

STATE OF SOUTH DAKOTA
OPEN MEETINGS COMMISSION

IN THE MATTER OF OPEN)	OMC 2024-05
MEETINGS COMPLAINT AGAINST)	
NORTH SIOUX CITY CITY)	FINDINGS OF FACT,
COUNCIL – UNION COUNTY)	CONCLUSIONS OF LAW, &
)	DECISION

The above captioned matter was heard before the South Dakota Open Meetings Commission (hereafter “Commission”) on November 18, 2024.

Complainant, Walter Johnson, appeared personally. The North Sioux City City Council appeared through counsel, Sarah Kleber. Prior to the hearing, the Commission reviewed the written submissions of the parties as well as any other exhibit, pleading or paper on file herein. Based upon the materials submitted, and the arguments of the parties, the Commission enters the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. The Commission takes official notice that North Sioux City is a Second-Class municipality located in Union County, South Dakota, and has been organized and operated according to applicable provisions of South Dakota Codified Law.

2. The Commission further takes notice that the North Sioux City City Council (hereafter “City”) is the public body elected pursuant to applicable provisions of state law to govern North Sioux City.

3. North Sioux City operates and maintains a website for the City located at www.northsiouxcity-sd.gov.

4. SDCL 1-25-1.1 requires in pertinent part that:

[e]ach political subdivision shall provide public notice, with proposed agenda, that is visible, readable, and accessible for at least an entire, continuous twenty-four hours immediately preceding any official meeting, by posting a copy of the notice, visible to the public, at the principal office of the political subdivision holding the meeting. The proposed agenda shall include the date, time, and location of the meeting. The notice shall also be posted on the political subdivision's website upon dissemination of the notice, if a website exists.

(emphasis added).

5. Walter Johnson submitted an open meetings violation to the Union County State's Attorney's Office on December 18, 2023. Mr. Johnson's complaint materials raised allegations that the City had violated the notice and posting requirements of SDCL 1-15-1.1.

6. On February 22, 2024, Union County State's Attorney Jerry Miller forwarded the complaint to the Commission pursuant to SDCL § 1-25-6(3). State's Attorney Miller identified four meetings where the City failed to properly post agendas to the City's website. The identified meetings are:

- a. July 6, 2021,
- b. July 24, 2023,
- c. September 5, 2023, and
- d. December 4, 2023.

7. In its written response to the complaint, the City admitted that it did not properly post notice of the identified meetings on the City website as required by SDCL 1-25-1.1.

8. Before the Commission, the City relayed that the materials for each meeting were posted on the City website, but not posted at least twenty-four hours in advance. For three of the meetings (7/6/21, 9/5/23, and 12/4/23) the materials were posted on Monday for a Monday meeting. In one instance (7/24/23) the materials were timely posted, but erroneously posted in the 2022 meeting folder on the website instead of the appropriate 2023 folder.

9. The City also explained that has undertaken steps to ensure that these situations do not occur in the future. The City has engaged in training regarding the state open meetings requirements and ensured that adequate guidance and supervision are given to City staff.

10. Any Finding of Fact more appropriately labeled as a Conclusion of Law is hereby re-designated as such and incorporated below therein.

CONCLUSIONS OF LAW

1. The North Sioux City City Council, as the governing body of North Sioux City, South Dakota, is a public body subject to the open meetings requirements of SDCL ch. 1-25. The Open Meeting Commission has jurisdiction over this matter pursuant to SDCL ch. 1-25.

2. It is not disputed that the City maintains a website where meeting information and agendas are posted in the normal course of City business. It is also not disputed that the City failed to properly post notice of the identified meetings on the City's website.

3. The Commission concludes that the North Sioux City City Council did violate the open meetings laws by failing to properly post notice of the previously identified meetings on the North Sioux City website as required by SDCL 1-25-1.1. The statute requires publication of a proposed agenda on a public body's website – if one exists – for at least twenty-four hours prior to an official meeting.

4. Any Conclusion of Law more appropriately labeled as a Finding of Fact is hereby re-designated as such and incorporated above therein.


DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the South Dakota Open Meetings Commission hereby **REPRIMANDS** the North Sioux City City Council for violating SDCL 1-25-1.1 by failing to properly post a copy of the proposed agenda for the City's July 6, 2021; July 24, 2023; September 5, 2023; and December 4, 2023, meeting on the City's website.

Decision entered by Commissioners **A. Hoffman, K. Hoffman, Russell, & Smith**. Commissioner **Sovell** (Chair) was absent and took no part in consideration of the written decision.

Dated this 12th day of May, 2025.

SOUTH DAKOTA OPEN MEETINGS COMMISSION


Katelynn Hoffman, Vice-Chair