

STATE OF SOUTH DAKOTA
OPEN MEETINGS COMMISSION

IN THE MATTER OF OPEN)	OMC 2024-08
MEETINGS COMPLAINT AGAINST)	
CITY OF STURGIS CITY COUNCIL)	FINDINGS OF FACT,
– MEADE COUNTY)	CONCLUSIONS OF LAW, &
)	DECISION

The above captioned matter was heard before the South Dakota Open Meetings Commission (hereafter “Commission”) on November 25, 2024. Complainant, Tammy Bohn, appeared personally and with the counsel, Kellen Willert. The City of Sturgis City Council did not appear in person or through counsel. 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 the City of Sturgis is a First-Class municipality located in Meade 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 City Council for the City of Sturgis (hereafter “City”) is the public body elected pursuant to applicable provisions of state law to govern the City of Sturgis.

3. The City issued a press release announcing that it was planning a special meeting for February 16, 2023. According to the press release, the only agenda item planned for the special meeting was an executive session for personnel matters. The press release highlighted that the question of hiring either a city manager or city administrator was one of importance to the City, but that a discussion of that item would happen at the February 21, 2023, meeting of the City Council.

4. The agenda for the February 16 meeting indicates the only item planned for the meeting was an executive session to discuss personnel.

5. At the opening of the February 16, 2023, special meeting of the City, the Mayor of Sturgis stated, "I think it is fair to say that, you know, there is action coming down on Tuesday, I imagine, but we will see what develops here tonight and see which direction the council decides to go." Video of the meeting confirms this statement. After concluding executive session, the City adjourned with no comments on the executive session discussion.

6. On May 6, 2024, the City held an official meeting, during which the City entered executive session without stating the purpose of the executive session. A motion was made to enter executive session, but no purpose for entering executive session was specified. Video of the meeting confirms this fact.

7. The agenda for the May 6, 2023, meeting of the City indicated that executive session would be held to discuss “personnel,” “legal,” and “contracts” issues.

8. SDCL 1-25-2 establishes that “discussion during [executive session] is restricted to the purpose specified in the closure motion.”

9. Tammy Bohn, through her counsel Kellen Willert, submitted numerous open meetings violations to the Meade County State’s Attorney. Included in the complaint materials was an allegation that the City violated the state open meetings laws on February 16, 2023, by engaging in a discussion in executive session that went outside the purpose cited in the City’s closure motion. Also included in the complaint materials was an allegation that the City violated the open meetings laws on May 6, 2024, by entering executive session without stating a specific purpose in the closure motion.

10. The Meade County State’s Attorney, Michelle Bordewyk, forwarded the complaint to the Commission pursuant to SDCL 1-25-6(3). State’s Attorney Bordewyk identified the February 16, 2023, and May 6, 2024, meetings as having merit for review by the Commission.

11. In its written response to the complaint, the City asserted there was no merit to either the February 16, 2023, or May 6, 2024, allegation.

12. Concerning the February 16, 2023, meeting, the City argued the State’s Attorney was speculating as to the purpose of the executive session held on that date. The City relayed that the previous City Manager had made a

private demand for a severance package and asserted that discussion item fits squarely within one of the statutory purposes of executive session.

13. Regarding the May 6, 2024, allegation, the City admitted there was a failure to announce the purpose of the executive session during the meeting but attempted to explain the omission as due to the inexperience of newly elected council members. The City, also, noted that the purpose of the meeting was clearly stated in the minutes.

14. 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 City of Sturgis City Council, as the governing body of Sturgis, 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. SDCL 1-25-2 permits governing bodies to enter executive session to discuss those items specifically enumerated by the statute, as well as any other item that is deemed privileged or confidential by state or federal law. The statute specifically restricts discussion during executive session “to the purpose specified in the closure motion.”

3. The Commission recognizes that the text of SDCL 1-25-2 does not explicitly require that a motion to enter executive include a stated purpose. The Commission concludes, however, that the requirement to state a purpose in a

motion to enter executive session is implied by the restriction in the statute limiting discussion during executive session to the purpose stated in the closure motion.

4. A motion to enter executive session must state a purpose for the executive session. The purpose must be sufficiently stated to establish that the intended discussion qualifies for the use of executive session. Discussion during executive session is limited to the purpose stated in the closure motion.

5. The Commission concludes that the Sturgis City Council did violate SDCL 1-25-2 during its February 16, 2023, special meeting by engaging in a discussion in executive session that went outside the purpose cited in the City's closure motion.

6. The agenda for the February 16, 2023, special meeting indicates executive session would be held to discuss personnel issues, and the City's response to the complaint asserts that is what was discussed. Based on the Mayor's comments at the beginning of the meeting, however, it is reasonable to conclude that the discussion in executive session was (at least in-part) on whether the City thought a city manager or city administrator was better for the community. This was discussion outside the purposes stated in the closure motion in violation of SDCL 1-25-2.

7. The Commission also concludes that the Sturgis City Council violated SDCL 1-25-2 at its May 6, 2024, meeting by entering executive session

without stating a purpose in the closure motion. This violation is uncontested by the City Council.

8. 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 City of Sturgis City Council for violating SDCL 1-25-2 on February 16, 2023, by engaging in a discussion in executive session that went outside the purpose specified in the closure motion, and for violating SDCL 1-25-2 on March 6, 2024, by entering executive session without stating a purpose in the closure motion.

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