

STATE OF SOUTH DAKOTA  
OPEN MEETINGS COMMISSION

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IN THE MATTER OF OPEN	)	OMC 2024-12
MEETINGS COMPLAINT AGAINST	)	
TRIPP CITY COUNCIL –	)	FINDINGS OF FACT,
HUTCHINSON COUNTY	)	CONCLUSIONS OF LAW, &
	)	DECISION

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

Complainant, Cody Fischer, did not appear personally or through counsel. The Tripp City Council appeared through counsel, Mike Fink. 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 Tripp is a Second-Class municipality located in Hutchinson 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 Tripp City Council (hereafter “City Council”) is the public body elected pursuant to applicable provisions of state law to govern the City of Tripp.

3. The City Council held a special meeting on August 1, 2024. The agenda for the meeting indicates the meeting was called for a personnel matter discussed in executive session. The minutes of the meeting confirm the City Council met in executive session, and upon reentering general session accepted the resignation of the Chief of Police. The City Council then reentered executive session to discuss city employee applications. The City Council then adjourned with no further action.

4. The City Council gave no public notice of the August 1, 2024, special meeting.

5. 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. For any special or rescheduled meeting, the information in the notice shall be delivered in person, by mail, by email, or by telephone, to members of the local news media who have requested notice. For any special or rescheduled meeting, each political subdivision shall also comply with the public notice provisions of this section for a regular meeting to the extent that circumstances permit.

(emphasis added).

6. Cody Fischer submitted an open meetings complaint to the Hutchinson County State's Attorney on August 14, 2024. Mr. Fischer's Complaint alleged the City Council violated the state open meetings laws by failing to give proper notice of a special meeting as required by SDCL 1-25-1.1.

7. On August 16, 2024, Hutchinson County State's Attorney Glenn Roth forwarded the complaint to the Commission pursuant to SDCL § 1-25-6(3).

8. In its written response to the complaint, the City Council admitted that it failed to properly give notice of the special meeting held on August 1, 2024. The City Council relayed that the Mayor was under the mistaken impression that the notice requirements of SDCL 1-25-1.1 did not apply to special meetings.

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 Tripp City Council, as the governing body of the City of Tripp, 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. The notice requirements of SDCL 1-25-1.1 apply to special meetings of a public body, as circumstances permit, as equally as they do to regularly scheduled meetings of a public body. It is uncontested that the City Council failed to give proper notice of its August 1, 2024, special meeting.

3. The Commission concludes the Tripp City Council did violate the open meetings laws by failing to give proper notice of its August 1, 2024, special meeting as required by SDCL 1-25-1.1.

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 Tripp City Council for violating SDCL 1-25-1.1 by failing to give proper notice of the City's August 1, 2024, special 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 12<sup>th</sup> day of May, 2025.

SOUTH DAKOTA OPEN MEETINGS COMMISSION

  
Katelynn Hoffman, Vice-Chair