



STATE OF KANSAS

*Office of the Attorney General*

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CURT T. SCHNEIDER  
Attorney General

September 19, 1975

ATTORNEY GENERAL OPINION NO. 75-371

Mr. John R. Eland  
City Attorney  
Hoxie, Kansas 67740

Re: Open Meetings--Cities--Special Meetings

Synopsis: Notice of a special meeting of the board of city commissioners of a city of the third class, as required by K.S.A. 15-1503, may be waived by all commissioners attending a special meeting. Advance public notice of such special meetings is not required by the Kansas open meeting law.

\* \* \*

Dear Mr. Eland:

You inquire, first, concerning the procedure for calling a special meeting of the board of city commissioners pursuant to K.S.A. 15-1503, which provides in pertinent part thus:

"The mayor and any one commissioner shall have the power to call special meetings of the board of commissioners, the object of which shall be submitted to said board in writing, and the call and the object, as well as the action of said board thereon, shall be entered upon the journal by the clerk, and no other business shall be transacted except that mentioned in the call."

It further provides that written notice of any special meeting, stating the time, place and object thereof, shall be served personally upon each member of the board or served at his usual

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place of residence at least two hours before the time of the meeting, to be served after issuance by the city clerk by the chief of police or other city officer.

You pose a procedure whereby the mayor and one commissioner, in writing, make a call for a special meeting of the city commission, stating therein the subject matter of the special meeting, which is signed by the mayor and one commissioner. In writing, all members of the city commission and the mayor waive the written notice of special meeting required by the statute, and consent that the special meeting may be held without such notice. All members of the commission and the mayor sign this waiver. It is settled in this jurisdiction that where all members of the governing body are present and participate in the meeting thereof, the fact that no notice of the meeting was given, or no formal call issued, is immaterial to the validity of the proceedings of such meeting. *West v. Unified School District*, 204 Kan. 29, 460 P.2d 103 (1969) and *Bluff City v. Western Light & Power Corp.* 137 Kan. 169, 19 P.2d 478 (1933). In my judgment, the procedure you describe is fully satisfactory to enable the meeting thus called to transact the business stated in the call.

Secondly, you inquire whether the city commission may hold a special meeting without giving notice to the public, by publication or otherwise, in advance of the time of said special meetings. Two sections of the Kansas open meeting law were amended by ch. 455, L. 1975. As it will appear in the 1975 Supplement to the Kansas Statutes Annotated, K.S.A. 75-4318(a), states, as it did prior to amendment, thus:

"Except as otherwise provided by law, *all meetings* for the conduct of the affairs of, and the transaction of business by, all legislative and administrative bodies and agencies of the state and political and taxing subdivisions . . . shall be open to the public . . . ." [Emphasis supplied.]

Thus provision applies to all meetings, regular or special. Sub-paragraphs (b) and (c) of this section, as they will appear in the 1975 Supp., state thus:

"(b) Notice of the date, time and place of any *regular* meetings of any public body designated hereinabove shall

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be furnished to any person requesting such information.

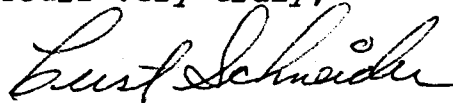
(c) Prior to any meeting hereinabove mentioned, any agenda relating to the business to be transacted at such meetings shall be made available to any person requesting said agenda." [Emphasis supplied.]

For reasons not at all clear, the 1975 amendments apply to "regular" meetings, rather than to "special meetings." Thus, technically, any person requesting notice of meetings and agenda therefor is entitled to such notice and agenda in instances of regular meetings only. Certainly, it would be a disservice to any citizen who made such a request concerning a special meeting to deny him or her the requested information on the narrow and highly technical legal ground that he or she was entitled to such information concerning regular meetings only.

Your question is a broader one, however, whether the city commission may hold a special meeting at all without giving notice to the public in advance of the time of such special meetings. As you point out, although such a meeting might be open to all, the lack of public notice would render the "open door" an empty gesture, if the fact of the meeting were not known to the public in the first instance. I do not find in the open meeting law, however, any general and fixed requirement that public notice of meetings be given prior to any meeting subject to the act, be it regular or special. Thus, I must conclude that the city commission may hold a special meeting without giving advance notice to the public of said special meeting.

I hope this discussion and these conclusions will be helpful to you and the governing body. If further questions arise, however, please feel free to contact us.

Yours very truly,



CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj