

November 12, 2008
(Revised)

STATE OF SOUTH DAKOTA
OPEN MEETINGS COMMISSION

IN THE MATTER OF OPEN MEETING)	FINDINGS OF FACT,
COMPLAINT 07-04)	CONCLUSIONS OF LAW,
ANNE HAJEK, JEFF BARTH, AND)	AND REPRIMAND
CAROL TWEDT)	

INTRODUCTION

South Dakota has enacted a statute requiring meetings of political subdivisions of the state, including all related boards, commissions and other agencies, to take place in a public forum. SDCL 1-25. 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 hours prior to the meeting. A violation of these requirements is a Class 2 misdemeanor.

The above captioned matter came on for hearing before the South Dakota Open Meetings Commission on July 31, 2008, in Sioux Falls, South Dakota. Present were all members of the Commission, together with Diane Best, Assistant Attorney General and Counsel to the Commission. Also present were the Complainant, David R. Nelson, and Respondents Anne Hajek, Jeff Barth, and Carol Twedt.

After having heard the arguments of the parties and deliberating the matter, the Commission issued its unanimous decision and announced orally its opinion that the Respondents Hajek, Barth, and Twedt, and each of them, were in violation of SDCL 1-25-1 and 1-25-1.1, all as alleged in the Complaint herein. Consistent therewith, the Commission hereby

makes and adopts the following Findings of Fact and Conclusions of Law, and Order of Reprimand.

FINDINGS OF FACT

1. The Sioux Empire Fairgrounds are located on property owned by Minnehaha County.
2. Via a management agreement with Minnehaha County, the fairgrounds are managed by the Sioux Empire Fair Association (“The Association”), a South Dakota not-for-profit corporation.
3. At all times relevant hereto, The Association employed Matt Adamski as its Executive Director.
4. The Association receives funding each year from Minnehaha County in an amount set by the county Board of Commissioners as part of the annual county budget.
5. The Association allows use of the fairgrounds throughout the year by various groups, one of which during 2007 was an organization which conducted a series of controversial “Night Storm Dances,” a party environment for young people.
6. At all times relevant hereto, Respondents Anne Hajek, Jeff Barth, and Carol Twedt were three of five duly elected members of the Board of Commissioners for Minnehaha County.
7. After receiving complaints from school district employees and others, Respondent Commissioners Hajek and Twedt scheduled a meeting with Adamski to request, encourage, and/or demand that “Night Storm Dances” not be allowed to continue at the Sioux Empire Fairgrounds.
8. Respondent Commissioner Barth was invited to attend the meeting referred to in the preceding Finding of Fact.

9. On November 8, 2007, the three Respondents met with Adamski at the County Administration Building, where the continued use of Fairgrounds property for “Night Storm Dances” was discussed.

10. The November 8, 2007, meeting was of a public entity, attended by a quorum of the body, and official business within the jurisdiction of the body was discussed.

11. The November 8, 2007, meeting was not noticed to the public in any way.

12. At the November 8 meeting, Adamski acquiesced to Respondent Hajek’s and Twedt’s expectations, and further “Night Storm Dances” on county property were cancelled.

CONCLUSIONS OF LAW

1. SDCL 1-25-1 and 1-25-1.1, South Dakota’s Open Meetings statutes, apply to the Minnehaha County Board of Commissioners.

2. The November 8, 2007, meeting described above, was an official meeting of the Minnehaha County Board of Commissioners.

3. The November 8, 2007, meeting was conducted without providing written or other notice to the public of either the fact of the meeting or the agenda.

4. That in conducting the November 8, 2007, meeting, Respondents Hajek, Barth and Twedt acted in violation of SDCL 1-25-1 and 1-25-1.1, and should be reprimanded for such violation.

CONCLUSION

This Commission hereby issues its decision finding that Respondents Anne Hajek, Jeff Barth, and Carol Twedt have violated SDCL 1-25-1 and 1-25-1.1, and hereby reprimands the Respondents, and each of them, for their actions in connection with the November 8, 2007, meeting of the Board of Commissioners of Minnehaha County.

ALL COMMISSIONERS CONCUR