



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

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**Drew H. Wrigley**  
ATTORNEY GENERAL

**OPEN RECORDS AND MEETINGS OPINION**  
**2026-O-05**

DATE ISSUED: February 27, 2026

ISSUED TO: Mandan City Commission

**CITIZEN'S REQUEST FOR OPINION**

Karen Jordan requested an opinion from this office under N.D.C.C. § 44-04-21.1 asking whether the Mandan City Commission failed to properly notice a special meeting in violation of N.D.C.C. § 44-04-20.

**FACTS PRESENTED**

Residents of the City of Mandan requested to meet with city leaders about the possible use of property as “a recovery house for individuals recovering from substance abuse and addiction.”<sup>1</sup> Members of the Mandan City Commission (Commission) were invited to the meeting by the residents, which was scheduled for September 1, 2023.<sup>2</sup> Because there was a chance that a quorum of the Commission would be present at the meeting with residents, the Commission provided notice of the meeting on August 30, 2023, by posting the notice to the City of Mandan website, emailing the notice to persons who have asked to receive meeting notices, filing the notice with the City Auditor’s office, and publicly posting it in the Mandan City Hall where the meeting was held.<sup>3</sup> Only two of the five Commissioners attended the meeting.<sup>4</sup> Karen Jordan timely requested an opinion from this office, alleging that the Commission failed to provide adequate notice of the meeting.<sup>5</sup>

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<sup>1</sup> Letter from Jim Neubauer, City Adm’r, City of Mandan, to Annique M. Lockard, Assistant Att’y Gen., Off. of Att’y Gen. (Dec. 22, 2023).

<sup>2</sup> Letter from Jim Neubauer, City Adm’r, City of Mandan, to Annique M. Lockard, Assistant Att’y Gen., Off. of Att’y Gen. (Dec. 22, 2023).

<sup>3</sup> Letter from Jim Neubauer, City Adm’r, City of Mandan, to Annique M. Lockard, Assistant Att’y Gen., Off. of Att’y Gen. (Dec. 22, 2023); Potential Quorum Notice, Mandan City Comm’n (Aug. 30, 2023, 11:11 AM).

<sup>4</sup> Letter from Jim Neubauer, City Adm’r, City of Mandan, to Annique M. Lockard, Assistant Att’y Gen., Off. of Att’y Gen. (Dec. 22, 2023).

<sup>5</sup> Email from Karen Jordan, to Att’y Gen. Wrigley (Aug. 30, 2023, 8:44 PM).

## ISSUE

Whether the Commission held a meeting without providing proper notice in violation of N.D.C.C. § 44-04-20 when a quorum of the Commission did not attend.

## ANALYSIS

The Commission is a public entity subject to the open meetings law.<sup>6</sup> Notice must be provided “in advance of all meetings of a public entity.”<sup>7</sup> Meetings are defined in statute as:

[A] formal or informal gathering or a work session, whether in person or through any electronic means, of:

- (1) A quorum of the members of the governing body of a public entity regarding public business; or
- (2) Less than a quorum of the members of the governing body of a public entity regarding public business, if the members attending one or more of the smaller gatherings collectively constitute a quorum and if the members hold the gathering for the purpose of avoiding the requirements of section 44-04-19.<sup>8</sup>

A quorum is defined as “one-half or more of the members of the governing body, or any smaller number if sufficient for a governing body to transact business on behalf of the public entity.”<sup>9</sup> When an opinion is requested on a potential open meeting violation, “the attorney general shall base the opinion on the facts given by the public entity.”<sup>10</sup>

In this case, only two members of the five-member Commission attended the meeting with residents on September 1, 2023.<sup>11</sup> Two members of the Commission are insufficient to act on behalf of the Commission,<sup>12</sup> and there is no indication that those members discussed the meeting with other members of the Commission.<sup>13</sup> Therefore, there was no meeting of the Commission on September 1, 2023, as defined in statute. Regardless of the adequacy of the notice provided,

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<sup>6</sup> N.D.C.C. § 44-04-17.1(13)(b).

<sup>7</sup> N.D.C.C. § 44-04-20(1).

<sup>8</sup> N.D.C.C. § 44-04-17.1(9)(a).

<sup>9</sup> N.D.C.C. § 44-04-17.1(15).

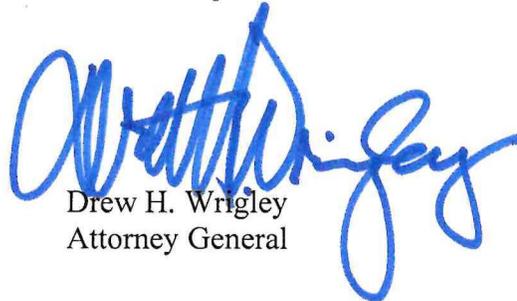
<sup>10</sup> N.D.C.C. § 44-04-21.1(1).

<sup>11</sup> Letter from Jim Neubauer, City Adm’r, City of Mandan, to Annique M. Lockard, Assistant Att’y Gen., Off. of Att’y Gen. (Dec. 22, 2023).

<sup>12</sup> See Letter from Jim Neubauer, City Adm’r, City of Mandan, to Annique M. Lockard, Assistant Att’y Gen., Off. of Att’y Gen. (Dec. 22, 2023) (claiming a quorum was not present at the Sept. 1, 2023 meeting).

<sup>13</sup> See Email from Karen Jordan, to Off. of Att’y Gen. (Sept. 5, 2023, 10:14 PM); Letter from Jim Neubauer, City Adm’r, City of Mandan, to Annique M. Lockard, Assistant Att’y Gen., Off. of Att’y Gen. (Dec. 22, 2023) (claiming a quorum was not present at the Sept. 1, 2023, meeting).

the Commission could not violate the open meetings law as no meeting occurred.<sup>14</sup> I therefore conclude that the Commission did not violate N.D.C.C. § 44-04-20.



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cc: Karen Jordan

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<sup>14</sup> *See, e.g.*, N.D.A.G. 2021-O-12; N.D.A.G. 2019-O-10; N.D.A.G. 2005-L-14. Had a quorum of commissioners been present, it would have constituted a special meeting of the Commission. *See* N.D.A.G. 2013-O-06 (“Unless set by statute, regular meetings are established by filing an annual schedule with the Secretary of State’s office or posting the annual schedule on the entity’s website in January of each year as required in N.D.C.C. § 44-04-20(3)”). Special meetings have additional notice requirements compared to regular meetings, such as providing notice to the “public entity’s official newspaper” and only those topics included in the notice “may be considered at [the] . . . special meeting.” N.D.C.C. § 44-04-20(6).