

Ombudsman, board split over openness

The ruling revolves around a notice in a locked building.

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Written by

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A ruling Thursday by a state board opens the door for Iowa governments to elude a law requiring that the public be given at least 24 hours' notice before meetings are held, Ombudsman Ruth Cooperrider warned.

That warning came in a meeting just before the Iowa Public Information Board — an enforcement body of the state's public meeting and open record laws — voted unanimously in favor of a ruling written by the board's director, Keith Luchtel.

Luchtel concluded the city of Sanborn, in northwest Iowa, had not violated the law when it posted a council meeting notice in a place accessible to the public for only 11 hours before the meeting.

"We have concerns that Mr. Luchtel's interpretation lacks clarity and could lead to government bodies applying the conclusion in a manner which would be contrary to the intent of the law," Cooperrider said.

The complaint alleging the meeting was illegal was filed by Sanborn resident Jerry Niichel, who also voiced his concern to the ombudsman's office.

The Sanborn case originated after the city posted notice at 3 p.m. Oct. 15 that it would hold a meeting at 5 p.m. Oct. 16 to discuss gender balance on its electric and telecommunications board.

The problem was that the notice was not posted on an outward facing window like regular council agenda meeting notices. Instead, it was located on a bulletin board inside City Hall. The building was locked at 5 p.m. and didn't open until 8 a.m. the next morning, according to Cooperrider's office.

Cooperrider contends that Iowa's law requiring 24 hour' notice means that the public must have access to the information for at least that length of time. It's technically possible that a city could post a meeting notice minutes before closing on a Friday and hold an 8 a.m. meeting the following Monday when a building reopens, she argued. She also noted that the law requires notices be posted in places easily accessible to the public, which a closed building is not.

Luchtel said after Thursday's meeting that the 24 hours of accessibility to the notices could mean that some governments would have to post notices three or four days in advance. That could create hardships for governments, particularly for last-minute items or matters that require expediency, he said.

In the ruling, Luchtel noted that Sanborn provides email notices to anyone who requests them, even though that's not required by law.

Board member Jo Martin of Spirit Lake expressed concern about the matter but voted with the rest of the board.

"I'm sympathetic to the arguments made by the ombudsman's office but at the same time I do understand the law was perhaps met to a certain degree," Martin said.

Cooperrider said the decision likely means that the issue will head to the court system or that lawmakers will need to clarify the meaning of the 24-hour notice.

Niichel said Thursday that he is contemplating further legal action.

"I find this absolutely unbelievable," he said after Thursday's decision.

Des Moines Register:

http://www.desmoinesregister.com/article/20131115/NEWS10/311150066/1056/news05?nclick_check=1

Open meetings notice time disputed

13 hours ago • [Rod Boshart Times Bureau](#)

DES MOINES – What constitutes a 24-hour notice under Iowa's open-meetings law?

That question became a point of contention Thursday when the Iowa Public Information Board dismissed a complaint brought by Jerry Niichel claiming the city of Sanborn, in northwest Iowa, conducted a meeting in violation of state law last month.

Keith Luchtel, the board's executive director, recommended the complaint be dismissed on the grounds that a violation did not take place because city officials indicated a notice was posted on a bulletin board at 3 p.m. one day before the City Council conducted a special meeting at 5 p.m. Oct. 16.

"There appears to be no question ... that the city has met the requirement (of Iowa's open-meetings law)," Luchtel wrote in his proposed decision.

The board members present at Thursday's meeting voted to approve the recommendation to dismiss the complaint.

That drew a protest from state Ombudsman Ruth Cooperrider, who questioned whether the 24-hour notice provision was met because the room containing the bulletin board was closed for 15 of the 26 hours that the advance notice was posted, failing to meet the law requirement that the notice posting be in a designated place "easily accessible to the public" for at least 24 hours before the meeting.

"Of what use is the 24-hour notice requirement if the notice can be legally placed away from the public's view during any stretch of that 24-hour period?" Cooperrider asked.

She expressed concern that the board's decision could lead to confusion and to situations of governmental bodies applying the conclusion in a manner that could be contrary to the intent of the open-meetings law.

"I'm very concerned," she said. "The board has given its blessing to something I think is wrong."

However, Luchtel said he did not interpret the state law to mean that the advance public notice should be "continuously available" for 24 hours or available for 24 business hours, which could span nearly three calendar days in some cases where government buildings are open to public access from 8 a.m. to 5 p.m.

"I just don't think it's practical," said Luchtel, who noted he had not heard the 24-hour notice requirement applied that way before and thought it would be an issue the Legislature would have to address if a clarification is needed.

Quad City Times: http://qctimes.com/news/local/government-and-politics/open-meetings-notice-time-disputed/article_21ce8f04-1e84-5e3e-ad10-253e0b5029ea.html