



WHY PUBLIC NOTICES SHOULD REMAIN IN NEWSPAPERS AND ON NEWSPAPER WEBSITES

The purpose of public notice requirements is to publicize information about government actions in places where the public is most likely to see it, so its' citizens can make well informed decisions and be active participants in a democratic society. Government has an affirmative duty to provide this information so it is transparent and easily accessible.

Newspaper publication of government's notices has been the law since colonial times. In one of its first official acts in 1789, the federal government ordered the publication in at least three public newspapers of every bill, order, resolution, and congressional vote---because they didn't entirely trust the new government that they were forming, and they didn't want to leave notices of government actions up to government alone.

Newspapers are alive and well in Minnesota. There are 342 newspapers in the state. In 2013, they printed and distributed over 7,154,206 newspapers every week; the Census Bureau reports that there are 2,354,034 Minnesota households. Bucking the national trend, print circulation has increased, and visits to newspaper websites have skyrocketed.

Newspapers agree that public notices should be on the internet. That's why the Association supported legislation that become law almost 10 years ago to mandate that all newspapers that print notices in their print editions must also place those notices on their website at no additional cost. Starting in 2014 MNA will implement a central state-wide public notice website that will contain public notices from all newspapers in the state.

Newspapers support publication of notices only if they are meaningful for the public—we have never opposed sensible changes. All publication requirements in Minnesota law have been proposed by the Legislature; none have been initiated by newspapers. In fact, newspapers have taken the lead in proposing significant changes to improve and streamline public notice law over the last 30 years, including proposals that have repealed over 300 outdated and obsolete public notice statutes.

Newspapers and newspaper websites are where the public has always gone to get news about their government---not government websites. The Minnesota Senate asked the public, in a recent state fair poll, what their primary source for acquiring government or political information was---community newspapers were overwhelmingly the first choice. Newspaper websites have a significantly higher number of visits to their websites than government websites; even rural newspapers have well over 1 million visits/month. Notices appearing only on a government web site would remove public notice from the mainstream of community information and would make it significantly less likely that they would be seen. In a 2013 Scarborough readership study, 78% of Minnesotans polled said they believe it is an important requirement to keep citizens informed by publishing public notices in newspapers.

Newspapers have consistently supported legislation requiring that public notices also appear on government websites or in other mediums in addition to newspapers---but government groups have always opposed this proposal. Local Government, of course, can already post their notices and proceedings on their website, but very few have been willing to do so.

Local governments know that newspapers get the message out best. When they want to publicize any issue of concern, even when they are not required to publish, they don't post it on their website---they go to their local newspaper.

Advocates for taking public notices out of newspapers claim that it will save money--but local government has never substantiated this claim. The money spent on putting public notices in papers is a very small percent of the local government's budget. And the expense of designing, operating, properly maintaining, and updating a website are significant, if done right. The newspaper rates for government public notices are well below the standard rates charged for other newspaper advertising. If posting notices on government websites is cost free, as some claim, then why aren't they all posting them there now?

Many low income and senior citizens do not have ready access to the internet, or prefer not to use it often. AARP, the American Association of Retired Persons, representing over 700,000 Minnesotans 50 and older, has taken a position opposing removal of public notices from newspapers. Only 72% of Minnesota residents have Web access.

Public bodies can give little assurance that their websites will be reliable, available, permanent or secure. For example, the city of Princeton has posted on their website a disclaimer stating that due to many possible problems, their website should not be considered suitable for legal purposes. Some of the most sensitive and important government websites in the country, including the Department of Defense, have problems with hackers. Properly maintaining a secure website is an expensive proposition.

Legislation to substitute government web posting for newspaper publication has never contained any standards or requirements on how government must post notices. Without standards, there is no real incentive for them to do the job right, and no penalty for that failure. Current law has extensive requirements for what newspapers must do in order to disseminate notices and how it must be done.

There are legal consequences to local governments if they fail to properly publish certain notices. Minnesota has hundreds of laws that require public notices to be published according to strict timelines and other conditions. If government websites go down, will citizens be able to challenge their actions for failure to properly meet statutory publication requirements? Will bond issues and zoning decisions be challenged? Will ordinances not take effect? Under current law, the newspaper usually assumes the liability when errors are made. If public notices only appear on government websites, the insurance trusts for local government will become liable for the errors of their members.

Public notices in newspapers are the permanent records of what a public body does as well as the notification of what it intends to do. There is no archival history to government websites as there is with newspapers. Years from now, any citizen could go to a newspaper and read what the government did. How, if challenged by a community group, could a government agency prove it posted adequate notice on its' website? The reliability of newspaper publication is so well established that courts accept the published contents as evidence in court, and require it for many court actions. In previous years, the state auditor and attorney general have expressed reservations about the potential loss of paper notices that courts want as independent verification.

Do we really want government to have sole responsibility and control over the dissemination of its own notices? Newspaper publication prevents government from deciding when and how the notice is published, and whether it is changed after it is published. Public notices in newspapers are also a critical checks and balance on potential government errors.

Newspapers are businesses that pay taxes and provide thousands of private sector jobs. We believe that private business has done and can continue to do a better job. It is counterproductive to transfer responsibilities from the private sector to the public sector, and give local government more duties when they will likely be operating with fewer employees in the future.

The more the public knows about what elected officials do, the better off we all are. And the more open and accessible government information is, the less room there will be for speculation and rumor.

Updated February 2014