



OFFICE OF THE BENNETT COUNTY STATE'S ATTORNEY

State's Attorney Sarah E. Harris

P.O. Box 628, Martin, South Dakota 57551

Tel: (605) 685-6986 Fax: (605) 685-2013 e-mail: sarah.harrisbcsa@goldenwest.net

May 9, 2023

Open Meetings Commission
c/o Office of the Attorney General
1302 E. Highway 14, Ste 1
Pierre, SD 57501-8501

RE: Open Meetings Violation Complaint

To whom it may concern:

I received a complaint that alleges a violation of the open meeting laws. After completing my investigation, and pursuant to SDCL 1-25-6.1 (3) I am referring this matter to the South Dakota Open Meetings Commission for further action.

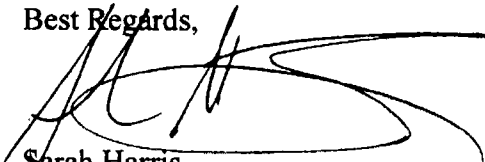
Attached is the notarized complaint dated March 3, 2023, Commissioner meeting Agenda dated February 1, 2023, and the minutes from the February 1, 2023, commissioner meeting. There are three issues presented in the complaint. The first issue is that the Commission did not state a proper motion to enter executive session, the second is that the commissioners attempted to falsify the public record by creating the illusion of a proper motion to enter Executive Session after coming out of Executive Session, and the third is that the commission failed to cite to a proper reason for going into Executive Session. (See attached audio from 2-1-23).

I reviewed the audio recording of the February 1, 2023, commissioner meeting as well as attended the meeting in question. The complaint makes note that at approximately 1:35:38 in the recording, commissioner Donovan requested to go into executive session for contractual with just the four commissioners. There was no second and then Chairman Bakley called for a vote, without asking if there was a second to the motion. The commissioners then entered into executive session for approximately 50 minutes. Following Executive Session, State's Attorney Harris asked the commission who made the motion and who seconded the motion, at which time the commission decided that commissioner Livermont had seconded the motion to enter Executive Session for contractual. It is unclear whether the commission entered Executive Session under 1-25-2 (3) or 1-25-2 (4) as both subsections mention contractual matters and

contract negotiations. In this matter, the motion for executive session did not reference a specific state law allowing for the executive session, simply “contractual” was the reason given for entering executive session. There was also no second to the Motion made and as such, the motion should have died without a proper second. It appears the commissioners violated the open meeting law by entering into executive session for 50 minutes.

I am also including with this letter a copy of the Board of Bennett County Commissioners corrected Minutes for Wednesday, February 1, 2023, which makes the correction that after there was not a second on the motion, all the commissioners voted Aye, to go into Executive Session.

Best Regards,

A handwritten signature in black ink, appearing to be 'Sarah Harris', written over a horizontal line.

Sarah Harris
Bennett County State's Attorney

Enclosure

Cc: file

ROBERT A. FOGG, JR. P. O. BOX 794 MARTIN SD 57551

Bennett County State's Attorney Office

ATT: Ms. Sarah Harris

P. O. Box 628

Martin, SD 57551

re: Open Meeting Complaint

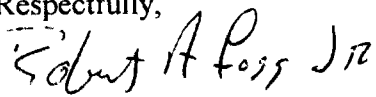
February 28, 2023

Dear Ms. Harris,

Under this cover is my complaint of Open Meeting Law violations by the Bennett County Board of County Commissioners. The date of the alleged infractions is February 1, 2023.

Here I allege: at the meeting of the Bennett County Board of County Commissioners on February 1, 2023, Commissioners Bakley, Donovan, Livernont, and Williams (1) did not state a proper Motion to enter Executive Session, (2) did attempt to falsify the public record by creating the illusion of a proper Motion to enter Executive Session after coming out of the improperly called Executive Session when directly questioned by State's Attorney Ms. Harris, and (3) failed to cite to a proper reason underlying the call for an Executive Session under SDCL 1-25-2.

Respectfully,


Robert A Fogg, Jr.

Open Meeting Commission:

February 28, 2023

My name is Robert Fogg, Jr. I am a resident of Martin, County of Bennett, South Dakota. The content herein will present relevant detail of what I perceive to be a violation of the Open Meeting Laws of the State of South Dakota. With this package there is one USB Drive with a copy of the February 1, 2023 Bennett County Commission Meeting Agenda showing the Executive Session Item near the bottom of the agenda, a copy of its Minutes for the same loosely capturing the actions of the Executive Session on page 4 of the minutes,, and a copy of the Audio file capture of the same meeting. There is also a copy of pages 1 and 2 of the Bennett County Booster II as published February 15, 2023, while also being the legal newspaper the Commissioners here, to be discussed further below.

Directing your attention to the audio recording that is included on the enclosed USB Drive, at about 1:35:38 (1 hour, 35 minutes, 38 seconds) in, there is the voice of Commission Chair Mr. Bakley announcing the "Executive Session" Item from the meeting's Agenda. Vice Chair Mr. Donovan requests executive session for "contractions" or possibly "contractual" as his detailed request for the Commission to enter into Executive Session. Initially Mr. Donovan's Motion to enter Executive Session was for only all five commissioners, but quickly reduced to just the four commissioners then present. Mr. Bakley then calls for all to signal by Aye. With no opposed vote indicated, the four commissioners entered into Executive Session at 4:08PM. Mr. Bakley then next declared the Commission back into open session at 4:58PM. There is no Second on the Main Motion to go into Executive Session. Also, there is no statute cited for going into an Executive Session.

Once back in open session following the Executive Session, State's Attorney Ms. Harris is heard questioning the Commission over the lack of the Second on the Main Motion. Ms. Harris has worded her inquiry very directly and to the point: "who made the motion, was there a second?" regarding the Executive Session Motion. Mr. Donovan is heard admitting to being the motion maker, while there is silence as to the maker of the Second on the Motion. The obvious reason for there being no clear affirming voice to claiming admission to making the Second on the Main Motion is because when the Main Motion was made to go into Executive Session, no one made the Second on the Main motion. Instead, following the Main Motion, the Chair called for the "Ayes and Nays."

Instead, following a brief skit of "winks and nods" among and between Commissioners to Ms. Harris' question concerning the lack of the Second on the Main Motion, a voice is heard plaintively inquiring "Did I second" following a pause in the response time from the time Ms. Harris inquired of "who made the motion, was there a second?" I think Bill Seconded is clearly heard on the audio by Commissioner Williams. Here the time would be close to 4:59PM because the Chair had reopened the meeting to the public at 4:58PM. Shortly after figuring that the lack of the Second is a problem, Ms. Williams confirms that "Bill Seconded" was the Second on the Main Motion. Here the record must note that this Ms. Williams is the same Ms. Williams who was a long term sitting Auditor for Bennett County.

The best simple solution for these Commissions when questioned by Ms. Harris “who made the motion, was there a second?” would have been for the Commission to then and there admit to their error, to own up to their failure conduct a proper and legal Executive Session. In fact, the proper time to make a Main Motion and its requisite Second is prior to calling the vote on the Motion. Here Vice Chair Mr. Donovan made a Main Motion for Executive Session, and Chair Mr. Bakley quickly and directly called for the vote. Not one Commissioner present objected to the calling of a vote on a motion that did not have a Second.

The proper time to call a Main Motion and its supporting Second is prior to calling the “Ayes and Nays” on the Main Motion. In this direct matter before the Open Meeting Commission, the record indicates the correct time to have properly called a motion for Executive Session would have been very shortly prior to 4:08PM, the time the Chair stated the Commission was going into its Executive Session to use the common language to express the same. Instead, this Commission waited at least a full 50 minutes before even considering a Second on the Executive Session motion, and that 50 minute time lapse would have continued longer but for the fact that State’s Attorney Ms. Harris called the Commission’s bluff when she inquired “who made the motion, was there a second?” that has led this current Commission to being caught deliberately manipulating the record, and possibly also directly creating a false public record by waiting until after the conclusion of the Executive Session to scheme a proper appearing record.

In conclusion here, the proper time for the Bennett County Board of County Commissioners to have called a Main Motion, its requisite Second, and the Ayes and Nays would have been before 4:08PM. However, this same Commission, Commissioners Bakley, Donovan, Livermont, and Williams, acting together and while intentionally waiting until at least 4:58PM, did then try to scam together what amounts to a retroactive and thereby ineffective Second. Therefore the Bennett County Board of County Commissioners did not declare a proper Motion, Second, and Vote to enter into Executive Session on February 1, 2023.

Turning now to the above referenced newspaper and the article titled “Council drops bombshell, stuns police department with consolidation discussion” found on pages 1 and 2, gives the Open Meeting Commission required reading to create a better understanding of why Mr. Donovan’s Executive Session Motion is further eroded. The enclosed Minutes of the February 1, 2023 Commission Meeting do cite to SDCL 1-25-2(3) for the reason underlying this Executive Session.

Sub 3 can be properly broken into its relevant elements through the lens of a competent legislature as follows:

Consulting with legal counsel ... or reviewing communications from legal counsel ... about proposed ... or pending litigation ... or contractual matters;

Even if one were granting Mr. Donovan the benefit of the doubt of his choice of wording as to why he was wanting an Executive Session, by indicating that “contractions” is meant instead to be “contractual,” his motion fails for failure to state the proper statutory citation.

The first two elements of sub(3) do require attorney presence or involvement. Let us hold the legislature would understand such an attorney to be properly licensed and admitted to jurisdiction. Clearly, Mr. Donovan intentionally left out the Commission's attorney in his Motion for Executive Session. More clearly, Mr. Donovan makes absolutely no mention of legal counsel and no reference to counsel's communications or work product. As page 2 of the newspaper article does point out, the City of Martin's Attorney Ms. Frankenstein in a joint City Council / County Commissioner quorumed meeting on February 8, 2023, rightfully pointed out, there were issues of non-compliance with South Dakota law.

The failure of the legislature's well designed first two elements of sub(3) quickly takes down the remaining elements of "about proposed or pending litigation or contractual matters;" because the latter elements have no support since there is no attorney or counsel involvement either present or otherwise involved as indicated anywhere in Mr. Donovan's reasoning for his Motion for Executive Session.

Here, Commissioners Bakely, Donovan, Livermont, and Williams were so sure they could pull off a fast one, and in such a hurry to do so, their only concern was to duck behind closed doors as quickly as possible. This is shown by Mr. Donovan's wrongly and incompletely stated reason for Executive Session. Therefore the Bennett County Board of County Commissioners improperly stated their reason for entering into an Executive Session.

In conclusion, at the meeting of the Bennett County Board of County Commissioners on February 1, 2023, Commissioners Bakley, Donovan, Livermont, and Williams (1) did not state a proper Motion to enter Executive Session, (2) did attempt to falsify the public record by creating the illusion of a proper Motion to enter Executive Session after coming out of the improperly called Executive Session when directly questioned by State's Attorney Ms. Harris, and (3) failed to cite to a proper reason underlying the call for an Executive Session under SDCL 1-25-2.

Respectfully,

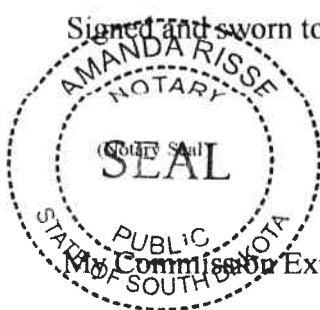
Robert A. Fogg Jr
Robert A. Fogg, Jr.

Date: 3/3/23

Robert A Fogg Jr
Signature

State of South Dakota
County of Bennett

Signed and sworn to (or affirmed) before me this 3 day of March, 20 23



Amanda Risse
Notary Signature

Amanda Risse
Notary's Printed Name

My Commission Expires
August 24, 2024

My Commission Expires: _____

OFFICIAL

BENNETT COUNTY BOARD OF COMMISSIONERS AGENDA

Courthouse
202 Main Street, Martin, SD
February 1, 2023

PLEDGE OF ALLEGIANCE

2:30 MEETING CALLED TO ORDER

APPROVE AGENDA

APPROVE JANUARY 18TH MEETING MINUTES

COMMUNITY ACTION – MARY THOMSEN AND ROZ BOLZER

REVERSE 911 – JEFF SISCOF

ADD 2 ADDITIONAL ADMINISTRATIVE PERSONAL FOR ANTIVIRUS

AUDITOR PROBATION

COMMISSIONER MEETING TIME

SURPLUS LENOVO LAPTOP

HIGHWAY DEPARTMENT

BIDS FOR GRAVEL, TRUCKING & CONTRACTING

DENNIS BAKLEY GRAVEL PERMIT

SNOW BLOWER RENTAL

PUBLIC COMMENT

NEW & OLD BUSINESS

EXECUTIVE SESSION

ADJOURN

**BENNETT COUNTY BOARD OF COMMISSIONERS
MINUTES OF PROCEEDINGS**

**WEDNESDAY, FEBRUARY 1ST, 2023
MARTIN, SOUTH DAKOTA**

The Bennett County Board of Commissioners met in regular session Wednesday, February 1st, 2023 in the Courtroom.

Commissioners Present: Dave Bakley, Cole Donovan, Bill Livermont, Susan Williams, Keeley Clausen present until 4:00pm.

Others Present: Chante' Cook, Auditor; Sarah Harris, States Attorney; Jolene Donovan, Treasurer; Jeff Siscoe, Emergency Manager; Linay Little Eagle, Director of Equalization; Jason Erwin, Sheriff; Kevin Curtis, Deputy Sheriff; Bo Sharp, Highway Superintendent; Paula Livermont, Highway Secretary; Brandon Peterson, Chief of Police; Jonni Joyce, The Booster; Mary Thomsen, Roz Bolzer, Community Action; Gloria Claussen, Chase Strand, Marty Strand, Area Residents.

Chairman Bakley called the meeting to order at 2:30 pm.

Susan Williams made the motion to approve the agenda. Bill Livermont seconds

All Voted Aye.

Motion Carried.

Susan Williams requested change on the January 18th meeting minutes, that it be noted that Keeley Clausen left at 3:00pm. Susan Williams made the motion to approve the January 18th meeting minutes with that being added. Cole Donovan seconds.

All voted Aye.

Motion Carried.

Auditor's Account with Treasurer

To the Honorable Board of County Commissioners of Bennett County:

I hereby submit the following report of my examination of the cash and cash items in the hands of the County Treasurer of this County as of January 31st, 2023.

Balance on hand – County	\$ 5,412,483.00
Cash Change Account	\$500.00
Restricted Funds	\$ 203,461.94
Savings Accounts	\$0.00
Cash, Checks, Credit Cards	\$3,300.70
Treasurer's Change Fund	- \$300.00
NSF Checks	\$2,373.90
TOTAL	\$ 5,621,819.54

Dated this 8th day of February, 2023.

Attest:

/S
Chante' Cook, Auditor

Reports

Register of Deeds – January 2023: \$3,765.00

Mary Thomsen came to the Board for help regarding the Community Action. Food that was being delivered by the Western South Dakota Community Offices in Rapid City has quit delivery. They would deliver the food, and low-income members of the community were given a two-week time period to be able to get their food. The Western South Dakota program has now turned over the delivery to The Feeding South Dakota program. Mary Thomsen and Roz Bolzer are asking for help because they feel that The Feeding South Dakota program will not meet the needs for members with low income because they only come for one hour a month and it is open to anybody who comes. Roz Bolzer stated that it is hard for people to get there to get the food being distributed within that hour and that the two weeks is a more appropriate time period. She personally feels that these changes are discriminating upon the low-income population of Bennett County. Roz stated that they need a UEI number, which is now a DUNS number, to give to the State USDA Commodity Program to apply for getting some food. The Commissioners gave their approval for Roz to work with the State USDA Commodity Program. Chairman Bakley informed Roz that she could get the number from one of the Department Heads.

Jeff Siscoe discussed Reverse 911 with the Board. It would be a system that would send out emergency alerts to people's cell phones in the area. This would allow us to notify people on road closures. Jeff stated that he prefers the option called the Collaborative Operations Group which many other counties in the area use. This is a basic system from a company called Konexus which would cost \$2,150.00 the first year, \$2,193.00 the second year, and \$2,237.00 in the third year, going up by two percent each year. He informed the Board that there were several rescues performed during the last blizzard and this system could be a way to reduce the amount of people needing rescued. It could be used to notify people of many other emergency issues or used to send any other notifications the County may want to send. Cole Donovan made the motion to purchase the Reverse 911 system with Konexus. Susan Williams seconds.

All Voted Aye.

Motion Carried.

Jeff Siscoe informed the Board that he has been installing an antivirus on the County computers. He stated that he is signed up as an administrator so that he can go in and install the antivirus. He asked the Board if there should be another one or two people added to be able to this. Also, if a cyber-attack occurs, they would call one of the administrators to inform them. The Board left which two people to add to Jeff's discretion.

Jeff Siscoe discussed an incident command system. Elected Officials are supposed to take incident command classes. The two classes can be done online. The ICS 402 is a half a day class that will qualify Officials as taking the two online classes, which he encouraged them to do.

Chante' Cook informed the Board that her three-month probationary period will be up on February 7th. Cole Donovan commemorated her on a job well done. Susan Williams echoed Cole Donovan and commemorated Deputy Auditor, Nicole Blakey, as well. It was agreed when Chante' was hired as Auditor that she receives a \$1.50 hourly raise when her three-month probationary period was up.

The Board discussed the Commissioner meeting time. Susan Williams was requesting the Board meet earlier than 2:30 pm. Dave Bakley stated that there are days that he loads trucks and that 2:30 was more ideal for him. Keeley Clausen stated that 2:30 works better for her as well, with her job. Dave Bakley suggested that maybe they could discuss moving the meeting time later in the year. It was decided to leave the time as is.

A laptop from the Extension Office was surplused. The Appraisal Committee- Cole Donovan, Bill Livermont, and Susan Williams all valued the computer at \$0.00.

Chairman Bakley stated that it was time for the Highway Department to start advertising for gravel hauling, trucking, culverts, and snow removal. Bo Sharp requested that more detail be added to the advertisements. Dave Bakley informed Bo that he should assist Paula Livermont in writing out the advertisements since he knows exactly how he wants it to be. Bo stated that they could have it done for the next meeting.

A gravel permit from Dennis Bakley was received. Cole Donovan made the motion to approve. Susan Williams seconds.

Voting Aye: Cole Donovan, Susan Williams, Bill Livermont, Keeley Clausen.

Vote Abstained: Dave Bakley.

Motion Passed.

Dave Bakley received a phone call from the Emergency Manager for Todd County asking to rent the Highway Departments snow blower. Sarah Harris had started to write a rental agreement. The Board decided to say no to the rental of the snow blower.

Bo Sharp informed the Board that the Highway Department needs a lift for their 143H VPlow. He stated that he had found used ones around \$1,500.00 to \$2,000.00 that sold fast, and that he cannot find another used one now. He stated that he found a new one for \$8,000.00 or he can try to fix the current one and wait to see if they find a used one. However, he expressed the need to get it going because they have another blade that the turbo went out on, and another one with a chain that broke. Bo said that he knows they will both be expensive fixes but that the Highway Department has to have them. Cole Donovan informed Bo to not wait for the Boards approval when the Highway Department needs equipment to operate and that it should be at his discretion as the Highway Superintendent.

Bo Sharp asked Dave Bakley if he would go out to look at some roads with him. He declared that some of the roads are very difficult to clear and that he does not have the employees to do some of the work. Bo said that he was trying to get as many roads as possible cleared enough for emergency personnel to get down, but that completely clearing all of the roads would be extremely difficult. He mentioned how unsafe it was for school busses to be out and that he had received calls from parents who were worried about their kids getting home. He informed them that the County was doing what they can do but that they cannot tell the Superintendent when to close school due to the conditions of the roads.

The Board discussed buying a reliable low boy so that the Highway Department could haul their own equipment to places for repair, as this may be a cheaper route in the long run compared to hiring other people to do it. Dave Bakley stated that there was one on Auction Time that opened bids for February 1st to February 8th. Cole Donovan asked Chase Strand what the average price on one was right now who informed them that a brand new one was around \$110,000 and a decent one around \$50,000 to \$60,000. The Board agreed to bid at \$50,000 and to try to get one for the Highway Department.

Bo Sharp also requested a five-hundred-gallon overhead tank in case the power were to go out and there would be no way to get fuel. Chase Strand said that he had a three-hundred-gallon tank that he would donate to the County. He stated that nothing is wrong with the tank but that he just does not use it and would donate it since the County would use it. Cole Donovan said that a few people could go and get it.

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OFFICE OF THE BENNETT COUNTY STATE'S ATTORNEY

Attorney General

APR 29 2024

CP

State's Attorney Sarah E. Harris

P.O. Box 628, Martin, South Dakota 57551

Tel: (605) 685-6986 Fax: (605) 685-2013 e-mail: sarah.harrisbcsa@goldenwest.net

April 22, 2024

Open Meetings Commission
c/o Office of the Attorney General
Att: Jenna McFarlane
1302 E. Highway 14, Ste 1
Pierre, SD 57501-8501

RE: Open Meetings Violation Complaint

To whom it may concern:

Attached is the audio recording from the Bennett County Commissioner meeting dated February 1, 2023.

Best Regards,


Sarah Harris
Bennett County State's Attorney

Enclosure

Cc: file



OFFICE OF ATTORNEY GENERAL

1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501

Phone (605) 773-3215

Fax (605) 773-4106

<http://atg.sd.gov>

MARTY J. JACKLEY
ATTORNEY GENERAL

BRENT K. KEMPEMA
CHIEF DEPUTY

May 1, 2024

Robert A. Fogg, Jr.
PO Box 794
Martin, SD 57551

Re: In the Matter of Open Meeting Complaint 2024-02, Bennett County Board of
County Commissioners – Bennett County

Dear Mr. Fogg,

This letter is to acknowledge receipt of an open meetings complaint filed by you against the Bennett County Board of County Commissioners. Bennett County State's Attorney Sarah Harris forwarded the complaint to the Open Meetings Commission for its review. Enclosed is a copy of all the materials I have received. A copy of the complaint materials has also been submitted to the County Commissioners for their response. I have asked the County Commissioners to file a response no later than June 30, 2024. I have also requested that the County Commissioners mail you a copy of any response they file.

The Open Meetings Commission meets periodically and has not scheduled its next meeting. I will notify you of the date, time and location of the next Commission meeting. I apologize for the delay in processing the complaint, due to lack of establishing a quorum of the Open Meetings Commission, we were unable to move forward with the complaint.

If you have any questions, please don't hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "SRB", written over a horizontal line.

Steven R. Blair
Assistant Attorney General

SRB/jm

Enclosures

Cc w/o Encl: Dave Bakley, Chair – Bennett County Board of County Commissioners
Sarah Harris – Bennett County State's Attorney



OFFICE OF ATTORNEY GENERAL

1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501

Phone (605) 773-3215

Fax (605) 773-4106

<http://atg.sd.gov>

MARTY J. JACKLEY
ATTORNEY GENERAL

BRENT K. KEMPEMA
CHIEF DEPUTY

May 1, 2024

Dave Bakley, Chair
Bennett County Board of Commissioners
202 Main Street
Martin, SD 57551

Re: In the Matter of Open Meeting Complaint 2024-02, Bennett County Board of
County Commissioners – Bennett County

Dear Mr. Bakley,

I assist the South Dakota Open Meetings Commission with their duties. Bennett County State's Attorney Sarah Harris has forwarded to the Commission, pursuant to SDCL 1-25-6(3), a complaint concerning the Bennett County Board of County Commissioners. The complaint was signed by Robert A. Fogg, Jr. Enclosed is a copy of all the materials I have received.

If the County Commissioners wish to file a response to the complaint, please send it to the above address on or before June 30, 2024. Please also send copies of any response to Robert A. Fogg, Jr., PO Box 794, Martin, South Dakota 57551 and to State's Attorney Sarah Harris.

After I have received your response, all materials will be sent to the members of the Commission for their review. The Commission meets periodically and has not yet scheduled its next meeting. You will be given further notice of the meeting date, location, and time once the meeting has been scheduled. I apologize for the delay in processing the complaint, due to lack of establishing a quorum of the Open Meetings Commission, we were unable to move forward with the complaint.

May 1, 2024

Re: In the Matter of Open Meeting Complaint 2024-02, Bennett County Board of County Commissioners –
Bennett County

Page 2

If you have any questions, please don't hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "SRB", with a horizontal line extending to the right.

Steven R. Blair
Assistant Attorney General

SRB/jm

Enclosures

Cc w/o Encl: Robert A. Fogg, Jr.
Sarah Harris – Bennett County State's Attorney

STATE OF SOUTH DAKOTA



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MARTY J. JACKLEY
ATTORNEY GENERAL

BRENT K. KEMPEMA
CHIEF DEPUTY

September 4, 2024

Dave Bakley, Chair
Bennett County Board of Commissioners
202 Main Street
Martin, SD 57551

Re: In the Matter of Open Meeting Complaint 2024-02, Bennett County Board of
County Commissioners – Bennett County

Dear Mr. Bakley,

This letter is to remind you that the complaint filed by Robert A. Fogg, Jr. against the Bennett County Board of Commissioners remains pending before the Open Meetings Commission.

As of the date of this letter, the Commission has received no response to the complaint from the Board of Commissioners. If the Board of Commissioners intends to respond to the Complaint, you have until **September 20, 2024** to do so. When responding, please send copies of any response to Robert A. Fogg, Jr., PO Box 794, Martin, South Dakota 57551 and to State's Attorney Sarah Harris.

The Commission meets periodically and has not yet scheduled its next meeting. You will be given further notice of the meeting date, location, and time once the meeting has been scheduled.

September 4, 2024

Re: In the Matter of Open Meeting Complaint 2024-02, Bennett County Board of County Commissioners –
Bennett County

Page 2

If you have any questions, please don't hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "SRB", with a horizontal line extending to the right.

Steven R. Blair
Assistant Attorney General

SRB/jm

Cc: Robert A. Fogg, Jr.
Sarah E. Harris – Bennett County State's Attorney

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

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MARTY J. JACKLEY
ATTORNEY GENERAL

BRENT K. KEMPEMA
CHIEF DEPUTY

October 18, 2024

Robert Fogg, Jr.
PO Box 794
Martin, SD 57551

Dave Bakley, Chair
Bennett County Board of Commissioners
202 Main Street
Martin, SD 57551

Re: In the Matter of Open Meeting Complaint 2024-02, Bennett County Board of
County Commissioners – Bennett County

Dear Mr. Fogg & Mr. Bakley,

Enclosed please find a Notice of Hearing regarding the above referenced open meetings complaint. Also enclosed, please find a courtesy copy of the proposed agenda for the Commission's November 18, 2024 meeting. As you can see from the agenda, presentations regarding complaints will begin at 9:00 a.m. central time, or as soon thereafter as matters may be heard.

If you have any questions, please don't hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "S. Blair".

Steven R. Blair
Assistant Attorney General

SRB/jm
Enclosure

STATE OF SOUTH DAKOTA
OPEN MEETINGS COMMISSION

IN THE MATTER OF OPEN)	OMC 2024-02
MEETINGS COMPLAINT AGAINST)	
BENNETT COUNTY BOARD OF)	NOTICE OF HEARING
COMMISSIONERS – BENNETT)	
COUNTY)	

TO: Robert Fogg, Jr., PO Box 794, Martin, South Dakota 57551; and Dave Bakley, Chair, Bennett County Board of Commissioners, 202 Main Street, South Dakota 57551:

Please take notice that a hearing regarding the above referenced open meetings complaint will be held before the South Dakota Open Meetings Commission, at the Matthews Training Center – Foss Building, 523 E. Capitol Avenue, Pierre, South Dakota, on Monday, November 18, 2024. Oral presentations regarding pending complaints will commence at 9:00 a.m. central time, or as soon thereafter as matters may be heard, and proceed in the order noted in the attached agenda.

Dated this 18th day of October, 2024.



Steven R. Blair
Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, South Dakota 57501
Telephone: (605) 773-3215

SOUTH DAKOTA OPEN MEETINGS COMMISSION

AGENDA

Matthews Training Center – Foss Building
523 E. Capitol Avenue
Pierre, South Dakota 57501

November 18, 2024
9:00 a.m. Central Time

1. Approval of the Agenda
2. Public Comment period as per SDCL 1-25-1
3. Commissioner Introductions
4. Election of Officers
5. Discussion of Procedures
6. Consideration of Pending Complaints

A. *In the Matter of Open Meeting Complaint 2021-02 Bennett County Board of Commissioners*

Oral Presentations:

Complainant Jolene Donovan -15 minutes (a portion of this time may be reserved for rebuttal)

Bennett County Board of Commissioners -15 minutes

B. *In the Matter of Open Meeting Complaint 2024-01 Martin City Council*

Oral Presentations:

Complainant Robert Fogg, Jr. -15 minutes (a portion of this time may be reserved for rebuttal)

Martin City Council -15 minutes

C. *In the Matter of Open Meeting Complaint 2024-02 Bennett County Board of County Commissioners*

Oral Presentations:

Complainant Robert Fogg, Jr. -15 minutes (a portion of this time may be reserved for rebuttal)

Bennett County Board of County Commissioners -15 minutes

[LUNCH BREAK 11:45-1:00 P.M CENTRAL TIME]

D. *In the Matter of Open Meeting Complaint 2024-03 Piedmont Board of Trustees*

Oral Presentations:

Complainant Ky Gossard -15 minutes (a portion of this time may be reserved for rebuttal)

Piedmont Board of Trustees -15 minutes

E. *In the Matter of Open Meeting Complaint 2024-04 Lincoln County Commission*

Oral Presentations:

Complainant Wendi Hogan -15 minutes (a portion of this time may be reserved for rebuttal)

Lincoln County Commission -15 minutes

F. *In the Matter of Open Meeting Complaint 2024-05 North Sioux City City Council*

Oral Presentations:

Complainant Walter D Johnson -15 minutes (a portion of this time may be reserved for rebuttal)

North Sioux City City Council -15 minutes

All items are scheduled for 09:00 a.m. Central Time. Scheduled items may be delayed or moved to a later agenda item at the discretion of the OMC.

Notice is given to individuals with disabilities that this meeting is being held in a physically accessible location. Please notify the Attorney General's Office, 605-773-3215, at least 48 hours before the meeting if you have a disability for which special arrangements must be made.

STATE OF SOUTH DAKOTA
OPEN MEETINGS COMMISSION

IN THE MATTER OF OPEN)	OMC 2024-02
MEETINGS COMPLAINT AGAINST)	
BENNETT COUNTY BOARD OF)	CERTIFICATE OF SERVICE
COMMISSIONERS – BENNETT)	
COUNTY)	

The undersigned hereby certifies that a true and correct copy of the Notice of Hearing and proposed Agenda in the above-captioned matter, were served by United States mail, first class, postage prepaid upon Robert Fogg, Jr., PO Box 794, Martin, South Dakota 57551; and Dave Bakley, Chair, Bennett County Board of Commissioners, 202 Main Street, South Dakota 57551, on this 18th day of October 2024.



Steven R. Blair
Assistant Attorney General
1302 East Highway 14, Suite 1
Pierre, South Dakota 57501
Telephone: (605) 773-3215

STATE OF SOUTH DAKOTA



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MARTY J. JACKLEY
ATTORNEY GENERAL

BRENT K. KEMPEMA
CHIEF DEPUTY

November 4, 2024

Robert Fogg, Jr.
PO Box 794
Martin, SD 57551

Dave Bakley, Chair
Bennett County Board of Commissioners
202 Main Street
Martin, SD 57551

Re: In the Matter of Open Meeting Complaint 2024-02, Bennett County Board of
County Commissioners – Bennett County

Dear Mr. Fogg & Mr. Bakley,

Enclosed please find a courtesy copy of the revised proposed agenda for the Commission's November 18, 2024 meeting. A Microsoft Teams link has been arranged that will allow the parties to appear remotely if they desire. Please let me know, as soon as possible, if you intend to appear remotely or in person. Also, please provide your email address and phone number so that you can be reached if technical difficulties arise. I can be reached at steven.blair@state.sd.us. As previously indicated, presentations regarding complaints will begin at 9:00 a.m. central time or as soon thereafter as matters may be heard.

If you have any questions, please don't hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "S. Blair".

Steven R. Blair
Assistant Attorney General

SRB/jm
Enclosure

SOUTH DAKOTA OPEN MEETINGS COMMISSION

AGENDA

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523 E. Capitol Avenue
Pierre, South Dakota 57501

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9:00 a.m. Central Time

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Complainant Robert Fogg, Jr. -15 minutes (a portion of this time may be reserved for rebuttal)

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Complainant Robert Fogg, Jr. -15 minutes (a portion of this time may be reserved for rebuttal)

Bennett County Board of County Commissioners -15 minutes

[LUNCH BREAK 11:45-1:00 P.M CENTRAL TIME]

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Oral Presentations:

Complainant Walter D Johnson -15 minutes (a portion of this time may be reserved for rebuttal)

North Sioux City City Council -15 minutes

All items are scheduled for 09:00 a.m. Central Time. Scheduled items may be delayed or moved to a later agenda item at the discretion of the OMC.

If you wish to join this meeting by **Microsoft Teams** please join meeting at:

Meeting ID: 216 768 495 655

Passcode: NM5iqf

Or to join by **telephone** dial:

(605) 679-7263 with Phone conference ID: **757 983 029#**

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