

NOTICE:  
PUBLICATION:  
BOND ISSUE:

Notice for bond issue in Adair County should be published in a newspaper once during the week of October 21 to October 27, 1962, and once during the week of October 28 to November 3, 1962.

OPINION No. 379

October 18, 1962

Honorable Vance R. Frick  
Prosecuting Attorney  
Adair County  
Kirksville, Missouri

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379

Dear Mr. Frick:

This is in reply to your letter of October 15, 1962, in which you request an opinion of this office as follows:

"The other day you will recall I talked to you concerning the fact that our County Court has petitioned to submit a \$700,000 Bond Issue at the General Election for the construction of a Nursing Home. This has been petitioned for under Chapter 108, Section 040 of the Missouri Revised Statutes of 1959, and was just turned in last week. Since that time, the County Court has been checking over the petitions to determine whether all the signers are qualified electors and tax payers of Adair County.

"The question that the County Court has posed to me and wanted me to check with your office was whether or not there would be sufficient time to publish the necessary notices and to vote on this matter in November."

In answering your opinion request, we assume that the petitions are proper and have been signed by a sufficient number of qualified electors of Adair County. We also assume that there is a newspaper of general circulation published in Adair County.

We refer you to the last portion of Section 108.040, RSMo 1959, which reads as follows:

Honorable Vance R. Frick

"\* \* \* Upon the presentation of such petition it shall be the duty of the county court of such county to order that an election be held for the purpose set forth in the petition, which order shall, among other things, specify the time, place and purpose of the election. Such an election may be a special election, or it may be held on the day of any primary or general election authorized to be held by the laws of this state."

Section 108.050, RSMo 1959, provides for the notice of such election and reads as follows:

"The clerk of the court shall give notice of the election by advertisement once per week for two consecutive weeks in one or more newspapers of general circulation published in such county, or if there is no newspaper published in such county, then by posting written or printed handbills in two public places in each voting precinct in the county for fourteen days prior to the day fixed for the election. Such notice shall state the time and purpose of the election and the amount of indebtedness to be incurred."

A general election will be held in Adair County on November 6, 1962 (Section 1.020(3) RSMo 1959). Your question then concerns the notice which must be given in order to submit the bond issue proposal to the voters at the general election on November 6, 1962. Under the provisions of Section 108.050, RSMo 1959, quoted above, this notice must be given "by advertisement once per week for two consecutive weeks in one or more newspapers of general circulation published in such county."

In the case of *Ratliff v. Magee*, 165 Mo. 452, 65 S.W. 713, 1.c. 714, it is said:

"\* \* \* 'Once a week' means once in a

Honorable Vance R. Frick

week; once at any time within the week. \* \* \*"

In the case of State ex rel. Kelsey v. Smith, 75 S.W. 2d 832, the Supreme Court of Missouri construed the statute under consideration prior to its amendment to its present form. At page 833 the court quoted with approval from a previous case holding,

"\* \* \* 'that the particular four weeks designated were those regular calendar periods, of seven days each, beginning on Sunday, and occurring next before the Tuesday of election day, and that a publication in each of those periods was what the constitution required'."

In this case of State v. Smith, supra, the Court held that publication once in each of the required three weeks was sufficient compliance with the statute, even though the period from the date of the first publication to the date of the election was less than 21 days.

In accordance with these authorities it is our opinion that the notice should be published in the newspaper at least once during the week of October 21 to October 27, 1962, inclusive, and once during the week of October 28 to November 3, 1962, inclusive.

#### CONCLUSION

It is, therefore, the opinion of this office that the notice under Section 108.050, RSMo 1959, for a bond issue which is to be submitted to the voters of Adair County at the general election on November 6, 1962, should be published in a newspaper of general circulation in Adair County at least once during the week of October 21 to October 27, 1962, and at least once during the week of October 28 to November 3, 1962.

The foregoing opinion, which I hereby approve, was prepared by my assistant Wayne W. Waldo.

Very truly yours,

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THOMAS F. EAGLETON  
Attorney General