

November 20, 2007

STATE OF SOUTH DAKOTA

OPEN MEETINGS COMMISSION

IN THE MATTER OF OPEN MEETING)
COMPLAINT 05-05)
ARCADE TOWNSHIP, FAULK)
COUNTY, SOUTH DAKOTA)

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND REPRIMAND

Vaughn P. Beck, Commission Member

INTRODUCTION

The state of South Dakota has enacted a statute setting forth certain requirements involving the agenda and notice of the public meetings and special meetings. Pursuant to SDCL 1-25-1.1, these public meetings shall only be conducted after proper notice is made with the proposed agenda. This notice is to be provided to the public at least twenty-four (24) hours prior to the meeting. Furthermore, the required notice shall be posted in a location visible to the public at the principal office of the public body holding the meeting. The same rule applies to special meetings to the extent that the circumstances permit. A violation of these rules is a Class 2 misdemeanor.

DISCUSSION AND DECISION

This matter came before the Commission following the filing of a verified complaint dated December 15, 2005 and signed by Duane Martchinske. The complaint alleged a violation of the meeting agenda requirements found at SDCL 1-25-1.1. Specifically, the complaint alleged that the Board of Supervisors for Arcade Township entered into meetings on October 24, 2005,

and on November 14, 2005, to consider a petition for vacation of section line, without posting notice of said meetings.

The record indicates that the township had scheduled and given notice of a meeting (consideration of petition for vacation of section line) for October 24, 2007. However, the Board decided to continue said meeting until the neighboring township held its meeting on the same petition. On November 14, 2005, the township held a meeting for consideration of the petition continued from the October 24, 2005, meeting. It is apparent from the record and the admission of Bev Huss, Clerk of Arcade Township, that the township failed to give notice and post an agenda for the November 14, 2005, meeting. The law not only requires timely preparation of the agenda but the agenda, along with the notice of the meeting, must also be posted at the principal office of the public body holding the meeting, visible to the public. SDCL 1-25-1.1. Arcade Township has therefore violated the law and should be reprimanded for its action.

FINDINGS OF FACT

1. Arcade Township is a related board of a political subdivision of the State of South Dakota as those terms are used in SDCL 1-25-1.
2. On November 14, 2005, the Arcade Township Board held a meeting without giving proper notice of said meeting as required by SDCL 1-25-1.1.
3. Arcade Township has admitted that it did not publish or post a notice of the November 14, 2005, meeting.

CONCLUSIONS OF LAW

1. Arcade Township is an entity subject to the provisions of the Open Meeting Law, SDCL 1-25.

2. Arcade Township is required to prepare and post the notice of its meetings, with a proposed agenda, at least 24 hours prior to any meeting pursuant to SDCL 1-25-1.1. The township has admitted to its failure to prepare and post notice of its meeting on November 14, 2005. This is a violation of SDCL 1-25-1.1 and is subject to a public reprimand.

REPRIMAND

Arcade Township is hereby publicly reprimanded for its violation of the South Dakota Open Meetings Law.

Commission Chairman Steele and Commission Members Brenner, Reedstrom and Rothschild concur.