

## What are the requirements for minutes of an open meeting? What conditions must be met for posting a notice of a special meeting?

### Facts:

Northville Township had been involved in litigation regarding controversial property development in the township proposed by the developer, REIS-Northville L.L.C. (REIS). Ultimately, the township and REIS entered into an agreement resolving the dispute on July 30, 2008. Prior to its approval, the township board held public meetings on July 24 and July 29 for the purpose of considering the matter. Notice of the meetings was posted on bulletin boards in hallways of the township's offices at least 18 hours before the meetings. At the July 24 meeting, the township board approved the agreement and adopted a resolution. On July 29, the board approved the minutes of the July 24 meeting and approved the resolution. No residents were present at either meeting.

Residents of the township who had opposed the developer's plans filed an action against the township, alleging violations of the Open Meetings Act (OMA), i.e., 1) inadequate notice of the meetings was given by the township and 2) the minutes of the meetings did not accurately record the action taken by the board.

As to notice, the OMA requires that for a special meeting of a public body, "a public notice stating the date, time, and place of the meeting shall be posted at least 18 hours before the meeting." The statute further indicates that the notice must be posted at the public body's principal office and any other locations the public body deems appropriate.

With respect to minutes of a meeting, the OMA requires that a public body shall keep minutes of a meeting "showing the date, time, place, members present, members absent, any decision made at a meeting open to the public and the purpose or purposes for which a closed session is held."

### Question No. 1:

Does the posting of a special meeting notice on bulletin boards in a township office 18-hours in advance of a meeting comply with the OMA if the public does not have access to the township office during the entire 18-hour period?

### Answer According to the Trial Court:

Yes.

### Answer According to the Michigan Court of Appeals:

Yes. The court held that the posting of notices was in compliance with the OMA. The court noted that the statutory requirement

of 18 hours' notice is clear and cannot be interpreted to mean 18 business hours. The Court also found that the statute does not require that the posting be made in a place accessible to the public for at least 18 hours before the meeting. The court observed that even though an opinion of the Attorney General had stated that the notice be publicly accessible for 18 hours, "[a]n opinion of the Attorney General is not precedentially binding, although it can be persuasive authority." The court stated it was not persuaded to follow the Attorney General's opinion since the language of the statute was clear and the township had fulfilled its requirement.

### Question No. 2:

Are minutes of an open meeting defective if they fail to specify the decision made at the meeting?

### Answer According to the Trial Court:

No.

### Answer According to the Michigan Court of Appeals:

Yes. The Court found that although the minutes of the July 24 meeting indicated that a decision was made and that the township board granted authorization to the township supervisor and clerk to execute appropriate documents, the minutes failed to reflect the decision at the meeting, i.e., to settle the pending REIS litigation. The Court stated that, furthermore, the outcome, i.e., settlement of the REIS lawsuit, could not be implied since the documents referred to in the minutes were not identified.

*Citizens for Public Accountability v Northville Township*, No. 292311 (May 26, 2011) (unpublished).

NOTE: An unpublished opinion of the Michigan Court of Appeals has limited precedential effect.

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