



From: Melissa Ashburn, MTAS Legal Consultant  
Date: April 25, 2022  
Re: Facebook posting sufficiency for notice of public meeting

Via Email

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There is no pending legislation on meeting notices. A Facebook posting is not sufficient by itself to satisfy open meetings notice requirements but may be one of a few different postings used to provide adequate public notice.

The MTAS Legal Team consistently advises that cities use at least three different types of notices for public meetings, choosing the formats that will reach the most residents. Newspaper publication of notices is required for public hearings conducted under state laws, for actions such as annexation. Newspaper publication is not required under the Open Meetings Law.

An internet posting itself does not satisfy adequate public notice:

The next question is whether advertising on an internet site would satisfy the requirements for giving notice of a public meeting under the Open Meetings Act, Tenn. Code Ann. §§ 8-44-101, *et seq.* Under the Open Meetings Act, all meetings of any governing body are public meetings open to the public at all times, except as provided by the Tennessee Constitution. Tenn. Code Ann. § 8-44-102(a). All meetings subject to this law must be held on “adequate public notice.” Tenn. Code Ann. § 8-44-103. “Adequate public notice” as used in this section means adequate public notice under the circumstances. *Memphis Publishing Co. v. City of Memphis*, 513 S.W.2d 511, 512 (Tenn. 1974), *rehearing denied* (1974).

In a recent unpublished opinion, the Tennessee Court of Appeals for the Eastern Section outlined a three-prong test for “adequate public notice” under this provision. *Englewood Citizens for Alternate B v. Town of Englewood*, No. 03A01-9803-CH-00098, slip op. (E.S.Tenn.Ct.App. June 24, 1999).

Under that test, the notice must

- be posted in a location where a member of the community could become aware of such notice;
- the contents of the notice must reasonably describe the purpose of the meeting or the action proposed to be taken; and
- the notice must be posted at a time sufficiently in advance of the actual meeting in order to give citizens both an opportunity to become aware of and to attend the meeting. Slip op. at 2.

The Court concluded that posting notice of the meeting in the city hall, the post office, and a local bank satisfied the first requirement of the test. The Court stated “that for purposes of this prong of the adequate notice inquiry, the town can provide adequate notice simply by choosing reasonable public locations and posting notices at those public locations on a consistent basis.”

*Id.* Whether posting notice on an internet site would be “adequate public notice” under



the Open Meetings Act would therefore depend on all the facts and circumstances, particularly whether that location would be one where members of the community could become aware of the notice.

Tenn. Op. Att'y Gen. No. 00-090 (May 9, 2000)

In my opinion, only if all residents of the city are online and members of Facebook could a Facebook posting satisfy adequate public notice, under the caselaw on the topic as described by the Attorney General above.

I advise that the city select at least 3 places to post notice of meetings at areas where most people congregate and document those postings and use them consistently. Potential places other than city hall to consider: community centers, post offices, parks, banks, churches, schools and businesses where most people go (with owner permission, of course) such as grocery stores and drug stores. A Facebook posting would be effective if combined with postings at such locations. Using more than 3 options shows good faith in helping most members of the community become aware of the meetings, particularly if postings are selected with the goal of reaching all communities within city limits.

I encourage the governing body to discuss and select 3 or 4 places to post notices of meetings, and perhaps seek citizen input on the topic to determine where postings will be most effective.