



MEADE COUNTY, SOUTH DAKOTA  
OFFICE OF THE STATE'S ATTORNEY

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**Attorney General**

**JUL 31 2023**

July 26, 2023

Office of the Attorney General  
Attn: Open Meetings Commission  
1302 E Hwy 14  
Suite 1  
Pierre SD 57501-8501

RE: City of Piedmont

Dear Commission:

The Meade County State's Attorney Office received a complaint in proper form from Ky Gossard. She alleged a violation of open meetings law, specifically SDCL 1-25-1.1. It was alleged the City of Piedmont posted a meeting agenda at their offices, but did not post on their website.

Upon review, this office determined the allegations supported a violation of SDCL 1-25-1.1. I asked the Meade County Sheriff's Office to investigate. They did so by contacting Phil Anderson, the President of the Board of Trustees. The Sheriff also reviewed the minutes of the meeting and the website for the City of Piedmont. The Sheriff's Report, with documents, is included.

After review, I feel a technical violation has occurred. However, I decline to prosecute under SDCL 1-25-6(1). While a violation, I do not feel it a wise use of judicial resources to proceed. The violation appears to have occurred due to Juneteenth, when the city offices were closed. The City could have taken alternative methods to ensure the notice was posted, but did not. I do feel there is prosecutorial merit and, therefore, send the complaint to your offices for further action.

If I can provide additional information, please let me know.

Sincerely,

Michele A.A. Bordewyk  
Meade County State's Attorney



Meade County Sheriff's Office  
 1400 Main St.  
 Sturgis SD 57785  
 (605)347-2681

Case MCSO23-04724

Printed on July 21, 2023

<b>Status</b>	Approved
<b>Report Type</b>	Patrol
<b>Primary Officer</b>	Christopher Williams
<b>Investigator</b>	Christopher Williams
<b>Reported At</b>	07/18/23 15:01
<b>Incident Date</b>	07/18/23 15:01
<b>Incident Code</b>	ASSIST OTHER AGENCY : Assist other Agency
<b>Location</b>	PIEDMONT CITY HALL, PIEDMONT
<b>Court</b>	None
<b>Ereferral County</b>	None
<b>Disposition</b>	Forward to Other Agency (Closed)
<b>Disposition Date/Time</b>	07/21/23 08:57
<b>Review for Gang Activity</b>	None

**Offender**

**AITKEN, PHILIP GREGORY**

Male, DOB 6/9/61

1-25-1.1 - Notice of meetings of public bodies (M2)

12892 MOHAWK DR  
 PIEDMONT, SD 57769

(605) 390-8605 Cell

**ANDERSON, PHILIP C**

Male, DOB 7/22/49

1-25-1.1 - Notice of meetings of public bodies (M2)

122 MAIN ST  
 PIEDMONT, SD 57769

(605) 787-5886 Home

**LEE, BRIAN MICHAEL**

Male, DOB 11/20/58

1-25-1.1 - Notice of meetings of public bodies (M2)

105 3RD ST #9  
 PIEDMONT, SD 57769

(605) 222-3170 Cell

**PARKS, JACK**

Male

1-25-1.1 - Notice of meetings of public bodies (M2)

312 PINE ST  
 PIEDMONT, SD 57769

(605) 787-5634 Home

**Witness**

**GOSSARD, KYOWA LOUISE**

Female, DOB 9/17/74

13114 S GULCH RD  
PIEDMONT, SD 577697118

(605) 645-1469 Cell

1-25-1.1 - Notice of meetings of public bodies (M2)

**GOSSARD, RUSSELL T**

Male, DOB 1/23/65

13114 SOUTH GULCH RD  
Piedmont, SD 57769

(605) 381-7992 Cell

1-25-1.1 - Notice of meetings of public bodies (M2)

**KEFFELER, JUSTIN JAMES**

Male, DOB 2/18/91

17561 STURGIS RD  
Piedmont, SD 57769

(605) 490-7948 Cell

1-25-1.1 - Notice of meetings of public bodies (M2)

**SWETT, KEITH**

Male, DOB 1/9/82

6404 MOUNT MEADOW RD  
Black Hawk, SD 57718

(605) 939-4829 Cell

1-25-1.1 - Notice of meetings of public bodies (M2)

## Primary Narrative By Christopher Williams, 07/20/23 14:39

On the morning of July 18, 2023, I received a case alleging that the, Piedmont Board of Trustees, failed to post the meeting agenda to the City of Piedmonts website, 24 hours prior to the scheduled June 20, 2023, meeting, pursuant to SDCL: 1-25-1.1.

*South Dakota Codified Law 1-25-1.1. Notice of meeting of political subdivision--Agenda--Violation as misdemeanor.*

*Each 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. A violation of this section is a Class 2 misdemeanor.*

### Ky Gossard

Ky Gossard, a resident of Meade County, provided me with a notarized and signed statement which she drafted, Ky also provided me with a copy of the minutes from the June 20, 2023, Piedmont, Board of Trustees meeting.

For complete details refer to the attached documents. (Gossard Statement, Meeting Minutes).

The following is summation of Ky Gossard's statement:

- The city of Piedmont had a regularly scheduled open city meeting on June 20, 2023 and failed to post the meeting agenda to the City of Piedmonts Website ([www.piedmontsd.com](http://www.piedmontsd.com)) 24 hours prior to the scheduled June

meeting.

- When the city of Piedmont Board was questioned at the open meeting held on June 20th, as to the reason for not posting the agenda to the website the reason cited was due to the Juneteenth Holiday on Monday, June 19, 2023.
- It was noted by a resident of Piedmont that the agenda was posted in the window of Piedmont's City Hall on Monday June 19, 2023.
- Several citizens at the June 20<sup>th</sup> meeting stated that the agenda was not posted to the City of Piedmont's website, and the City of Piedmont Board members agreed that the agenda was not posted and again the reasoning was due to the Juneteenth Holiday.
- Ky stated; The instructions for publications of meeting agendas are defined by the South Dakota Municipal League elected officials' packet on page 9

1. "Prior to any official meeting, a notice including the date, time, and location of the meeting, along with the proposed agenda must be posted in the city hall in a place where it is visible, readable, and accessible to the public for at least an entire, continuous, twenty for hours immediately preceding the meeting. The must also be posted on the municipality's website, if one exists"

- Ky stated, The failure of the City of Piedmont to post the meeting agenda on their website poses hardships to many citizens of the Piedmont area. Piedmont is quite small and for a citizen to enter the downtown area of Piedmont is rare, unless one is needing to go to the Post Office, City Hall or the Library.

- Witnesses to the City of Piedmont's June 20, 2023 meeting, who are available for contact:

1. Kari Kissinger 605-430-9281
2. Todd Gossard 605-381-7992
3. Justin Keffeler 605-490-7948
4. Kerth Swett 605-939-4829

During a conversation with Ky, she expressed concerns with the city of Piedmont, wanting to or discussing the annexation of properties outside of Piedmont City limits and feels the city is trying to hide this from the surrounding property owners who do not want to be annexed into the city limits of Piedmont.

**End**

**Meeting Minutes 10, 12 & 13**

The following is a copy of the minutes from the June 20, 2023 meeting, this information was copied from the city of Piedmonts website, [www.Piedmontsd.com](http://www.Piedmontsd.com) and pasted to this report:

**(10) New Business:** a) In discussion to continue annexation, Aitken said he would like to continue with the annexation, excluding those that were declined by Meade County. Discussed was the next step which would be to continue and not having to start over. The resolution would have to be changed taking out some properties and then having the 2nd Meeting. Aitken then said he thought this was a perfect place to allow Public Comment allowing 3 minutes for each comment.

\*Gina Ortmeyer: Will the process have to start over? No. The Resolution will be amended, and the process will continue. \*Justin Keffler: He stated that the city is claiming protection, but he doesn't see it. Things are still being built. He is against the annexation.

\*Keith Swett: living out of the annexation area now but asking the Board to table indefinitely and look at just annexing the areas with a potential for higher density.

\*Kerry Kissenger: What are we getting out of this annexation? No water near the area. Answer-Library, use of City Streets. A Class C Municipality is not required to have a plan for infrastructure when annexing. The board is elected by the people of Piedmont and need to look out for them. The Apartment house that went in was contrary with the agreement with the city. The County is not stopping such things from coming in and allowing unregulated growth. The

Board of Trustees for Piedmont are trying to keep orderly growth and have no other way. Mackenzie from the RC Journal said she pulled words from Meeting Minutes and had not talked to Mr. Anderson herself. Kissinger does not want to be annexed.

\*Ortmeier: brought up the Cities agreement with Waddel to voluntarily annex when water gets to the area. The attorney explained that the agreement didn't keep from annexing for other reasons. \*Kissenger: Has anyone in the area said they want to annex? Answer-No. \*Aitken brought up that the city is working on starting a consolidated garbage which could save everyone money.

\* Ky Gossard: own property in City limits. Why didn't the city recognize Ag land and ask permission from the County prior to the start of the annexation. The attorney explained that there has to be a Resolution to go to the County, so this was the correct process. Ky continued with asking why Piedmont doesn't do annexations the way that Sturgis does them? Would have to look at Ordinance to see what Sturgis does. Next step would be the 2nd hearing.

**(12) Public Comment:** Keith Swett-Agenda missing from the website.

**(13) Executive Session:** Lee made Motion, Seconded by Parks to go into Executive Session in 5 minutes. All voted "Aye". Motion carried. 7:15 p.m. /Aitken made Motion, Seconded by Lee to come out of Executive Session. All voted "Aye". Motion carried. 7:20 p.m. The people still standing outside were invited to come back in for one more person who came in to talk to the Board.

**End**

**Phil Anderson**

On the morning of July 19, 2023, I contacted Piedmont City Hall and spoke with Phil Anderson, Phil is the president for the Piedmont, Board of Trustees. I explained to Phil why I was calling and asked him if the June 20, 2023, meeting agenda had been posted on line prior to the meeting taking place. Phil told me I do not have the authority as a Deputy Sheriff to enforce this and told me there is not a county ordinance regarding this. I explained to Phil that by having not posted this on their website, this is a violation of a State Law, which I am responsible to enforce and have the authority to do so as a state certified law enforcement officer for the State of South Dakota.

Phil disagreed with me and told me "You are sure fucking things up between the City of Piedmont and the Meade County Sheriff's Office". I told Phil that was not my intention and again asked him if the city had posted this online, Phil told me "Yes" and said he is going to be meeting with the Lieutenant Governor this evening and will make sure he gets involved. Phil also told me to have the Sheriff call him, I told Phil if he would like to visit with the Sheriff, he can call him at the office. Phil told me that I was "really pissing him off", I apologized to Phil and again explained to him, that was not my intention and our conversation ended.

**End**

In reviewing the city of Piedmonts website, I did not see where the agenda had been posted prior to June 20, 2023, meeting.

Pursuant to SDCL: 1-25-6 (3), All information regarding this investigation will be sent to the South Dakota Open Meetings Commission for further action.

**End Report**

Christopher R Williams  
Investigator  
Meade County Sheriff's Office

**Case Forms**

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Primary Narrative 7/20/23 by Christopher Williams  
Attached Document 7/21/23 - Elected Officials Orientation Packet  
Attached Document 7/21/23 - Gossard Statement  
Attached Document 7/21/23 - Meeting Minutes  
Attached Document 7/21/23 - Public Notice SDCL 1-25-1.1

**2022**  
**Elected Officials'**  
**Orientation Packet**

**Trustee Form**

*Provided as a service of the*

**SOUTH DAKOTA MUNICIPAL LEAGUE**

*208 Island Drive  
Ft. Pierre, South Dakota 57532  
1-800-658-3633*

## **What is the South Dakota Municipal League?**

You are receiving this packet of information from the South Dakota Municipal League. Your city or town has joined nearly all of the other cities and towns in South Dakota as a member of the Municipal League. That membership means that the staff of the Municipal League works for you and your municipality. Just as we provided this information to you, we hope to provide you with other services as you become more familiar with us.

Probably our most-used services are our toll-free line, e-mail list serves, and website. Anytime you have any questions about municipal government, give us a call or check us out on line. We will do our best to find you an answer. Our contact information is:

**1-800-658-3633 or [www.sdmunicipalleague.org](http://www.sdmunicipalleague.org)**

We also offer several informational meetings, training workshops, and schools each year.

**District Meetings** are held in the ten Municipal League districts throughout the state. These meetings come to a town near you in March and April each year, and provide an update on the changes made by the Legislature.

**Finance Officers' School** provides training to the people responsible for keeping your municipality's accounting system working and the fiscal picture healthy. This is held in June each year.

**Elected Officials Workshop** offers a one-day seminar for newly elected people and for elected people who want to brush up on the basics. Topics include public meeting laws, ordinances and resolutions, municipal liquor laws, municipal officials and employees, bids and contracts, revenue sources, and budgeting. This is held in July of each year.

**Annual Conference** is where much of the most important work of the Municipal League is taken care of. In addition to informational and training seminars, our affiliate groups meet, the officers of the Municipal League Board of Directors are elected, and the annual legislative policy is adopted. The Annual Conference is held each year in October.

**Municipal Government Day at the Legislature**, held in February each year, is your chance to come to Pierre and meet with your legislators on the pressing municipal issues of the day.

**Welcome to the South Dakota Municipal League.  
Please call or e-mail any time we can be of assistance.**

yvonne@sdmunicipalleague.org (Executive Director)  
sara@sdmunicipalleague.org (Research and Training)  
emilie@sdmunicipalleague.org (Marketing and Communications)  
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dpfeifle.sdpaa@sdmunicipalleague.org (SD Public Assurance Alliance, Executive Director)

# OVERVIEW OF MUNICIPAL GOVERNMENT IN SOUTH DAKOTA

There are 309 incorporated municipalities in South Dakota. They are grouped according to two different factors: Population and form of government.

## **POPULATION:**

There are three classes of municipalities:

**First Class:** Those with populations of 5,000 or over. There are 17 first class municipalities;

**Second Class:** Those with populations between 500 and 5,000. There are 98 second class municipalities;

**Third Class:** Those with populations of 500 or less. There are 194 third class municipalities.

There are some cases where the size of the municipality determines what it may or may not do, but generally laws governing municipal government apply to all municipalities, regardless of size.

## **FORM OF GOVERNMENT:**

There are five forms of government in South Dakota. Your packet includes the details for your municipality's form, but all five are briefly outlined here:

**Trustee Form:** Between three and five board members are elected at-large for three year terms. The Trustees elect one of their own members to serve as the president of the board for a one year term. There are 159 Trustee Municipalities in South Dakota.

**Aldermanic Form:** These municipalities are governed by a common council, which consists of a mayor who is elected at-large and two aldermen from each ward. Terms of office are traditionally two years, but may be set by ordinance for up to five years. There are 128 Aldermanic Municipalities in South Dakota.

**Commissioner Form:** The board of commissioners consists of a mayor and two or four commissioners who are all elected at-large. The terms of office are determined by ordinance, but may not exceed five years. There are 12 Commissioner Municipalities in South Dakota.

**City Manager Form:** These municipalities are either aldermanic or commissioner form, but employ a city manager. In the Aldermanic Form with a City Manager, the mayor and alderman are elected in the same manner as described above. There are three municipalities in South Dakota using this form of government: Brookings, Sturgis and Vermillion. In Commissioner Form municipalities that employ a city manager, the number of commissioners is nine, each elected for a three-year term. There are five municipalities in South Dakota using this form of government: Aberdeen, Brookings, Sturgis, Vermillion and Yankton.

**Home Rule:** There are ten municipalities which have adopted a home rule charter: Aberdeen, Beresford, Brookings, Elk Point, Faith, Fort Pierre, Pierre, Sioux Falls, Springfield, Vermillion, and Watertown. A home rule charter must be adopted by a majority vote of the electors of the municipality. Article IX of the South Dakota Constitution states, "A chartered governmental unit may exercise any legislative power or perform any function not denied by its charter, the Constitution or the general laws of the state. The charter may provide for any form of executive, legislative and administrative structure that shall be of superior authority to statute, provided that the legislative body so established be chosen by popular election and that the administrative procedures be subject to judicial review. Powers and functions of home rule units shall be construed liberally."



# TRUSTEE FORM OF GOVERNMENT

## *Composition and Qualification*

The board of trustees of a third class municipality shall consist of not less than three nor more than five members elected at large. Each shall be a legally qualified voter of the municipality. The number of trustees of a municipality may be increased to five or reduced to three in the manner prescribed by Chapter 9-11. (SDCL 9-7-1)

## *Qualifying for Office*

The members of the board of trustees shall qualify for office within ten days after the first meeting of the month next succeeding the election by filing an oath or affirmation of office. (SDCL 9-13-28, SDCL 3-1-5)

## *Term of Office*

The members of the board of trustees shall hold office for three years and until their successors are elected and qualified. However, at the first election after incorporation, one trustee is elected for one year, one trustee is elected for two years, and one trustee is elected for three years. At subsequent elections each trustee is elected for a term of three years. (SDCL 9-7-3)

## *Vacancies*

When a vacancy exists on a municipal governing body, the remaining members shall appoint a replacement to serve until the next annual municipal election, or the vacancy may be filled by special election as provided in SDCL 9-13-14.2. There are also special provisions available for temporarily filling a vacancy caused by a member of the governing body being called to active duty (SDCL 3-4-8) or in cases where a member is incapacitated by illness or accident. (SDCL 3-4-9)

## *President Elected*

At the first regular meeting after their election, the trustees must elect one of their members to serve as president of the board of trustees. This term of office is for one year. (SDCL 9-7-5)

## *Meetings*

The board shall hold regular meetings at such times as may be provided by ordinance. Special meetings of the board may be held at any time upon call of the president or clerk by oral or written notice to the members present within the municipality. (SDCL 9-7-6) A majority of the members of the board shall constitute a quorum, but no act of the board shall be effective unless assented to by a majority of the members. (SDCL 9-7-7)

No official may participate in discussing or vote on any issue in which they have a direct pecuniary interest. (SDCL 6-1-17)

## **MUNICIPAL POWERS**

Municipalities have many powers listed in South Dakota law. The following are some of the more general and commonly used powers. There are many, many more powers and conditions than those listed here. For more details, refer to the *SDML Handbook for South Dakota Municipal Officials* and to South Dakota Codified Laws.

It is extremely important to keep in mind that although a municipality has many powers, there are almost always conditions and restrictions on the use of those powers. While this section will present a broad overview of powers a municipality may have, a much longer format would be needed to determine the legal use of these powers.

Municipal government is primarily governed by the provisions of Title 9 of South Dakota Codified Law, but several other chapters of law apply to municipalities.

### ***Powers of Finance***

1. Every municipality may control its finances and property; levy and collect taxes for general and special purposes on real property within the limits allowed by law; appropriate money for authorized purposes and provide for the payment of the debts and expenses of the municipality (SDCL 9-12-2).
2. All municipalities are allowed to levy a number of special assessments (SDCL 9-21-15; 9-41-3; 9-21-17; 9-43-76).
3. Every municipality has the power to borrow money for authorized purposes within the constitutional limitations for municipal indebtedness and to issue its bonds under specified conditions, and after proper authorization (SDCL 6-8B).

### ***Powers as a Legal Corporation***

1. Every municipality has the power to sue and be sued (SDCL 9-12-1).
2. Every municipality is authorized to acquire by lease, purchase, gift, condemnation or other lawful means, real and personal property, easements, and rights of way within or without its corporate limits (SDCL 9-12-1).
3. Municipalities may lease, sell, give and convey any personal or real property of the municipality, by resolution of the governing body, to the state or any public corporation to be used for any authorized public purpose (SDCL 9-12-5).
4. Municipalities may sell, trade, destroy, or otherwise dispose of any land, structures, supplies, equipment, or other property which the governing board has, by appropriate motion, determined is no longer necessary, useful, or suitable for the purpose for which it was acquired (SDCL 6-13-1). The procedures for disposing of surplus property are outlined in SDCL 6-13.

### ***Power to Maintain Facilities***

1. Every municipality has the power to construct, operate, and maintain an auditorium and all necessary public buildings (SDCL 9-12-1).
2. Every municipality has the power to establish, maintain, and regulate its own jail or to use the county jail if the board of county commissioners gives its consent (SDCL 9-29-24).
3. Every municipality has the power to construct, operate, and maintain any light, heat, and power facilities; to purchase electric current from outside the municipality; and to sell municipally generated electric current and maintain transmission lines for such purposes outside the municipality (SDCL 9-39-1). Any municipal corporation may enter into an agreement with other governmental units for the joint or cooperative use of electrical facilities or any other joint project, which is within the scope of the municipal corporation (SDCL 9-39-2).
4. Every municipality has the power to construct, acquire, operate, maintain, and regulate a system of waterworks and other necessary facilities, to dispose of surplus water to districts, subdivisions, and areas outside the municipality, and to assess, levy, and collect taxes and special assessments for such purposes, and may appropriate funds and levy taxes to accumulate funds for such purposes (SDCL 9-47-1).

5. Every municipality has the power to acquire, establish, construct and maintain main, trunk, sanitary, storm, and service sewers and septic or sewage treatment plants, drains, and manholes; and to establish tension or connection of the main sewer to all benefited property within the sewer district (SDCL 9-48-2).
6. Every municipality can establish, improve, maintain, and regulate public parks, public squares, parkways, boulevards, swimming pools, and other facilities (SDCL 9-38-1).
7. Every municipality can exercise powers as to airports and landing fields for aircraft as provided in Title 50 (SDCL 9-12-14).
8. Every municipality can establish and maintain a municipal library subject to the provision in chapter 14-2 (SDCL 9-12-15).
9. Every municipality has power to establish, maintain, and operate golf courses, tennis courts, ball grounds, and other athletic amusements, and necessary facilities as a part of its park system, and charge fees for their use. All fees and any other money received for use of the board including tax revenues appropriated for park purposes, shall be kept in a special park fund and shall be paid upon requisition by the president and secretary of the board and warrant drawn and executed as other warrants (SDCL 9-38-6).
10. Every municipality has power to install and regulate parking meters on municipal streets and properties, to collect regulatory parking fees, and to use the proceeds for traffic regulation and other traffic-connected purposes (SDCL 9-31-5).
11. Every municipality has the power to acquire, improve, equip, operate, maintain, and regulate parking lots and areas for the off-street parking of vehicles, to fix and collect parking fees for this service, to issue its revenue bonds for such purposes payable solely from the parking lot and on-street and off-street parking meter revenues, and to issue its general obligation bonds for payment as authorized by statute (SDCL 9-51-5).
12. Every municipality has the power to collect, dispose of, and regulate the manner of handling garbage and other waste material (SDCL 9-32-10; 9-32-11).
13. Every municipality can enter into contracts for the furnishing of fire-fighting equipment and protection for the municipality (SDCL 34-31-4).

***Power to Adopt Ordinances***

1. Every municipality has the power to enact, make, amend, revise, or repeal all ordinances, resolutions, and regulations which are proper and necessary for the powers granted, and provide for the punishment of each violation by a fine not exceeding five hundred dollars or by imprisonment not exceeding thirty days or by both (SDCL 9-19-3).

***Police Powers***

1. Every municipality has the power to regulate the municipal police and to pass and enforce all necessary police ordinances (SDCL 9-29-2).
2. Every municipality has the power to exercise jurisdiction for authorized purposes over all municipal territory, whether within or without its corporate limits, for the purpose of promoting the health, safety, morals, and general welfare of the community. The territorial jurisdiction is within one mile of the corporate limits or of any public ground or park belonging to the municipality outside the corporate limits (SDCL 9-29-1).
3. Every municipality has the power to preserve the peace, to prevent disorderly conduct, and to prevent and suppress riots, affrays, noises, disturbances, and disorderly assemblies (SDCL 9-29-3).
4. Every municipality has the power to regulate the practice of begging (SDCL 9-29-10).
5. Every municipality may prohibit or regulate the transaction of business in alcoholic beverages and the use and consumption of alcoholic beverages. South Dakota Codified Law Chapter 35 contains the legal provision regarding alcoholic beverages.

6. Every municipality may regulate the use of motor vehicles, bicycles, house cars, house trailers, trailer coaches, traction engines, tractors and road rollers (SDCL 9-31-1). Every municipality has the power to regulate traffic and sales upon the streets, sidewalks, and in public places (SDCL 9-30-4). Every municipality has the power to regulate and prohibit the use of streets, sidewalks, and public grounds for signs, sign posts, awnings, flying of flags or banners, posting bills and advertisements, the exhibition or carrying of banners, placards, or advertisements, and the distribution of handbills (SDCL 9-30-3). Every municipality has the power to regulate the use of sidewalks, streets, alleys, wharfs, parks, and public places with regard to usage and maintenance (SDCL 9-30-2). Every municipality has the power to designate and require the use of routes of travel of municipal streets and highways for commercial motor carriers, trucks, and busses; However, the provision for permission to deviate from the designated routes to reach a necessary destination must be authorized (SDCL 9-31-2).
7. Every municipality has the power to require the owner of abutting property to remove ice, snow, and refuse from sidewalks, and weeds from parking areas, and to provide for their removal and payment by special assessment against the property involved (SDCL 9-30-5).
8. Every municipality can declare what constitutes a nuisance and prevent, abate, and remove the same. A municipality may obtain a judgment through civil action against the owner or occupant of the real property on which a public nuisance has occurred for the cost of abating a public nuisance (SDCL 9-29-13; 21-10-6).
9. Every municipality has the power to prevent the pollution or injury to any public water supply within one mile of the municipal limits (SDCL 9-32-8; 9-32-10).
10. Every municipality has the power to regulate or prohibit the running at large of dogs, animals, and poultry, to establish pounds, appoint pound-masters, regulate the impounding of animals, to impose a tax or license on dogs running at large and to prohibit and punish cruelty to animals (SDCL 9-29-12; 9-29-11).
11. Every municipality has the power to provide for the regulation and inspection of amusement places. Proper aisles and exits for escape from amusement places in the case of fire may be required (SDCL 9-33-7). Every municipality has the power to prescribe the fire limits with respect to the erection or repair of wooden buildings, and to provide that building damaged to the extent of fifty per cent of their value must be removed (SDCL 9-33-2). Every municipality has the power to authorize officers to examine all types of buildings during reasonable hours to ascertain whether such are in dangerous condition, and to provide for remedying such conditions (SDCL 9-33-6). Every municipality has the power to prescribe the manner of constructing buildings, and to require and regulate the construction of fire escapes (SDCL 9-33-4). Every municipality has the power to prevent and provide for remedying any dangerous construction, equipment, or manufacturing process, and to prevent the depositing of ashes or refuse in unsafe places. All such places may be required to be kept in a safe condition (SDCL 9-33-9, 9-33-10). Every municipality has the power to regulate the construction, installation, and inspection of electrical wiring and appliances, as well as gas piping, fittings, and appliances. Municipalities can also provide that fees may be collected for such inspection. The exercise of these powers, however, does not affect the liability of any public utility furnishing gas or electricity (SDCL 9-33-5).
12. Every municipality has the power to authorize a 911 Emergency Reporting System (SDCL ch. 34-35).

***Power to License and Regulate***

1. Every municipality has the power to fix the amount, terms, and manner of issuing and revoking licenses (SDCL 9-34-1).
2. Every municipality has the power to tax, license, and regulate secondhand and junk stores (SDCL 9-34-9); auctioneers, auction stores, transient merchants, gift enterprises, and similar businesses (SDCL 9-34-7); dray men, parcel delivery men, bus drivers, cab men, taxi drivers, porters, express men, and others pursuing like occupations (SDCL 9-34-10). Every municipality has the power to provide for the licensing and numbering of motor drays, motor delivery wagons, motor tractors, and motor trucks (SDCL 9-34-11). Every municipality has the power to license, tax, regulate, or prohibit palmists, clairvoyants, phrenologists, mind readers, fortune tellers, and fakirs (SDCL 9-34-16); pool and billiard halls and bowling alleys (SDCL 9-34-14); hawkers, peddlers, pawn brokers, ticket scalpers, and employment agencies (SDCL 9-34-8).

3. Every municipality has the power to license, tax, and regulate exhibitions, shows, and amusements (SDCL 9-34-13). Every municipality has the power to license, tax, regulate, or prohibit public dances, public dance halls, and skating rinks (SDCL 9-34-15).
4. Every municipality has the power to regulate and provide for the lighting of streets, laying of gas pipes, erection of lamp posts, and electric towers; to fix and determine the price, and to regulate the sale, use, and service connections of gas, electric light, and power services; to regulate or prohibit the installation of utility equipment within the municipality; and to grant the rights and franchises for such purposes and to regulate them (SDCL 9-35-1). Every municipality has the power to regulate openings in streets or alleys for utility installations (SDCL 9-30-1). Every municipality has the power to regulate and provide for the laying of water and sewer connections to the lot line and to assess the costs as special assessments (AGR 1965-66, pp. 26, 27; AGR November 25, 1964). Every municipality has the power to regulate and supervise the construction, repair, and use of vaults, cisterns, hydrants, pumps, sewers, and gutters (SDCL 9-32-9). Every municipality has the power to provide for the specification of improvements, openings, and connections with regard to viaducts, street lighting equipment, and the grade of roads, streets, alleys, sidewalks, and public grounds (SDCL 9-45-1). Every municipality has the power to provide for, and regulate, crosswalks, curbs, gutters, and drains (SDCL 9-45-5).
5. Every municipality has the power to examine and require health certificates for persons who conduct or operate eating and drinking places, and for those who operate any retail or wholesale business where food and drinkable products are prepared or offered for sale to the public (SDCL 9-32-4). Every municipality has the power to regulate the practice of tattooing, and body piercing (SDCL 9-34-17; 34-1-17). Every municipality has the power to regulate day care centers (SDCL 9-29-2).
6. Every municipality has the power to license, regulate, and prescribe just and reasonable rates and charges, fix the travel routes, speed, and point for stops of all motor carriers of passengers, operators of taxicabs, and motor buses operating in such municipality or in a zone adjacent thereto not part of another municipality and not to exceed two miles around the municipal boundaries. If such transportation service is rendered between adjoining municipalities, the governing body of each municipality may fix the rates and charges for intercity service by concurrent action (SDCL 9-35-11). Transportation network companies may also be regulated (SDCL 32-40-23)
7. Every municipality has the power to name and change the name of any street, avenue, alley, or other public place and to regulate the numbering of houses and lots (SDCL 9-45-2).

***Joint Exercise of Governmental Powers***

Municipalities, counties, townships, school districts, water conservancy sub-districts, and drainage districts can jointly exercise any power, privilege, or authority except the power to tax with any other public agency of the state (SDCL 1-24-2).

To enter into joint action or cooperation, appropriate action must be taken in the form of resolution, ordinance or other means pursuant to the law by all parties involved (SDCL 1-24-3). The agreement must specify the following:

1. The duration of the joint action;
2. The precise organization, composition, and nature of any separate legal or administrative entity created by the agreement;
3. The purpose of the agreement;
4. The manner of financing the joint action as well as establishing and maintaining a budget for the joint action;
5. The permissible method or methods to be used in accomplishing the partial or complete termination of the agreement;
6. Any other necessary and proper matter (SDCL 1-24-4).

The agreements do not relieve any public agency from any obligation or responsibility imposed upon the public agency by law (SDCL 1-24-9).

Two or more political subdivisions may establish a joint entity for economic development purposes or to provide greater efficiency or improved services among the participating political subdivisions. Such joint agencies may not levy taxes, but may borrow funds to finance the purchase of property or the construction of facilities. The joint entity's governing body must be comprised of elected officials from the participating governing bodies and all financing decisions will require more than a 60% vote of the governing body's members (SDCL 1-24-19).

## ORDINANCES AND RESOLUTIONS

Municipalities may enact, make, amend, revise, or repeal all such ordinances, resolutions, and regulations as may be proper and necessary to carry into effect the powers granted thereto (SDCL 9-19-3).

The word "ordinance" means a permanent legislative act within the limits of its powers of the governing body of a municipality (SDCL 9-19-1).

A resolution, on the other hand, means any determination, decision, or direction of the governing body of a municipality of a temporary or special character for the purpose of initiating, effecting, or carrying out its administrative duties and functions (SDCL 9-19-1). In the case of State ex rel. Wagner v. Summers, 33 S.D. 40, 54, 144 N.W. 730, 734 (1913) the Court ruled that the terms "resolution" and "motion" are practically synonymous.

Ordinances must be in the following style:

"An ordinance \_\_\_\_\_ (insert title)

Be it ordained by the (city or town) of \_\_\_\_\_ (insert the name of the municipality) The substance of the ordinance follows (SDCL 9-19-6).

Ordinances can only have one subject, which must be expressed in its title (SDCL 9-19-5). The formalities of style, reading, publication, and the effective date of ordinances are not applicable to resolutions (City of Brookings v. Martinson, 1933, 61 SD 168, 246 NW 916).

Municipalities are authorized to provide for the punishment of each violation of an ordinance, resolution or regulation with a fine not exceeding five hundred dollars or by imprisonment not exceeding thirty days or by both such fine and imprisonment (SDCL 9-19-3).

All ordinances shall be read twice by title with at least five days between each reading. If passed, the ordinances shall be signed by the mayor or acting mayor or president of the board of trustees, and filed with the finance officer. With few exceptions, ordinances, after being signed and filed, must be published at least once in the official newspaper (SDCL 9-19-7). The vote on the second reading of all ordinances must be recorded and published (SDCL 9-19-9). If a substantive amendment is proposed at the second reading, the proposed ordinance as amended may not be considered for final action until at least five days after a duly noticed public hearing. (SDCL 9-19-7.1)

Resolutions differ from ordinances in that any resolution may be passed after only one reading. The resolution must be published at length either separately or in the minutes of the meeting. The votes for and against the resolution must also be published (SDCL 9-19-8).

Unless an ordinance or resolution is drawn to take effect immediately upon passage, all ordinances and resolutions become effective on the twentieth day after passage and publication, unless suspended by operation of a referendum (SDCL 9-19-13).

Voters have the right to propose their own ordinances through the initiative process, or to refer any legislative decision of the governing body through the referendum process. More information on these processes can be found in the *SDML Handbook for South Dakota Municipal Officials* or in SDCL 9-20.

## **OPEN MEETINGS LAWS**

The open meeting law is contained in SDCL chapter 1-25. Municipalities are required to hold open meetings. (SDCL 1-25-1) This includes any association, authority, board, commission, committee, council, or task force which is created or appointed by statute, ordinance, or resolution and is vested with the authority to exercise any sovereign power derived from state law. (SDCL 1-25-12)

An official meeting is defined as any meeting of a quorum of a public body at which official business or public policy of that public body is discussed or decided by the public body, whether in person or by means of teleconference. (SDCL 1-25-12)

Prior to any official meeting, a notice including the date, time, and location of the meeting, along with the proposed agenda must be posted in city hall in a place where it is visible, readable, and accessible to the public for at least an entire, continuous, twenty-four hours immediately preceding the meeting. This must also be posted on the municipality's website, if one exists. (SDCL 1-25-1.1)

It is not an official meeting of one public body if its members provide information or attend the official meeting of another public body for which the notice requirements have been met, nor if the members of a public body attend a press conference called by a representative of the public body. (SDCL 1-25-1)

For any event hosted by a nongovernmental entity to which a quorum of the public body is invited and public policy may be discussed, but the public body does not control the agenda, the political subdivision may post a public notice of a quorum, containing at a minimum the date, time, and location of the event, in lieu of an agenda. (SDCL 1-25-1)

The public body shall reserve at every regularly scheduled official meeting a period for public comment, limited at the public body's discretion, but not so limited as to provide for no public comment. At a minimum, public comment shall be allowed at regularly scheduled official meetings which are designated as regular meetings by statute, rule or ordinance. Public comment is not required at official meetings held solely for the purpose of an inauguration, swearing in of newly elected officials, or presentation of an annual report to the governing body regardless of whether or not such activity takes place at the time and place usually reserved for a regularly scheduled meeting. (SDCL 1-25-1)

When an entity is appointed by the governing body but does not meet the definition of an entity required to hold an open meeting, any report to the governing body must be given to the governing body in an open meeting. The governing body shall delay taking any official action on the recommendations, findings, or reports until the next meeting of the governing body. (SDCL 1-27-1.18)

For special or rescheduled meetings, all bodies shall also comply with the public notice provisions of this section for regular meetings to the extent that circumstances permit. In addition, information in the notice must be given, in person, by mail, e-mail, or by telephone to members of the local news media who have requested notice. (SDCL 1-25-1.1)

No public body may prevent a person from recording through audio or video technology, an official meeting as long as the recording is reasonable, obvious, and not disruptive. This does not apply to meetings closed to the public pursuant to specific law. (SDCL 1-25-11)

Municipalities are authorized to hold executive or closed meetings for specific purposes. The reasons are:

1. The elected officials may discuss the qualifications, competence, performance, character or fitness of any officer or employee including prospective officers or employees. Contractors are not included in the term officer or employee.
2. Elected school officials may discuss the expulsion, suspension, discipline, assignment of or the educational program of a student;
3. The elected officials may consult with their attorney or receive communication from their attorney about proposed or pending law suits or contract problems.
4. The elected officials may prepare for labor negotiations with the municipality's employees.
5. The elected officials may discuss marketing or pricing strategies of a business owned by the municipality (electric, liquor, telephone, etc.) if public discussion may be harmful to the competitive position of the business. This includes utility boards.
6. Discussing information listed in SDCL 1-27-1.5(8) and 1-27-1.5(17) (in general, these are security-related items. (SDCL 1-25-2)

In addition, when a municipality, county or an economic development corporation receiving municipal funds is considering furnishing assistance to a business and has made or received material or data consisting of trade secrets or commercial or financial information regarding the operation of that business, such discussion or consideration may be done in executive session closed to the public. (SDCL 9-34-19)

In order to go into executive or closed meeting a majority vote of the governing body is required. The matters discussed during the executive or closed meeting are restricted to the purposes specified in the motion to go into executive or closed session. (SDCL 1-25-2)

No official actions (votes) may be taken in an executive or closed meeting. (SDCL 1-25-2)

A violation of the open meeting law is a Class 2 misdemeanor. If you have any questions about the law, please contact your city attorney. When in doubt, keep the meeting open.

## **OPEN RECORDS**

The governing body of each municipality must publish the full accounts of its meetings. The publication is to appear in the official newspaper of the municipality, or if there is no official newspaper, any legal newspaper which serves the municipality. The proceedings must be published within twelve business days after each meeting (SDCL 9-18-1). The publication must include a detailed statement of all expenditures of money, showing the names of all persons who received payment as well as the service provided (SDCL 9-19-1). It is further required that the finance officer deliver a copy of the proceedings to be published in the official newspaper within five business days after the meeting (SDCL 9-18-1.1).

If a meeting is required to be open to the public, and if any printed material relating to an agenda item of the meeting is distributed before the meeting to all members of the governing body, the material shall either be posted on the governing body's website or made available at city hall at least twenty-four hours prior to the meeting or at the time the material is distributed to the governing body, whichever is later. If the material is not posted to the governing body's website, at least one copy of the printed material shall be available in the meeting room for inspection by any person while the governing body is considering the printed material. These requirements do not apply to materials exempt from disclosure or to printed material or records related to an agenda item of an executive or closed meeting (SDCL 1-27-1.16).

The law requires every municipal officer to keep a record of the official acts and proceedings of his office. These records must be open for public inspection during business hours under reasonable restrictions (SDCL 9-



18-2). Provisions for requesting records, allowable charges, procedures for denial of a record and procedure to appeal a denial are all spelled out in state law (SDCL 1-27-34 to 1-27-44).

Documentary material or data which consists of trade secrets or commercial or financial information made or received by a municipality or an economic development corporation receiving municipal funds for the purpose of furnishing assistance to a business is not a public record (SDCL 9-34-19).

Patient information identifying the patient's name, address, diagnosis, or treatment received by an ambulance is not a public record and is confidential (SDCL 34-11-5.1).

## **RULES OF ORDER**

This is not a complete reference to cover every situation in a meeting. The intent is merely to present some of the basic principals involved in parliamentary procedure and municipal officials should be advised to have access to some manual on parliamentary procedure in order to answer particular questions as they arise during the meeting.

Fundamentally, under the rules of parliamentary procedure, a deliberative body is a free agent - free to do what it wants to do with the greatest measure of protection to itself and of consideration for the rights of its members.

Before examining the more important points of parliamentary procedure, it is necessary to establish a format for conducting the meeting. The customary order of business and an explanation of each area is as follows:

### 1) Call to Order

Since statute requires that no business can be conducted by a governing body unless a quorum is present, it would be useless to call the meeting to order without a quorum (SDCL 9-7-7, 9-8-8, and 9-9-14). These statutes define a quorum to be a majority of the members of the governing body irrespective of whether the governing body is the town board of trustees, the city council, or the city commission.

After determining if a quorum is present, and when it is time for the meeting to begin, the mayor, acting mayor or president of the board of trustees calls the meeting to order by saying, "The Council (Board or Commission) will come to order.

### 2) Calling the Roll

Statute requires the finance officer to record and publish the proceedings of the governing body (SDCL 9-14-17). The rules established by a governing body may require the finance officer to call the roll. The presiding officer begins the roll call by saying "The finance officer will call the roll." The finance officer then reads the names of the members in alphabetical order and records their absence or presence accordingly. It is customary to place the presiding officer at the end of the roll call. It is also customary for the finance officer to report the number of members present and absent in the following manner: "(Mr.)(Madam) Mayor (or (Mr.)(Madam) President) all members are present," or "(Mr.)(Madam) Mayor (or (Mr.)(Madam) President) there are \_\_\_\_ members present and \_\_\_\_ members absent."

### 3) Reading the Minutes

After the call to order and the roll call, the presiding officer then directs the finance officer to read the minutes of the last meeting by saying, "The finance officer will read the minutes of the last meeting." The minutes are then read. If there has been a special meeting of the governing body since the last preceding regular meeting, the finance officer should read the minutes of the last regular meeting and then read the minutes of the special meeting.

The presiding officer should then ask, "Are there any additions or corrections to the minutes?" If there are no additions or corrections, the presiding officer should then declare, "The minutes stand approved as read." If there are any additions or corrections, before proceeding any further, the presiding officer should ask, "Are there any further additions or corrections to the minutes." If there are no further additions or corrections, the presiding officer may then add, "The minutes stand approved as corrected." If there are any additions or corrections to the minutes, the auditor or clerk should note the corrections in the minutes for the current meeting.

The rules may provide that the finance officer furnish each member of the governing body with a copy of the minutes before the next regular meeting. If this is the case, then the minutes are usually not read and the presiding officer may simply request corrections to the minutes.

The minutes serve the function of being the permanent record of the proceedings of the governing body and are therefore, the source document concerning all business discussed and actions taken by the governing body. As such, the minutes should give a complete and objective account of what happened at a particular meeting. This does not ordinarily mean that actual discussion should be summarized and included in the minutes. It does mean that every main motion whether adopted or rejected should be recorded along with the name of the maker, the seconder, the results of any action and usually the members who voted in favor and the members who voted against the motion.

4) Committee Report - Reports of City Officers

If a municipality has any standing or special committees their reports or findings are usually presented after the minutes have been read and approved. The reports of the municipal officers and the various boards should also be presented at this time.

5) Notices and Communications

The petitions for initiated or referred ordinances are, as a matter of custom, presented after the reports of the city officers or boards. Also any memorials, proclamations or other communications, such as notice of pending civil action, should be presented at this time.

6) Presentation of Claims and Authorization of Warrant Issuance

Claims against the municipality, such as payments due on contracts or bonds or anything which in general constitutes an indebtedness of the municipality, should be presented before consideration of unfinished or new business as a matter of courtesy.

7) Unfinished Business

Since there are usually several items before a governing body which are held over from the previous meeting, it is customary to give consideration to these matters before introducing new business.

8) New Business

Ordinances and resolutions should be introduced and given consideration under new business at the initial reading of the ordinance or resolution. At subsequent meetings it would be permissible to continue discussion on the ordinance or resolution and treat it either as old or new business.

9) Adjournment

After considering all of the business before it, or in most instances the major share of it, the governing body adjourns the meeting.

There is nothing which requires the meeting to be conducted exactly in the manner prescribed above. The rules can be suspended and consideration can be given to an item on the agenda which does not follow according to the format which was presented here. In many instances circumstances will arise which necessitates giving

consideration to one item on the agenda before other items should be considered. However, discretion should be used when changing the order of business, and meetings should be conducted in generally the same form as presented above.

In many instances, the governing body will find it advisable to refer to a standard document on parliamentary procedures in order to determine the proper order of business and other matters relating to parliamentary procedure in general. Questions often arise as to whether or not for example, a motion is debatable, or requires a second, and which motions take "precedence" over other motions. In many cases, depending upon which standard rules, and even which edition of the same rules, on parliamentary procedure is used to govern the proceedings of the meeting, the answers to specific questions about certain motions, will vary. Should any problems arise concerning a particular motion, municipal officials should refer to the standard work on parliamentary procedure which has been accepted by the governing body.

However, there are some procedures which are accepted in all of the major works on parliamentary procedure. The steps to be followed in making most motions are followed with an explanation of each step.

#### THE MAKER

##### **1) Addresses the Chair**

The "chair" refers to the presiding officer of the meeting. The rules may require that a member, previous to speaking, shall rise. The member should address the chair as "Mr. Mayor (Mr. President)."

##### **2) Waits for Recognition**

##### **3) Makes the Motion**

Motions constitute a formal procedure for taking action. They are used in adopting or amending ordinances or resolutions. Usually motions are not required to be submitted in writing, but are written down for the record by the finance officer at the time the motion is made. Motions should be made in a form similar to "Mr. Mayor (Mr. President), I move that \_\_\_\_\_."

#### THE SECONDER

##### **4) Seconds the Motion**

Seconding the motion, when required, should be made in the following manner, "Mr. Mayor (Mr. President), I second the motion."

#### THE PRESIDING OFFICER

##### **5) States the Motion**

After a motion has been made and seconded, the presiding officer should restate the motion by saying, "It has been moved and seconded that \_\_\_\_\_."

##### **6) Calls for Debate**

The presiding officer should then, if the motion is debatable, ask if there "Are there any remarks?" or "The floor is now open for debate."

##### **7) Calls for a Vote**

After the discussion has ended, the presiding officer can call for a vote on the motion by saying, "The question is \_\_\_\_\_ (restate the motion) \_\_\_\_\_, all those in favor say 'aye', all opposed say 'nay'." The minutes shall record the names of each person voting 'aye' and each person voting 'nay'.

##### **8) Takes the Vote**

**9) Declares the Result**

Immediately after the vote is taken the presiding officer should declare the result by saying, "The ayes have it and the motion is carried," or "The nays have it and the motion is defeated."

**FINANCES AND BUDGETING**

The municipal fiscal year begins January first (SDCL 9-21-1). Except in the City Manager form of government, the finance officer is required to report to the governing body annually, on or before the first day of September, an estimate of the expenses of the municipality and the revenue necessary to be raised for the current year (SDCL 9-22-23).

In preparing the annual estimate of expenses, the finance officer may include in the budget a line item for contingencies. It cannot exceed five percent of the total budget. Expenses cannot be charged to this item, but by resolution, funds can be transferred out where needed (SDCL 9-21-6.1).

To aid the finance officer in preparing the annual report, the various boards and commissions (for example, the park or library board) are required to submit an annual report estimating the expenses to be incurred for the ensuing fiscal year.

Not later than the first regular meeting of the governing body in September, or within ten days thereafter, the annual appropriation ordinance for the ensuing year must be introduced. This ordinance is to appropriate such sums of money as may be deemed necessary to meet the lawful expenses and liabilities of the municipality (SDCL 9-21-2).

The appropriation ordinance must specify the function and sub-functions for which the appropriations are made and the amount appropriated for each (SDCL 9-21-2).

Neither the governing body nor any department can expend any sum in excess of the amount appropriated for any purpose within the department. An exception to this is that any funds made available by state, county, or federal grants after the final appropriation ordinance is adopted by the municipality may be expended without specific provision in the appropriations ordinance. However, the municipality must publish the purpose for the expenditure and to whom the expenditure was made (SDCL 9-21-9; 9-21-9.1).

The annual appropriation ordinance is also required to contain the annual tax levy, which cannot exceed the limitations established by law. The annual appropriation ordinance must "apportion among the various funds provided for there in the amount to be applied upon each fund. It shall also specify the amount levied to pay the interest on each outstanding bond issue, and the amount levied for the purpose of each sinking fund established to pay the principal of each series of bonds when matured" (SDCL 9-21-19).

Appropriation ordinances must be approved by a roll call vote and require a majority vote of the aldermen, trustees, or members of the board of commissioners. In the aldermanic form, the mayor may not break a tie on the appropriation ordinance. (SDCL 9-8-10; 9-7-7; 9-9-16) The mayor under the aldermanic form of government can veto any part or item of an appropriation ordinance. (SDCL 9-8-3; 9-19-10) Upon passage, the appropriation ordinance must be published in the same manner as all other ordinances.

Immediately upon passage and publication of the annual appropriation ordinance the finance officer must certify the tax levies therein made to the county auditor in the following form:

For general purposes: \_\_\_\_\_

For interest and debt service fund: \_\_\_\_\_ (SDCL 9-21-20).

All tax levies must be certified to the county auditor on or before the first day of October of each year (SDCL 10-12-7).

In the event that the annual appropriation ordinance does not provide sufficient revenues to enable the municipality to conduct the indispensable functions of government in any department or to discharge any duty which is the lawful duty of the municipality to discharge, the governing body can make, approve and adopt a supplemental appropriation ordinance. This supplemental appropriation ordinance must spell out in detail each item for which the appropriation is made and the amount. The adoption of a supplemental appropriation ordinance is governed by the same laws pertaining to the adoption of the annual appropriation ordinance (SDCL 9-21-7).

No other appropriations can be made except as provided in the annual appropriation ordinance or in supplemental appropriation ordinances (SDCL 9-21-8).

## REVENUE SOURCES

The following is a brief list of the more common revenue sources available to municipalities. It is not a comprehensive list of every possible source of revenue.

- Property Taxes (South Dakota Codified Law, Title 10).
- Municipal Bonds (SDCL 6-8B; Title 9).
- Special Assessments. A special kind of tax which can be used to finance improvements (SDCL 9-43).
- County General Road Levy. Paid by the county to the municipality for bridge and street purposes within the municipality (SDCL 10-12-9(4)).
- County Highway and Bridge Reserve Fund. Twenty-five percent of the funds collected from within municipalities by the county from the special levy for the county highway and bridge reserve fund is returned to the municipalities for the purposes of matching federal aid grants. The reserve fund is earmarked for bridge and street purposes. A discretionary amount may be imposed by the board of county commissioners (SDCL 10-12-13, 10-12-14).
- Fire Insurance Taxation. Each fire department having not less than fifteen members and a pumper housed in a heated building, and having filed the proper forms with the state Department of Commerce and Regulation, is eligible to receive funds from the fire insurance premiums tax. The funds are sent from the state auditor to the county commissioners, who pro rate the funds according to population and assessed valuation to all fire departments servicing the county. The money is sent directly to the fire department, not to the municipality (SDCL 10-44-9.1, 10-44-9.2).
- Franchise Tax on Banks. The state retains 26 and 2/3 percent of this tax, then on or before February 1, the remainder is distributed to the respective county treasurers where the financial institutions which paid the tax are located. The county treasurers apportion and distribute the funds among the taxing subdivisions, including the county, by formula. Banks organized under SDCL 51-16-40, or "credit card banks," pay the same tax rate as other banks, but the state retains 95% of their taxes. The remaining 5% is distributed in the same manner as the rest of the bank franchise tax.
- Liquor Tax and Licenses. Twenty-five percent of all the revenues deposited in the liquor beverage fund shall revert to the municipalities. The share is paid to municipalities on a population ratio basis no later than the first of February, May, August and November (SDCL 35-5-22).
- Motor Vehicle License Fees. Five percent of the funds collected by the county for motor vehicle licenses are given to the municipalities in proportion to the total street mileage of each municipality as it bears to the total street mileage of all municipalities within the county (SDCL 32-11-4.1). In addition, fifty-four percent of all funds collected for motor vehicle licenses in each county shall be transmitted to the local government highway and bridge fund. Each county, municipality, and township will receive a portion of the fund for the purpose of constructing and maintaining highways, streets, and bridges on their highway and street systems. The money will be appropriated to the local government highway and bridge fund by the fifteenth of each January, May, July, and October (SDCL 32-11-4.1, 32-11-32 through 32-11-35).

- Wheel Tax. Municipalities and counties have the authority to impose by ordinance a wheel tax on all motor vehicles (SDCL 32-5-106 and 32-5A-1). The only practical way for municipalities to implement this tax would be for the municipality and county to enter into a joint powers agreement and have the tax collected when the state license plate fee is collected. County wheel tax must be distributed among the county, the municipalities, and the townships within the county (SDCL 32-5A-2).
- Video Lottery Machines. If a person holds an alcoholic beverage license and is issued a video lottery establishment license, the municipality issuing the alcohol license may charge a fee not to exceed \$50 per year per video lottery machine. The proceeds from the fee are to be deposited in the general fund. The fee is in addition to any alcoholic beverage licensing fee or video lottery establishment license fee. The municipality may not impose this additional fee on more than one license per location.
- Municipal Sales Tax. Any incorporated municipality may impose a municipal sales tax in accordance with the provisions of SDCL 10-52. This tax can be enacted by ordinance, and therefore is referable (SDCL 10-52-2, 10-52-3). Municipalities may enact or amend a municipal tax ordinance only twice a year. The effective date must fall on either January first or July first. The municipality must notify the Department of Revenue of the ordinance at least ninety days prior to the effective date. If the tax ordinance is referred, the effective date cannot be less than ninety days following voter approval (SDCL 10-52-9). Certain items must be exempted from the municipal sales tax. Please see the *SDML Handbook for South Dakota Municipal Officials*, South Dakota Codified Law SDCL 10-52, or call the Municipal League office for more details.

The first two cents of municipal sales tax may be used for any lawful purpose. Municipalities may also impose a one percent tax commonly called the “bed, booze, and board” tax. Money raised by this tax may only be used for land acquisition, architectural fees, construction costs, payments for civic center, auditorium or athletic facility buildings, including the maintenance, staffing and operation of such facilities and the promotion and advertising of the municipality.

- Municipal Excise Tax. Any municipality which has not enacted a municipal sales tax may impose an excise tax on contractors gross receipts at a rate not to exceed one-half percent (SDCL 10-46A-11, 10-46B-9).
- Municipal Motor Vehicle Fuel Tax. A second or third class municipality may levy a tax on the sale or use of motor and special fuel by motor vehicles operated upon public streets and highways. This tax may not exceed the rate of one percent per gallon (SDCL 10-52-2.2). A municipality may not impose both a municipal sales tax and a tax on fuel (SDCL 10-52-2.3).

## **BIDS AND CONTRACTS**

Very specific laws regulate a municipality’s handling of bids. Many answers regarding bids and contracts can be found in Chapter 13 of the *SDML Handbook for South Dakota Municipal Officials*. The following information should provide you with a brief overview of the basics.

### ***Required Bids***

All contracts for the construction of public improvements which involve the expenditure of one-hundred thousand (\$100,000), and any other contracts for the purchase of supplies or services which involve the expenditure of twenty-five thousand dollars (\$25,000) must be advertised for bid and let to the lowest responsible bidder

(SDCL 5-18A-5; 5-18A-14).

### ***Exemptions from Bidding (SDCL 5-18A-22)***

- 1) Highway construction contracts entered into by the SD Department of Transportation;
- 2) Contracts for the purchase of supplies from the United States or its agencies;
- 3) Any purchase of supplies or services, other than professional services, by purchasing agencies from any active contract that has been awarded by any government entity by competitive sealed bids or competitive sealed proposals or from any contract that was competitively solicited and awarded within the previous twelve months;
- 4) Equipment repair contracts;
- 5) Procurement of electric power, water, or natural gas; chemical and biological products;
- 6) Supplies, services, and professional services required for certain research projects under the control of the Board of Regents;
- 7) Property or liability insurance or performance bonds;
- 8) Supplies needed by the Department of Human Services or Department of Social Services or prison industries for the manufacturing of products;
- 9) Printing involving student activities conducted by student organizations and paid for out of student fees at institutions under control of the Board of Regents;
- 10) Purchase of surplus property from another purchasing agency;
- 11) Animals
- 12) Purchases by a school district of perishable food, raw materials used in construction or manufacture of products for resale, or for transportation of students;
- 13) Certain State Authorities;
- 14) Seeds, fertilizers and other products used in the operation of farms under control of the Board of Regents;
- 15) Supplies for any utility owned or operated by a municipality if the purchase does not exceed the limits found in SDCL 5-18A-14;
- 16) For political subdivisions, any contract for asbestos removal in emergency response actions;
- 17) Supplies or services from a contract established through a Midwestern Higher Education Compact group by competitive sealed bid or a competitive sealed proposal;
- 18) Any contract concerning the custody, management, purchase, sale and exchange of fund investments research by the State Investment Council or Division of Investment; or
- 19) For political subdivisions, including municipalities, any purchase of equipment involving the expenditure of less than \$50,000. (SDCL 5-18A-22)

A purchasing agency may make or authorize others to make an emergency purchase without advertising if rentals are not practicable and there exists a threat to public health, welfare, or safety or for other urgent and compelling reasons (SDCL 5-18A-8).

### ***Advertisement for Bids***

When a contract is in excess of the bid limits (SDCL 5-18A-14) is to be entered into, the governing body must advertise for bids in the official newspaper (SDCL 5-18A-5). They must advertise at least twice with the first publication at least ten days prior to the opening of bids or deadline for submission of proposals. The first publication shall be in the official newspaper of the purchasing agency and the second publication may be in any legal newspaper in the state. The advertisement must state the time and place where the bids will be opened or the deadline for submission of proposals. The advertisement must also state that the governing board has the right to reject any or all bids (SDCL 5-18A-14).

### ***Accepting Bids***

Unless all bids are rejected, the lowest responsible bid must be accepted (SDCL 5-18A-5).

Local Officials Interest in Contracts: State law prohibits local officials from becoming personally involved in contracts which the municipality they represent enters into except under specific circumstances (SDCL 6-1-17). Exceptions are found in SDCL 6-1-2.

## **LIQUOR LICENSING**

### ***Types of Licenses***

There are essentially seven different types of licenses dealt with by municipalities:

1. Off-Sale
2. On-Sale
3. Airport
4. Convention Center
5. Full-Service Restaurant
6. Malt Beverage and Farm Wine, both on- and off-sale
7. Wine and cider, both on- and off-sale

### ***Number of Licenses***

The maximum number of licenses a municipality can hold is determined by State law. No more than two off-sale licenses are permitted in a municipality of one thousand or less. An additional license can be added for every one thousand five hundred over the first thousand (SDCL 35-4-10). There can be no more than three on-sale licenses in municipalities of one thousand or less. Another license may be added for each additional one thousand five hundred over the first thousand (SDCL 35-4-11). There is no maximum number of malt beverage/farm wine or wine/cider licenses that may be issued (SDCL 35-4-11). There is also no limit on the number of full service restaurant licenses that may be issued, although certain other restrictions apply.

### ***Times of Sale***

No on-sale or off-sale establishments may sell, serve or allow to be consumed on the premises alcoholic beverages between the hours of two o'clock a.m. and seven o'clock a.m. However, any municipality may, by ordinance, prohibit the sale, service, and consumption of alcoholic beverages on Sundays, Christmas Day, or Memorial Day (SDCL 35-4-81; 35-4-81.2).

### ***Municipally Owned Licenses***

Municipal liquor licenses are managed by the governing body unless an operating agreement is entered with a third party. Under operating agreements, the municipality retains ownership of the license, but the establishment which sells the liquor is managed according to the arrangement specified in the operating agreement (SDCL 35-4-19).

### ***Temporary Licenses and Permits***

Any municipality may grant the following licenses for the sale of alcohol over a set, temporary period:

- (1) A special malt beverage retailers license
- (2) A special on-sale wine retailers license
- (3) A special on-sale license
- (4) A special off-sale package wine dealers license
- (5) A special off-sale package, allowing sale of donated items at charitable events
- (6) A special off-sale package malt beverage dealers license, allowing sale of donated items at charitable events
- (7) A special off-sale package dealers license, allowing sale of donated items at charitable events

Any of the licenses above may be issued for a period of time established by the municipality. However, no period of time may exceed fifteen consecutive days. The local governing body shall establish rules to regulate and restrict the operation of the special license, including rules limiting the number of licenses that may be issued to any person within any calendar year. (SDCL 35-4-124)

A civic, charitable, educational, fraternal, or veterans' organization holding a special event may accept donated beverages to be sold at the special event. (SDCL 35-4-124.1)



- (8) Convention Hall/Entertainment Event License (SDCL 35-4-14.1)
- (9) Spiking Permit (SDCL 35-1-5.3)

**To: Meade County South Dakota States Attorney**

**From: Ky Gossard**

**Date: June 27, 2023**

**RE: Violation of SD Codified Law 1-25-1.1 by City of Piedmont**

The City of Piedmont had a regularly scheduled open city meeting on June 20, 2023 and failed to post the meeting agenda to the City of Piedmont's Website 24 hours prior to scheduled meeting on June, 2023. We are requesting that you investigate the City of Piedmont's violation of SD Codified Law 1-25-1.1.

Per South Dakota Codified Law SD 1-25-1.1 a city must post the agenda within 24 hours immediately preceding any official meeting. The City of Piedmont did post the agenda in the window of the Piedmont City Hall and at the Piedmont Post Office; however, failed to post on City of Piedmont's website which is required by law. The instructions for publications of meeting agendas are also clearly defined by the South Dakota Municipal League Elected Official's Orientation Packet on Page 9 and are also described in the South Dakota Municipal League Library under Elected Officials Presentations-2022 Elected Officials Training entitled *Open Meetings and Executive Sessions—Do's and Don'ts* by Steven Blair, Assistant Attorney General, Office of the Attorney General.

**1-25-1.1. Notice of meeting of political subdivision--Agenda--Violation as misdemeanor.**

Each 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. A violation of this section is a Class 2 misdemeanor.

**Source:** SL 1987, ch 22, § 2; § 1-25-1.2; SL 1990, ch 19; SL 1990, ch 30, § 2; SL 2012, ch 6, § 1; SL 2013, ch 9, § 1; SL 2015, ch 11, § 1; SL 2016, ch 10, § 1; SL 2019, ch 3, § 5.

When the City of Piedmont Board was questioned at the open meeting held on June 20, 2023 as to the reason for not posting the agenda to the website the reason cited was due to the Juneteenth Holiday on Monday, June 19, 2023. It was noted by a resident of Piedmont that the agenda was posted in the window of Piedmont's City Hall on Monday, June 19, 2023; however, several citizens at the June 20, 2023 city meeting stated that the agenda was not posted to the City of Piedmont's website and the City of Piedmont at the June 20, 2023 meeting agreed that the agenda was not posted with the reasoning for failure to post to the city's website being the Juneteenth Holiday. I have attached meetings minutes from the June 20, 2023 City of Piedmont where it was noted that the agenda was not posted to the website under section 12.

**To: Meade County South Dakota States Attorney**  
**From: Ky Gossard**  
**Date: June 27, 2023**  
**RE: Violation of SD Codified Law 1-25-1.1 by City of Piedmont**  
**Page: 2 of 2**

The failure of the City of Piedmont to post the meeting agenda on their website poses hardships to many citizens of the Piedmont area. As you may well know, the City of Piedmont is quite small and so the need for the average resident to enter the downtown area of Piedmont is quite rare unless needing to visit the post office, city hall or library.

**Witnesses at the City of Piedmont's June 20, 2023 meeting available for contact include:**

**Ms. Kari Kissinger 605-430-9281**

**Mr. Justin Keffeler 605-490-7948**

**Mr. Todd Gossard 605-381-7992**

**Mr. Keith Swett 605-939-4829**

Respectfully submitted by Ky Gossard on June 27, 2023,

*Ky Gossard 4/27/23*

Ky Gossard

13114 South Gulch Road

Piedmont, SD 57769

605-645-1469

Attachments included

*Sandra Massa 6/27/23*  
*Notary*

**My Commission Expires  
October 30, 2024**

Piedmont Board of Trustees

June 20, 2023

Unapproved Regular Meeting Minutes

- 1) The Meeting of the Piedmont Board of Trustees was called to order at 6:30 p.m. on Tuesday, June 20, 2023, beginning with the Pledge of Allegiance. In Attendance: Phil Anderson, Mike Lee, Phil Aitken & Jack Parks. Absent: Jim Runyan.
- 2) Minutes: Parks made **Motion** to approve the Minutes of the Regular Meeting on June 6, 2023. **Seconded** by Lee. All voted "Aye". **Motion carried.**
- 3) Planning & Zoning: a) Report: 1- Nerison Preliminary Plat: There are questions for the attorney, and they will be discussed later. 2-9545 Discovery Court wastewater Permit: the information has been turned in. 3-Good/Blanchford Building Permit: Needs more information. 4-Peterson Building Permit: Needs more information.
- 4) Library: a) No Report.
- 5) Park: a) Caleb is working to get the Park ready for the 4<sup>th</sup> of July.
- 6) Street Maintenance: a) Kyle is working on getting the Street Sweeper put back together so that streets will be cleaned by the 4<sup>th</sup>. Been working on gravel and preparing extra parking for the 4<sup>th</sup>.
- 7) Water: a) Meters were read today. Numbers are looking better. No shutoffs.
- 8) Finance: a) Lee made **Motion** to pay the bills, **Seconded** by Aitken. All voted "Aye". **Motion carried.** Bills Paid: Merchant Bank: \$.41, \$.28, \$.36, BH Energy \$481.98, BH Pioneer-publishing \$389.20, Black Hawk Water Users \$5,365.80, Bluepeak \$250.74, Elk Creek Small Engine Repair-weed eater \$57.14, Gunderson, Palmer, Nelson & Ashmore-attorney \$11,773.66, Jim's Private Utility Locate \$170.00, Kieffer Sanitation \$118.66, MDU \$30.98, O'Reilly-parts \$95.42, Simon Inc. -gravel \$3,039.02, South Dakota 811-locates \$26.25, The Library Store-library supplies \$115.84, Trail West \$5,837.05.  
b) Resolution 2023-05 Adopting fees for expenses incurred from Public Records requests. Anderson read the Resolution out loud. Aitken made **Motion** to adopt Resolution 2023-05, **Seconded** by Parks. All voted "Aye". **Motion carried.**
- 9) Old Business: None
- 10) New Business: a) In discussion to continue annexation, Aitken said he would like to continue with the annexation, excluding those that were declined by Meade County. Discussed was the next step which would be to continue and not having to start over. The resolution would have to be changed taking out some properties and then having the 2<sup>nd</sup> Meeting. Aitken then said he thought this was a perfect place to allow Public Comment allowing 3 minutes for each comment. \*Gina Ortmeyer: Will the process have to start over? No. The Resolution will be amended, and the process will continue. \*Justin Keffler: He stated that the City is claiming protection, but he doesn't see it. Things are still being built. He is against the annexation. \*Keith Swett: living out of the annexation area now but asking the Board to table indefinitely and look at just annexing the areas with a potential for higher density. \*Kerry Kissenger: What are we getting out of this annexation? No water near the area. Answer-Library, use of City Streets. A Class C Municipality is not required to have a plan for infrastructure when annexing. The board is elected by the people of Piedmont and need to look out for them. The Apartment house that went in was contrary with the agreement with the City. The

County is not stopping such things from coming in and allowing unregulated growth. The Board of Trustees for Piedmont are trying to keep orderly growth and have no other way. Mackenzie from the RC Journal said she pulled words from Meeting Minutes and had not talked to Mr. Anderson herself. Kissinger does not want to be annexed. \*Ortmeier: brought up the Cities agreement with Waddel to voluntarily annex when water gets to the area. The attorney explained that the agreement didn't keep from annexing for other reasons. \*Kissenger: Has anyone in the area said they want to annex? Answer-No. \*Aitken brought up that the city is working on starting a consolidated garbage which could save everyone money. \* Ky Gossard: own property in City limits. Why didn't the City recognize Ag land and ask permission from the County prior to the start of the annexation. The attorney explained that there has to be a Resolution to go to the County, so this was the correct process. Ky continued with asking why Piedmont doesn't do annexations the way that Sturgis does them? Would have to look at Ordinance to see what Sturgis does. Next step would be the 2<sup>nd</sup> hearing.

**11)** 4<sup>th</sup> of July: a) the next regular meeting would be on the 4<sup>th</sup>. After some discussion and not wanting to meet on the 4<sup>th</sup>, Parks made **Motion** to have our next meeting on June 27<sup>th</sup> and skip the meeting on the 4<sup>th</sup>. **Seconded** by Lee. All voted "Aye". **Motion carried.** b) the letter from the Fire Dept. requesting to be able to close the street between 1<sup>st</sup> and 2<sup>nd</sup> on Park Street was read aloud. Parks made **Motion** to approve the closure this year and see how it works, **Seconded** by Lee. All voted "Aye". **Motion carried.** c) A list was given to the Board of the upcoming events and the list of vendors attending those events. At the time of the meeting Tuesday night there was no vendors list for the Backyard Family Night event. d) Anderson read the Grand Marshall Proclamation drafted by the American Legion naming Jeremy Gau, Richard Dieken and the Korean War Veterans they represent to be the Grand Marshalls of the 2023 4<sup>th</sup> of July Parade. Aitken made **Motion, Seconded** by Parks to adopt the Proclamation. All voted "Aye". **Motion carried.**

**12)** Public Comment: Keith Swett-Agenda missing from the website.

**13)** Executive Session: Lee made **Motion, Seconded** by Parks to go into Executive Session in 5 minutes. All voted "Aye". **Motion carried.** 7:15 p.m. /Aitken made **Motion, Seconded** by Lee to come out of Executive Session. All voted "Aye". **Motion carried.** 7:20 p.m. The people still standing outside were invited to come back in for one more person who came in to talk to the Board.

\*Briana, lives in Sun Valley and from Sturgis present to talk about Zirkiss a Wild West Show and Lakota Performers. Have a big tent currently near Hill City and would like to be able to do performances for a couple weeks in the Piedmont area. Need to check into Ordinances to see what they would need to do. The current hours now are 7:00 p.m.8:45p.m. but but could do an afternoon show also. Vendor Permit would be needed, and Zoning would have to be checked for heights allowed. Anderson spoke in favor of this saying it brings us back to the idea for this area in the 50's & 60's.

Lee made **Motion** to go into Executive Session, **Seconded** by Parks. All voted "Aye". 7:45p.m. /Aitken made **Motion, Seconded** by Lee to come out of Executive Session. All voted "Aye". **Motion carried.**

**12)** Being there was no other business, Aitken made **Motion** to adjourn the meeting, **Seconded** by Lee. All voted "Aye". **Meeting Adjourned.** 8:25p.m.

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Philip C. Anderson, President  
Piedmont Board of Trustees

---

Diana L. Evans  
Finance Officer

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# PUBLIC NOTICE

## SDCL 1-25-1.1 -- Political Subdivisions

- Must Provide:
  - Notice of the meeting, including a *proposed* agenda
  - Must state the date, time and location
- Must Be:
  - Visible to the public, readable, and in an accessible location
  - At least “an entire, *continuous twenty-four hours immediately preceding*” the meeting
  - Posted at the principal office of the public body
- Must also be posted on website if website exists





**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

Ky Gossard  
13114 S. Gulch Road  
Piedmont, SD 57769

Re: In the Matter of Open Meeting Complaint 2024-03, Piedmont Board of Trustees  
– Meade County

Dear Ms. Gossard,

This letter is to acknowledge receipt of an open meetings complaint filed by you against the Piedmont Board of Trustees. Meade County State's Attorney Michele A.A. Bordewyk 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 Board of Trustees for their response. I have asked the Board of Trustees to file a response no later than June 30, 2024. I have also requested that the Board of Trustees 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 "S. Blair".

Steven R. Blair  
Assistant Attorney General

SRB/jm

Enclosures

Cc w/o Encl: Phil Anderson, President – Piedmont Board of Trustees  
Michele A.A. Bordewyk – Meade County State's Attorney



**OFFICE OF ATTORNEY GENERAL**

1302 East Highway 14, Suite 1  
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**MARTY J. JACKLEY**  
ATTORNEY GENERAL

**BRENT K. KEMPEMA**  
CHIEF DEPUTY

May 1, 2024

Phil Anderson, President  
Piedmont Board of Trustees  
111 2<sup>nd</sup> St.  
PO Box 101  
Piedmont, SD 57769

Re: In the Matter of Open Meeting Complaint 2024-03, Piedmont Board of Trustees  
– Meade County

Dear Mr. Anderson,

I assist the South Dakota Open Meetings Commission with their duties. Meade County State's Attorney Michele A.A. Bordewyk has forwarded to the Commission, pursuant to SDCL 1-25-6(3), a complaint concerning the Piedmont Board of Trustees. The complaint was signed by Ky Gossard. Enclosed is a copy of all the materials I have received.

If the Board wishes 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 Ky Gossard, 13114 S. Gulch Road, Piedmont, South Dakota 57769 and to State's Attorney Michele A.A. Bordewyk.

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.

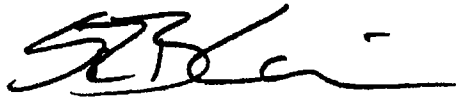
May 1, 2024

Re: In the Matter of Open Meeting Complaint 2024-03, Piedmont Board of Trustees – Meade 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: Ky Gassard  
Michele A.A. Bordewyk – Meade County State's Attorney



Attorney General

MAY 13 2024

506 Sixth Street  
Post Office Box 8045  
Rapid City, South Dakota 57709  
Main: (605) 342-1078  
Fax: (605) 342-9503

www.gpna.com

May 9, 2024

Richard M. Williams  
Email: [rwilliams@gpna.com](mailto:rwilliams@gpna.com)  
Direct Dial: (605) 719-3433

**Via Email and First Class Mail**

*steven.blair@state.sd.us*

Mr. Steven R. Blair  
Assistant Attorney General  
Office of Attorney General  
1302 East Highway 14, Suite 1  
Pierre, SD 57501-8501

Re: In the Matter of Open Meetings Complaint 2024-03,  
Piedmont Board of Trustees – Meade County  
(GPNA File No. 08992.0034)

Dear Mr. Blair:

We are in receipt of your letter dated May 1, 2024, in which you provide certain materials alleging an open meetings complaint, pursuant to SDCL §1-25-1.1, against the Piedmont Board of Trustees. The complaint alleges that, although the City of Piedmont did physically post the required notice, the City of Piedmont did not publish, on the City of Piedmont's website, notice of a public meeting held on June 20, 2023.

The City of Piedmont did comply with SDCL §1-25-1.1 by physically posting the required public notice with a proposed agenda for the public meeting held on June 20, 2023. In accordance with general practice, this notice was posted at its principal office and was visible to the public. As noted in SDCL §1-25-1.1, however, "[t]he notice shall also be posted on the political subdivision's website upon dissemination of the notice, *if a website exists.*"

The City of Piedmont is a small town with, according to the 2020 Decennial Census, under 1,000 residents. Although not required to do so, the City of Piedmont does, with its limited staff, maintain a website for public convenience. Upon review, the City of Piedmont did not publish the notice of the June 20, 2023, meeting, on its website. It is the general practice of the City of Piedmont to comply with SDCL §1-25-1.1 including the posting of such notice on its website. Unfortunately, due to the holiday and an oversight in this specific instance, the notice for the June 20, 2023, meeting was not published on the City of Piedmont's website.

Offices in Rapid City and Pierre, South Dakota

Attorneys licensed to practice in South Dakota, North Dakota, Nebraska, Wyoming, and Montana

Please let me know if you have any additional questions.

Sincerely,

*/s/ Richard M. Williams*

Richard M. Williams

RMW:lpv

STATE OF SOUTH DAKOTA



**OFFICE OF ATTORNEY GENERAL**

1302 East Highway 14, Suite 1  
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**MARTY J. JACKLEY**  
ATTORNEY GENERAL

**BRENT K. KEMPEMA**  
CHIEF DEPUTY

October 18, 2024

Ky Gossard  
13114 S. Gulch Road  
Piedmont, SD 57769

Richard M Williams  
Gunderson, Palmer, Nelson, & Ashmore  
PO Box 8045  
Rapid City, SD 57709

Re: In the Matter of Open Meeting Complaint 2024-03, Piedmont Board of Trustees –  
Meade County

Dear Mr. Gossard & Mr. Williams,

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 "SRB".

Steven R. Blair  
Assistant Attorney General

SRB/jm  
Enclosure

STATE OF SOUTH DAKOTA  
OPEN MEETINGS COMMISSION

---

IN THE MATTER OF OPEN	)	OMC 2024-03
MEETINGS COMPLAINT AGAINST	)	
PIEDMONT BOARD OF TRUSTEES	)	NOTICE OF HEARING
– MEADE COUNTY	)	

---

TO: Ky Gossard, 13114 S Gulch Road, Piedmont, South Dakota 57769; and  
Piedmont Board of Trustees attorney, Richard M. Williams, Gunderson,  
Palmer, Nelson, Ashmore, LLP, PO Box 8045, Rapid City, South Dakota  
57709:

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

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IN THE MATTER OF OPEN	)	OMC 2024-03
MEETINGS COMPLAINT AGAINST	)	
PIEDMONT BOARD OF TRUSTEES	)	CERTIFICATE OF SERVICE
– MEADE COUNTY	)	
	)	

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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 Ky Gossard, 13114 S Gulch Road, Piedmont, South Dakota 57769; and Piedmont Board of Trustees attorney, Richard M. Williams, Gunderson, Palmer, Nelson, Ashmore, LLP, PO Box 8045, Rapid City, South Dakota 57709, on this 18th day of October 2024.



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

STATE OF SOUTH DAKOTA



**OFFICE OF ATTORNEY GENERAL**

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Phone (605) 773-3215

Fax (605) 773-4106

<http://atg.sd.gov>

**MARTY J. JACKLEY**  
ATTORNEY GENERAL

**BRENT K. KEMPEMA**  
CHIEF DEPUTY

November 4, 2024

Ky Gossard  
13114 S. Gulch Road  
Piedmont, SD 57769

Richard M Williams  
Gunderson, Palmer, Nelson, & Ashmore  
PO Box 8045  
Rapid City, SD 57709

Re: In the Matter of Open Meeting Complaint 2024-03, Piedmont Board of Trustees –  
Meade County

Dear Mr. Gossard & Mr. Williams,

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](mailto: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**

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]**

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Oral Presentations:

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

Piedmont Board of Trustees -15 minutes

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Oral Presentations:

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

Lincoln County Commission -15 minutes

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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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