sup>28</sup> In the City Council’s response to a request for information from this office, the City Auditor explained that the community bulletin board is located on the City’s small shop building. That building is not an

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entity to either file the notice with the auditor (or its designee) or post the notice on its website. Thus, the City Council could have either posted notice by filing it with the city auditor’s office or by posting it to the city’s website. Since the city does not have a website, the City Council met the notice requirements by filing the notices with the city auditor.

<sup>21</sup> N.D.C.C. § 44-04-20(6).

<sup>22</sup> N.D.C.C. § 44-04-20(2).

<sup>23</sup> Letter from Patty Zietlow, City Auditor, City of Great Bend to Annique M. Lockard, Assistant Att’y Gen., Off. of Att’y Gen. (Nov. 16, 2022).

<sup>24</sup> N.D.A.G. 2024-O-09, *citing* N.D.A.G. 2005-O-17.

<sup>25</sup> N.D.A.G. 2024-O-09, *citing* N.D.A.G. 2005-O-17; N.D.A.G. 2005-O-08; N.D.A.G. 2004-O-19.

<sup>26</sup> While not obligated to do so under the open meetings law, the City Council also posted the notices on the mailbox cluster in town a week in advance of the meetings. Thus, it is clear that there was no intent by the City Council to keep any meetings a secret.

<sup>27</sup> N.D.C.C. § 44-04-20.

<sup>28</sup> N.D.A.G. 2001-O-08.

office or city hall, and no meetings or business is conducted there. Thus, it is not a principal office, and the requirement to post notice at the principal office does not apply.

Lastly, the requester also alleges the City Council did not include its name on the notices for the two regular meetings. This office has previously explained that “[a] meeting notice must identify the public entity holding the meeting.”<sup>29</sup> Here, the notices for the regular meetings did not specify that the City Council was holding the meetings. Consequently, the City Council violated the open meetings laws by failing to identify itself on the notices as the entity holding the meetings.

Accordingly, the City Council did not properly notice its August 16, 2022, and September 20, 2022, regular meetings because the notices failed to identify the City Council as the public entity holding the meeting and did not include the location of the meetings.

#### September 27, 2022, Special Meeting

As previously stated above, a notice which fails to list the location of a meeting does not substantially comply with N.D.C.C. § 44-04-20.<sup>30</sup> Here, the notice for the September 27 special meeting failed to list the location of the meeting.<sup>31</sup> Furthermore, there is an additional requirement for emergency or special meetings that notice must also be given to the public entity’s official newspaper and any representatives of the news media who requested to be notified of the governing body’s special meetings.<sup>32</sup> The City Auditor admits that the local newspaper was not notified about the special meeting. Therefore, the City Council violated the open meetings law when it failed to include the location of the meeting on the notice and did not notify the local newspaper about the special meeting.

### CONCLUSION

The City Council did not properly notice its August 16, 2022, and September 20, 2022, regular meetings because the notices failed to identify the name of the public entity holding the meeting and did not include the location of the meetings. Additionally, the City Council did not properly

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<sup>29</sup> N.D.A.G. 2014-O-13, *citing* N.D.C.C. 44-04-20(1); N.D.A.G. 2006-O-09; *see also* N.D.A.G. 2007-O-08.

<sup>30</sup> N.D.A.G. 2024-O-09, *citing* N.D.A.G. 2005-O-17; N.D.A.G. 2005-O-08; N.D.A.G. 2004-O-19.

<sup>31</sup> Notice, Special Meeting, Great Bend City Council (Sept. 27, 2022). However, the notice for the special meeting did identify the City Council as the entity holding the meeting.

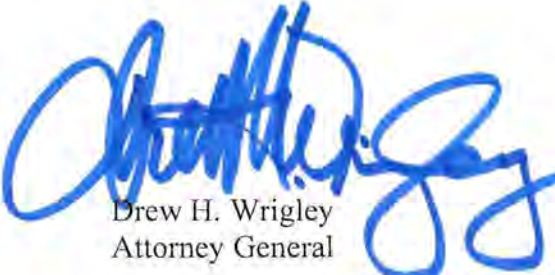
<sup>32</sup> N.D.C.C. § 44-04-20(6). “If the public entity does not have an official newspaper, then it must notify the office newspaper of the county where its principal office or mailing address is located.” *Id.* The requirement to provide notice to a newspaper does not require the notice to be published by the newspaper. N.D.A.G. 2011-O-16; N.D.A.G. 2009-O-09; N.D.A.G. 2003-O-13; N.D.A.G. 2002-O-12. “[T]he purpose of the notification is to give the newspaper the opportunity to send a reporter to the meeting if it so desires.” N.D.A.G. 2011-O-16, *citing* N.D.A.G. 2011-O-01; N.D.A.G. 2010-O-07; N.D.A.G. 2003-O-20.

notice its September 27, 2022, special meeting because it failed to include the location of the meeting and did not notify the local newspaper of the meeting.

#### STEPS NEEDED TO REMEDY VIOLATIONS

The City Council must prepare revised notices for the August 16, 2022, and September 20, 2022, regular meetings and the September 27, 2022, special meeting. The notices must contain the location of the meetings and identify the public entity holding the meetings. The City Council must file the revised notices with the city auditor. The City Council must provide copies of the August 16, 2022, and September 20, 2022, regular meeting minutes and the September 27, 2022, special meeting minutes to the requester and anyone else requesting them, free of charge. Additionally, the City Council must also provide a copy of special meeting minutes to the official newspaper free of charge.

While I have every expectation that the Great Bend City Council will comply with the directives in this opinion, failure to take the corrective measures described here within seven days of the date of this opinion 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. § 44-04-21.2.4.<sup>33</sup> Such inaction may also result in personal liability for the person or persons responsible for the noncompliance.<sup>34</sup>



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AMR/AML/mjh

cc: Guy Otto

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<sup>33</sup> N.D.C.C. § 44-04-21.1(2).

<sup>34</sup> *Id.*