

STATE OF SOUTH DAKOTA
OPEN MEETINGS COMMISSION

IN THE MATTER OF OPEN)	OMC 2024-11
MEETINGS COMPLAINT AGAINST)	
CHARLES MIX COUNTY BOARD)	FINDINGS OF FACT,
OF COMMISSIONERS)	CONCLUSIONS OF LAW, &
)	DECISION

The above captioned matter was heard before the South Dakota Open Meetings Commission (hereafter “Commission”) on November 25, 2024.

Complainants, Jolene & Jeff Stewart, appeared personally. The Charles Mix County Commission did not appear and did not appear 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 solely upon the materials submitted, the Commission enters the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. The Commission takes official notice that Charles Mix County is a political subdivision of the State of South Dakota created by the Legislature and duly organized and operated according to applicable provisions of South Dakota Codified Law.

2. The Commission further takes notice that the Charles Mix County Commission (hereafter “County Commission”) is a public body elected pursuant to applicable provisions of state law to govern Charles Mix County.

3. The County Commission met on May 23, 2024. At the time of the meeting, the agenda for the County Commission's previous May 9 meeting, and a notice about election tabulator testing, were posted on the north door of the courthouse. The notice regarding tabulator testing was posted on the south door of the courthouse. Notice of the County Commission's May 23, 2024, meeting was not physically posted at the County courthouse.

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.

5. Complainants, Jolene & Jeff Stewart, submitted an open meetings complaint to the Charles Mix County State's Attorney on May 24, 2024. The Stewarts alleged that the Board of Commissioner's violated the open meetings laws by failing to give proper notice of an official meeting as required by SDCL 1-25-1.1.

6. On July 12, 2024, Charles Mix County State's Attorney Steve Cotton forwarded the complaint to the Commission pursuant to SDCL § 1-25-6.1(3).

7. In submitting the complaint to the Commission, State's Attorney Cotton relayed that the Charles Mix County Auditor had explained that the wrong agenda was posted on the north door of the courthouse for the May 23

meeting. State's Attorney Cotton also relayed that the meeting was properly noticed on the Charles Mix County website.

8. The County Commission did not respond to this complaint.

9. 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 Charles Mix County Board of Commissioners, as the governing body of Charles Mix County, 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 1-25-1.1 requires physical posting of notice of an official meeting at least twenty-four hours in advance of the meeting. It is uncontested that County Commission failed to physically post notice of its May 23, 2024, meeting at the County courthouse.

3. The Commission concludes that the Charles Mix County Board of Commissioners did violate the open meetings laws by failing to physically post proper notice of its May 23, 2024, 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 Charles Mix County Board of Commissioners for violating the South Dakota Open Meetings Laws by failing to physically post notice of its May 23, 2024, meeting.

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