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OPEN RECORDS AND MEETINGS SUMMARY OPINION
2026-SO-22

DATE ISSUED: September 25, 2026

ISSUED TO: Stutsman County Local Emergency Planning Committee

SUMMARY OPINION¹

Masaki Ova, reporter for the Jamestown Sun, requested an opinion from this office under N.D.C.C. § 44-04-21.1 asking whether the Stutsman County Local Emergency Planning Committee (Committee) violated N.D.C.C. §§ 44-04-19 and 44-04-20, by conducting a vote by email to pay two bills.

The Emergency Manager of the Committee emailed the Committee members requesting a motion to pay two bills. One member replied all to make the motion; another member replied all to second it; and several members subsequently replied all to cast affirmative votes on the motion. A Jamestown Sun employee included on the email chain questioned the legality of voting on a motion via email. The Committee Chairman then replied all stating it was his idea to vote on paying the bills via email “because of past practices of voting by email,” though he admitted “not knowing the legalities of email voting.”² The Chairman’s email also directed the Emergency Manager to “do nothing with these bills” until the Committee’s next scheduled meeting.³

It has been well established through multiple opinions from this office that emails in which a quorum of a governing body discusses public business or seeks consensus constitute meetings that violate the open meetings law.⁴ Although the Committee later reconsidered the matter and

¹ This Summary Opinion is issued pursuant to the authority granted to this office in N.D.C.C. § 44-04-21.1(1).

² Email from Jim Reuther, Chairman, LEPC, to Kathy Steiner & Scott Edinger (Sept. 4, 2025, 10:35 AM).

³ *Id.*

⁴ See N.D.A.G. 2015-O-14 (“Emails that delve into the substantive merits of the suggested agenda topic or a matter of public business, provide opinions including opinions on how to handle public business, attempt to build support and consensus for certain positions, or emails in which a quorum discusses, formulates, or narrows options, are equivalent to having a meeting that requires notice.” *Citing* N.D.A.G. 2014-O-12; N.D.A.G. 2013-O-07; N.D.A.G. 2010-O-09; N.D.A.G. 2007-O-14; N.D.A.G. 98-O-05.). “This office has further warned against emails that request other members to share their thoughts and opinions about certain topics because doing so invited further discussions regarding public business that should be held in an open meeting.” *citing* N.D.A.G. 2014-O-12.). Even assuming that there may be a case where a meeting could be properly conducted by email, this case does not present facts that the meeting would have complied with the notice requirements in N.D.C.C. § 44-04-20 or the public access requirements in N.D.C.C. § 44-04-19.

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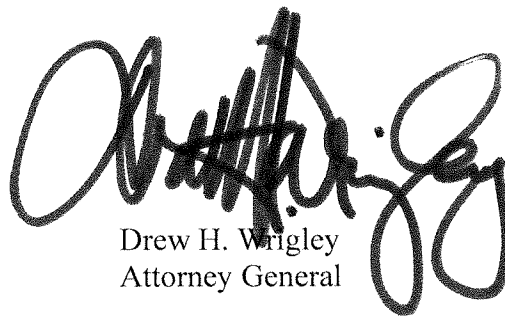
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conducted a new vote during its next public meeting, the violation had already occurred once Committee members began deliberating and voting on public business through the email chain.

STEPS NEEDED TO REMEDY VIOLATION

The Committee must provide a copy of the complete email chain to Masaki Ova and anyone else who requests it, free of charge. The Committee should also review the resources available on the Attorney General's website regarding open meetings and must update its practices to be in compliance with the law.

While I have every reason to expect the Committee 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. § 44-04-21.2.⁵ Failure to take these corrective measures may also result in personal liability for the person or persons responsible for the noncompliance.⁶



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cc: Masaki Ova

⁵ N.D.C.C. § 44-04-21.1(2).

⁶ *Id.*