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**OPEN RECORDS AND MEETINGS OPINION**  
**2026-O-15**

DATE ISSUED: August 28, 2026

ISSUED TO: North Prairie Regional Water District

**CITIZEN'S REQUEST FOR OPINION**

Susan Moreno requested an opinion from this office under N.D.C.C. § 44-04-21.1 asking whether North Prairie Regional Water District violated N.D.C.C. § 44-04-19 by allegedly holding a meeting in a room too small for the persons reasonably expected to attend the meeting, and whether it violated N.D.C.C. § 44-04-20 by failing to adequately notice a meeting.

**FACTS PRESENTED**

The North Prairie Regional Water District (District) typically holds its meetings at Bremer Bank in Minot, North Dakota, because its office is too small for its meetings.<sup>1</sup> Its meetings may be held in one of two community meeting rooms at the bank.<sup>2</sup> Typically it meets in the meeting room on the main floor, which can comfortably seat fourteen attendees.<sup>3</sup> Occasionally, the District meets in the meeting room on the second floor, which can comfortably seat thirteen attendees.<sup>4</sup> The District board has seven members.<sup>5</sup> The District's manager typically attends each meeting, and sometimes the engineer and legal counsel attend as well.<sup>6</sup> The District also generally expects two to three members of the public will attend its meetings.<sup>7</sup>

A regular board meeting was scheduled for January 18, 2024.<sup>8</sup> Notice of the meeting was posted on the District's website on December 15, 2023, and notice was physically posted at its office the same day.<sup>9</sup> However, notice of the meeting was not physically posted at the location of the meeting on the day of the meeting.<sup>10</sup> The District's manager forgot to bring the printed notice

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<sup>1</sup> Letter from Monte L. Rogneby, Couns., N. Prairie Reg'l Water Dist., to Annique M. Lockard, Assistant Att'y Gen., Off. of Att'y Gen. (Mar. 12, 2024).

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

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

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

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

with her to Bremer Bank and realized her oversight too late to return to the office to get it.<sup>11</sup> The District has already created a checklist to ensure this type of error does not occur again.<sup>12</sup> The January 18, 2024, meeting was held in the main floor meeting room of Bremer Bank.<sup>13</sup>

On January 21, 2024, Susan Moreno timely requested an opinion from this office as to whether the District violated North Dakota's open meetings law.<sup>14</sup> Ms. Moreno alleged that the District violated the open meetings law by meeting in too small a room and failing to properly post notice of the meeting at the meeting location.<sup>15</sup>

### ISSUES

1. Whether the District violated N.D.C.C. § 44-04-19 by holding its January 18, 2024, meeting in a room with a capacity of fourteen attendees with an expected attendance of fourteen attendees.
2. Whether the District posted notice in substantial compliance with N.D.C.C. § 44-04-20 when it failed to post the notice of its January 18, 2024, regular meeting at its meeting location.

### ANALYSIS

#### Issue 1

The District is a public entity subject to the open meetings law.<sup>16</sup> "Except as otherwise specifically provided by law, all meetings of a public entity must be open to the public."<sup>17</sup> A

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

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Email from Susan Moreno to Office of Att'y Gen. (Jan. 21, 2024, 4:50 PM).

<sup>15</sup> *Id.* Ms. Moreno also alleged that District meets at 11:00 a.m., which makes attendance by the public difficult. *See* Email from Susan Moreno to Office of Att'y Gen. (Jan. 21, 2024, 4:50 PM). This issue is not analyzed in this opinion as the open meetings law does not address the time at which a meeting may be held, and there is no indication that the meeting time was selected to limit public participation. Additionally, Ms. Moreno alleges that the board chair and counsel purposely spoke softly. *See* Email from Susan Moreno to Office of Att'y Gen. (Jan. 21, 2024, 4:50 PM). The open meetings law does not address the volume that speakers must use when speaking, and the issue may be addressed through other remedies if appropriate. *See* 42 U.S.C. § 12132 ("[N]o qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.").

<sup>16</sup> N.D.C.C. § 44-04-17.1(13)(b); N.D.C.C. ch. 61-35; N.D.A.G. 2022-O-12; N.D.A.G. 2021-O-07; N.D.A.G. 2021-O-06.

<sup>17</sup> N.D.C.C. § 44-04-19.

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violation occurs when access is denied “due to a lack of physical space in the meeting room for the persons seeking access.”<sup>18</sup> When meetings are held in person, “the meeting room must be accessible to, and the size of the room must accommodate, the number of persons reasonably expected to attend the meeting.”<sup>19</sup> When making open meetings opinions, “the attorney general shall base the opinion on the facts given by the public entity.”<sup>20</sup>

For its January 18, 2024, meeting, the District held its meeting in a room that could hold fourteen people, which was approximately the number of people reasonably expected to attend the meeting.<sup>21</sup> There was no indication that anyone was refused access to the meeting or that there was any reason to expect higher than typical attendance at the meeting.<sup>22</sup> It is my opinion that the District did not violate N.D.C.C. § 44-04-19 by holding its January 18, 2024, meeting in a room that could reasonably accommodate the expected attendance at its meeting.

### Issue 2

A public entity must provide notice “in advance of all meetings.”<sup>23</sup> In addition to other notice requirements, the notice must be posted “at the location of the meeting on the day of the meeting.”<sup>24</sup> The basic purpose of this requirement is “so the public can easily identify where the meeting is being held.”<sup>25</sup> This is particularly important when a meeting is held in a different location from the entity’s office.<sup>26</sup> In this case, the District admits that it failed to post the meeting notice at the location of the meeting, and it did not have sufficient time prior to the meeting to fix the error once the District was aware of the issue.<sup>27</sup> There is no requirement that the notice be in a certain format. By handwriting the basic meeting information on any piece of paper and posting it outside the door of the meeting location, the board would have met the notice requirement. The District has already taken steps to address the issue for future meetings.<sup>28</sup> However, it is my opinion that the District did not substantially comply with N.D.C.C. § 44-04-20 in this instance because it failed to post notice of the meeting at the meeting location on the day of the meeting.

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<sup>18</sup> N.D.C.C. § 44-04-19(1).

<sup>19</sup> N.D.C.C. § 44-04-19(2).

<sup>20</sup> N.D.C.C. § 44-04-21.1(1).

<sup>21</sup> Letter from Monte L. Rogneby, Couns., N. Prairie Reg’l Water Dist., to Annique M. Lockard, Assistant Att’y Gen., Off. of Att’y Gen. (Mar. 12, 2024).

<sup>22</sup> *See Id.*; Email from Susan Moreno to Off. of Att’y Gen. (Jan. 21, 2024, 4:50 PM).

<sup>23</sup> N.D.C.C. § 44-04-20(1).

<sup>24</sup> N.D.C.C. § 44-04-20(4).

<sup>25</sup> N.D.A.G. 2009-O-13, *citing* N.D.A.G. 2009-O-09.

<sup>26</sup> *See*, N.D.A.G. 2009-O-13.

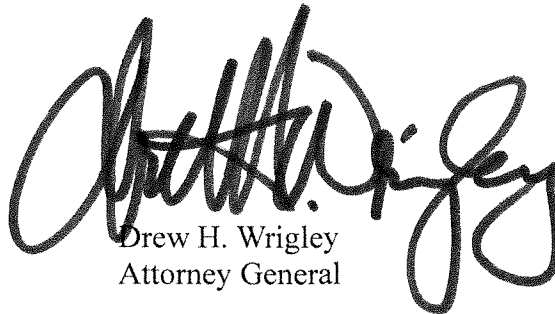
<sup>27</sup> Letter from Monte L. Rogneby, Couns., N. Prairie Reg’l Water Dist., to Annique M. Lockard, Assistant Att’y Gen., Off. of Att’y Gen. (Mar. 12, 2024).

<sup>28</sup> *Id.*

CONCLUSIONS

1. The District did not violate N.D.C.C. § 44-04-19 as it held its January 18, 2024, meeting at a location which could accommodate the number of persons reasonably expected to attend the meeting.
2. The District failed to post its meeting notice in substantial compliance with N.D.C.C. § 44-04-20 when it failed to post notice of the meeting at the location of the meeting on the day of the meeting.

The District has already taken steps to address the violation, including creating a checklist so that the posting of the meeting notice at the location is not missed. No further corrective measures are required.



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cc: Susan Moreno