



STATE OF NORTH DAKOTA  
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ATTORNEY GENERAL

**OPEN RECORDS AND MEETINGS OPINION**  
**2025-O-24**

DATE ISSUED: December 12, 2025

ISSUED TO: Burleigh County Commission

**CITIZEN'S REQUEST FOR OPINION**

Dustin Gawrylow requested an opinion from this office under N.D.C.C. § 44-04-21.1 asking whether the Burleigh County Commission failed to notice a special meeting on January 13, 2023, failed to follow the special meeting agenda, and failed to take complete minutes of the meeting, in violation of N.D.C.C. §§ 44-04-20, 44-04-21, and 44-04-20(6).

**FACTS PRESENTED**

The Burleigh County Commission (Commission) held a special meeting on January 13, 2023.<sup>1</sup> The notice of the meeting was posted on the Burleigh County website by January 11, 2023, at 4:57 p.m..<sup>2</sup> The notice and agenda were filed with the Burleigh County Auditor's Office.<sup>3</sup> On the day of the meeting, the notice of the meeting was posted both at the Commission's principal office and the location of the meeting.<sup>4</sup> No one had requested notice of the Commission's meeting, and the official county newspaper was not notified.<sup>5</sup> The notice stated, "The Burleigh County Commission will be conducting a Provident Building renovation workshop."<sup>6</sup> An amended notice and agenda listed five topics for the meeting:

1. Meeting called to order by Chairman of the Board.
2. Roll call of members.
3. JLG Architects present Provident Building Renovation update.
4. Deputy Finance Director Schulz present financing options pertaining to the proposed Provident Building Renovation project.
5. Adjourn.<sup>7</sup>

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<sup>1</sup> Letter from Leo Vetter, Auditor/Treasurer, Burleigh Cnty., to Annique M. Lockard, Assistant Att'y Gen., Off. of Att'y Gen. (Feb. 27, 2023).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Email from Leo Vetter, Auditor/Treasurer, Burleigh Cnty., to Annique M. Lockard, Assistant Att'y Gen., Off. of Att'y Gen. (Feb. 28, 2023, 4:42 PM).

<sup>5</sup> Letter from Leo Vetter, Auditor/Treasurer, Burleigh Cnty., to Annique M. Lockard, Assistant Att'y Gen., Off. of Att'y Gen. (Feb. 27, 2023).

<sup>6</sup> Pub. (Meeting) Notice, Burleigh Cnty., Comm'n (Jan. 13, 2023).

<sup>7</sup> Amended Burleigh Cnty. Comm'n Special Meeting Notice/Agenda, Burleigh Cnty. Comm'n (Jan. 13, 2023).

The minutes from the special meeting summarizes it as follows: (1) the meeting was called to order at 1:30 p.m.; (2) the list of the commissioners present; (3) a representative of JLG Architects presented an overview of the drawings and estimates for the potential renovation project; (4) Deputy Finance Director Schulz presented financial information for the commission to consider; (5) no action was taken at the meeting; and (6) the meeting was adjourned. The minutes do not provide the time that the meeting was adjourned.<sup>8</sup> The Commission claims no other topics were addressed at the meeting.<sup>9</sup>

Dustin Gawrylow contacted Burleigh County Auditor/Treasurer Leo Vetter to obtain the video or audio of the meeting, as well as the packets and attachments that were given out.<sup>10</sup> On January 19, 2023, Mr. Vetter provided the draft minutes, as well as the packets and attachments that were requested.<sup>11</sup> Mr. Gawrylow replied the same day asking for a “Cliff Notes” version of what was presented to the Commission,<sup>12</sup> Mr. Vetter replied that no such record existed.<sup>13</sup> That afternoon, Mr. Gawrylow contacted this office for an opinion on whether the Commission discussed topics not on the agenda, whether the notice of the meeting was sufficient, and whether the minutes were adequate.<sup>14</sup>

#### ISSUES

1. Whether the Commission provided notice of its January 13, 2023, special meeting in substantial compliance with N.D.C.C. § 44-04-20.
2. Whether the Commission kept adequate minutes of its January 13, 2023, special meeting in substantial compliance with N.D.C.C. § 44-04-21(2).
3. Whether the Commission considered only topics that were included in the notice of its January 13, 2023, special meeting in substantial compliance with N.D.C.C. § 44-04-20(6).

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<sup>8</sup> Burleigh Cnty. Comm’n Special Meeting Minutes (Jan. 13, 2023).

<sup>9</sup> See Letter from Leo Vetter, Auditor/Treasurer, Burleigh Cnty., to Annique M. Lockard, Assistant Att’y Gen., Off. of Att’y Gen. (Feb. 27, 2023).

<sup>10</sup> Email from Dustin Gawrylow to Leo Vetter, Auditor/Treasurer, Burleigh Cnty. (Jan. 16, 2023, 4:10 PM).

<sup>11</sup> Email from Leo Vetter, Auditor/Treasurer, Burleigh Cnty., to Dustin Gawrylow (Jan. 19, 2023, 7:31 AM).

<sup>12</sup> Email from Dustin Gawrylow to Leo Vetter, Auditor/Treasurer, Burleigh Cnty. (Jan. 19, 2023, 8:34 AM).

<sup>13</sup> Email from Leo Vetter, Auditor/Treasurer, Burleigh Cnty., to Dustin Gawrylow (Jan. 19, 2023, 9:28 AM).

<sup>14</sup> Email from Dustin Gawrylow to Att’y Gen. Wrigley, Att’y Gen., Off. of Att’y Gen. (Jan. 19, 2023, 1:56 PM).

## ANALYSIS

### Issue One

A county commission is a public entity as defined by law and is subject to the open meeting and records laws.<sup>15</sup> A governing body of a public entity must give advance notice of its meetings unless otherwise provided by law.<sup>16</sup> Notice of a meeting must be posted at the principal office of the governing body if such an office exists and at the location of the meeting on the day of the meeting.<sup>17</sup> County entities must file the meeting notice with the county auditor or designee of the county.<sup>18</sup> If the public entity has a website, notice also must be posted on its website.<sup>19</sup> Notice must also be provided to anyone requesting notice of meetings.<sup>20</sup> For special meetings, notice must also be given to the public entity's official newspaper.<sup>21</sup>

In this case, notice was not provided to the county's official newspaper.<sup>22</sup> "Because emergency or special meetings may be called upon short notice, notifying the official newspaper is of particular importance because it compensates for the possibility that the public may not be aware of the special or emergency meeting."<sup>23</sup> In addition to the possibility of the official newspaper "send[ing] a reporter to the meeting if it desir[ed] to do so,"<sup>24</sup> the official newspaper in this case published an issue before the special meeting was held, which could have notified the public of the special meeting if it desired to do so. Because of the Commission's failure to provide notice of the special meeting to the official newspaper, it is my opinion that the Commission did not substantially comply with N.D.C.C. § 44-04-20 when providing notice of the January 13, 2023, special meeting.

### Issue Two

"Minutes must be kept of all open meetings and are records subject to [the open records law]."<sup>25</sup> The minutes must include, at minimum:

- a. The names of the members attending the meeting;
- b. The date and time the meeting was called to order and adjourned;

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<sup>15</sup> N.D.C.C. § 44-04-17.1(13)(b).

<sup>16</sup> N.D.C.C. § 44-04-20(1); N.D.A.G. 2025-O-09.

<sup>17</sup> N.D.C.C. § 44-04-20(4); N.D.A.G. 2025-O-09.

<sup>18</sup> N.D.C.C. § 44-04-20(4).

<sup>19</sup> N.D.C.C. § 44-04-20(4).

<sup>20</sup> N.D.C.C. § 44-04-20(5).

<sup>21</sup> N.D.C.C. § 44-04-20(6); N.D.A.G. 2025-O-09.

<sup>22</sup> Letter from Leo Vetter, Burleigh Cnty. Auditor/Treasurer, to Annique M. Lockard, Assistant Att'y Gen., Off. of Att'y Gen. (Feb. 27, 2023).

<sup>23</sup> N.D.A.G. 2016-O-17, *citing* N.D.A.G. 2010-O-07; N.D.A.G. 2005-O-20.

<sup>24</sup> N.D.A.G. 2010-O-07 (citation omitted). ("[T]he purpose of providing notice to the public entity's official newspaper is not necessarily so it can publish the notice, but instead to notify the newspaper so it can cover the meeting if it desires."). *Accord* N.D.A.G. 2013-O-01; N.D.A.G. 2011-O-16.

<sup>25</sup> N.D.C.C. § 44-04-21(2).

- c. A list of topics discussed regarding public business;
- d. A description of each motion made at the meeting and whether the motion was seconded;
- e. The results of every vote taken at the meeting; and
- f. The vote of each member on every recorded roll call vote.”<sup>26</sup>

“Minutes are not required to be a verbatim report,” and the minutes need not include “specific discussion or concerns raised by members of the public.”<sup>27</sup> Additionally, the Office of Attorney General “does not review any alleged inaccuracies in meeting minutes but will only review the content of meeting minutes to determine whether they meet the minimum requirements.”<sup>28</sup>

The Commission’s minutes include the members present. The topics, although broad, are sufficient to provide the public with notice of the topics covered. The minutes identified the specific project being discussed by the Commission and provided basic information about the aspects of the project considered. The Commission did not use a generic category such as “other issues” which this office has previously deemed to be too broad.<sup>29</sup> The minutes state that no action was taken at the meeting, thus, there were no votes to record. The minutes include the time the meeting was called to order but not the time it was adjourned. It is my opinion that the Commission failed to comply with N.D.C.C. § 44-04-21 with its minutes from the January 13, 2023, special meeting, because of the failure to include the time the meeting was adjourned.

### Issue Three

Unlike regular meetings, topics “that may be considered at an emergency or special meeting are limited to those included in the notice.”<sup>30</sup> “The purpose of an agenda is to provide sufficient ‘information to interested members of the public concerning the governing body’s anticipated business in order that they may attend the meeting or take whatever other action they deem appropriate.’”<sup>31</sup>

For the January 13, 2023, special meeting, there is no indication that the Commission addressed topics other than those included in the agenda. The minutes and the representations from Mr.

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<sup>26</sup> N.D.C.C. §44-04-21(2).

<sup>27</sup> N.D.A.G. 2018-O-10, *citing* N.D.A.G. 2016-O-06; N.D.A.G. 2013-O-06; N.D.A.G. 2010-O-06; N.D.A.G. 98-O-14.

<sup>28</sup> N.D.A.G. 2018-O-10, *citing* N.D.A.G. 2016-O-06; N.D.A.G. 2013-O-06; N.D.A.G. 2004-O-16. *See* N.D.C.C. § 44-04-21.1(1) (“In any opinion issued under this section, the attorney general shall base the opinion on the facts given by the public entity.”).

<sup>29</sup> *See* N.D.A.G. 2013-O-06 (finding phrase “other North Dakota higher education issues” too broad for meeting minutes. Other phrases deemed even too broad for special meeting agenda items include “general, ‘catch-all’ phrases, such as ‘other business,’ ‘additional topics,’ ‘any other issues that may need council attention,’ or ‘end-of-the-year recap’ are not appropriate for special meetings because they do not provide the public with advance notice of what the entity would discuss.”, *citing* N.D.C.C. § 44-04-20(6); N.D.A.G. 2013-O-01; N.D.A.G. 2010-O-11; N.D.A.G. 2009-O-04; N.D.A.G. 2009-O-03; N.D.A.G. 2005-O-17; N.D.A.G. 2002-O-11).

<sup>30</sup> N.D.C.C. § 44-04-20(6).

<sup>31</sup> N.D.A.G. 2024-O-09, quoting N.D.A.G. 2021-O-04 quoting N.D.A.G. 2011-O-15.



Vetter are consistent with the topics in the meeting notice and agenda.<sup>32</sup> It is my opinion that the Commission appears to have considered only topics that were included in the notice of its January 13, 2023, special meeting in substantial compliance with N.D.C.C. § 44-04-20(6).

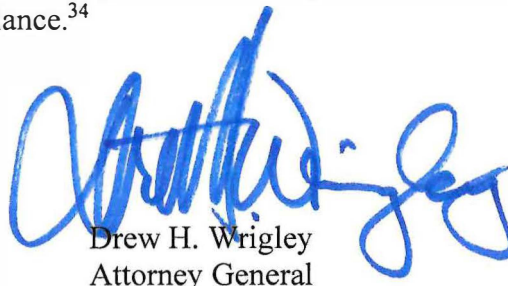
### CONCLUSIONS

1. The Commission did not provide notice of its January 13, 2023, special meeting in substantial compliance with N.D.C.C. § 44-04-20 because it failed to notify the official newspaper of the special meeting.
2. The Commission did not keep adequate minutes of its January 13, 2023, special meeting in substantial compliance with N.D.C.C. § 44-04-21(2) because it failed to include the time the meeting was adjourned.
3. The Commission considered only topics that were included in the notice of its January 13, 2023, special meeting in substantial compliance with N.D.C.C. § 44-04-20(6).

### STEPS NEEDED TO REMEDY VIOLATION

The Burleigh County Commission must correct its minutes from the January 13, 2023, special meeting to include the time the Commission adjourned the meeting. Additionally, the Burleigh County Commission must provide the corrected minutes of the January 13, 2023, special meeting to Dustin Gawrylow and anyone else who requests them, free of charge.

While I have every reason to expect the Burleigh County Commission will remedy this situation, 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.<sup>33</sup> Failure to take these corrective measures may also result in personal liability for the person or persons responsible for the noncompliance.<sup>34</sup>



Drew H. Wrigley  
Attorney General

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cc: Dustin Gawrylow

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<sup>32</sup> The scope of the opinions from this office are limited to the facts given by the public entity. N.D.C.C. § 44-04-21.1.

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

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