

August 2, 2011

STATE OF SOUTH DAKOTA

OPEN MEETING COMMISSION

IN THE MATTER OF OPEN MEETING	)	FINDINGS OF FACT,
COMPLAINT 11-03, LINCOLN	)	CONCLUSIONS OF LAW
TOWNSHIP, BROWN COUNTY,	)	AND REPRIMAND
SOUTH DAKOTA	)	

INTRODUCTION

The state of South Dakota has enacted a statute setting forth certain requirements involving the agenda and notice of the public meetings and special meetings. 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 (24) hours prior to the meeting. Furthermore, the required notice shall be posted in a location visible to the public at the principal office of the public body holding the meeting. The same rule applies to special meetings to the extent that the circumstances permit. A violation of these rules is a Class 2 misdemeanor.

DISCUSSION AND DECISION

This matter came before the Commission following the filing of a complaint dated April 26, 2011 and signed by Kelly Kensler. The complaint alleged a violation of the meeting agenda requirements found at SDCL 1-25-1.1. Specifically, the complaint alleged that the Board of Supervisors for Lincoln Township held meetings on January 25, 2011, February 8, 2011, and

February 24, 2011, without posting notice of said meetings. The complaint also alleges that a meeting was scheduled for February 22, 2011, but was not held.

The record indicates that the township did, in fact, hold the meetings on January 25, 2011, February 8, 2011, and February 24, 2011, without posting notice of said meetings. It is apparent from the record and the admission of Glen Larson, Lincoln Township Clerk, that the township failed to give notice and post an agenda for these meetings. The law not only requires timely preparation of the agenda, but the agenda, along with the notice of the meeting, must also be posted at the principal office of the public body holding the meeting, visible to the public. SDCL 1-25-1.1. Lincoln Township has therefore violated the law and should be reprimanded.

FINDINGS OF FACT

1. Lincoln Township has no office other than the dwelling of its clerk, Glenn Larson. As such, the principal office of the Lincoln Township Board is Mr. Larson's residence.

2. On January 25, 2011, February 8, 2011, and February 24, 2011, the Lincoln Township Board held meetings without posting notice of the meetings, along with an agenda, at the Larson residence at least 24 hours in advance of the meetings.

2. Lincoln Township has admitted that it did not publish or post a notice of the January 25, 2011, February 8, 2011, and February 24, 2011 meetings.

3. In addition to seeking a reprimand for the failure to post notice and an agenda, the Complainant alleges that the Township Clerk was not civil and asks that the meetings be held in a public place other the Larson residence where the meetings have been held in the past.

CONCLUSIONS OF LAW

1. Lincoln Township is an entity subject to the provisions of the Open Meeting Law, SDCL ch. 25.

2. Lincoln Township is required to prepare and post the notice of its meetings, with a proposed agenda, at least 24 hours prior to any meeting pursuant to SDCL 1-25-1.1. This requirement is in addition to the publication for annual meetings and any other specific notice provisions in SDCL ch. 8-3.

3. The township has admitted to its failure to prepare and post notice of its meetings on January 25, 2011, February 8, 2011, and February 24, 2011. This is a violation of SDCL 1-25-1.1 and is subject to a public reprimand.

4. No violation occurred on February 22, 2011 since no meeting was held on that date.

5. The OMC lacks jurisdiction to require that meetings be held at any particular place. Under SDCL 8-3-1 the township board of supervisors has authority to determine the location for meetings, so long as they are in the county where the township is located.

REPRIMAND

Lincoln Township is hereby publicly reprimanded for its violation of the South Dakota Open Meeting Law.

Issued by Commissioners Reedstrom (Chair), Brenner, Rothschadl, and Sovell.