

STATE OF SOUTH DAKOTA



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April 17, 2025

Walter D Johnson
1401 Belmont Park Ave
North Sioux City, SD 57049

Sarah K Kleber
Heidman Law
PO Box 3086
Sioux City, IA 51102

Re: In the Matter of Open Meeting Complaint 2024-05, North Sioux City City
Council – Union County

Dear Mr. Johnson & Ms. Kleber,

Enclosed please find proposed Findings of Fact and Conclusions of Law regarding the above referenced matter. You may submit objections to the proposed Findings and Conclusions, or you may propose alternate Findings and Conclusions, no later than the close of business on April 29th. Please submit any objections or proposed Findings or Conclusions to me via email (steven.blair@state.sd.us) or at the address indicated above. Any objections or proposed Findings or Conclusions will be considered at the time the Commission takes final action to adopt Findings and Conclusions in this matter.

The Commission will be holding a meeting on May 2, 2025, and will consider the findings and conclusions. A Notice of Hearing, and proposed agenda, regarding the May 2 meeting are also enclosed. As you can see from the agenda, consideration of the proposed findings and conclusions will begin at 2:00 p.m. mountain time or as soon thereafter as matters may be heard. You are not required to be present for consideration of proposed Findings and Conclusions.

April 17, 2025

Re: In the Matter of Open Meeting Complaint 2024-05, North Sioux City City Council – Union County

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

Sincerely,

A handwritten signature in blue ink, appearing to read "SRB", followed by a long horizontal flourish.

Steven R. Blair
Assistant Attorney General

SRB/jm
Enclosure

STATE OF SOUTH DAKOTA
OPEN MEETINGS COMMISSION

IN THE MATTER OF OPEN)	OMC 2024-05
MEETINGS COMPLAINT AGAINST)	
NORTH SIOUX CITY CITY COUCIL)	FINDINGS OF FACT,
– UNION COUNTY)	CONCLUSIONS OF LAW, &
)	DECSISION

The above captioned matter was heard before the South Dakota Open Meetings Commission (Commission) on November 18, 2024. Complainant, Walter Johnson, appeared personally. The North Sioux City City Council appeared through counsel, Sarah Kleber. Prior to the hearing, the Commission reviewed the written submissions of the parties as well as any other exhibit, pleading or paper on file herein. Based upon the materials submitted, and the arguments of the parties, the Commission enters the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. The Commission takes official notice that North Sioux City is a Second-Class municipality located in Union County, South Dakota, and has been organized and operated according to applicable provisions of South Dakota Codified Law.

2. The Commission further takes notice that the North Sioux City City Council is the public body elected pursuant to applicable provisions of state law to govern North Sioux City.

OMC 2024-05
North Sioux City City Council
Findings and Conclusions

3. North Sioux City operates and maintains a website for the City located at www.northsiouxcity-sd.gov.

4. SDCL 1-25-1.1 requires in pertinent part that:

[e]ach political subdivision shall provide public notice, with proposed agenda, that is visible, readable, and accessible for at least an entire, continuous twenty-four hours immediately preceding any official meeting, by posting a copy of the notice, visible to the public, at the principal office of the political subdivision holding the meeting. The proposed agenda shall include the date, time, and location of the meeting. The notice shall also be posted on the political subdivision's website upon dissemination of the notice, if a website exists.

(emphasis added).

5. Walter Johnson submitted an open meetings violation to the Union County State's Attorney's Office on December 18, 2023. Mr. Johnson's complaint materials raised allegations that North Sioux City had violated the notice and posting requirements of SDCL 1-15-1.1.

6. On February 22, 2024, Union County State's Attorney Jerry Miller forwarded the complaint to the Commission pursuant to SDCL § 1-25-6(3). State's Attorney Miller identified four meetings where North Sioux City failed to properly post agendas to the City's website. The identified meetings are:

- a. July 6, 2021;
- b. July 24, 2023;
- c. September 5, 2023; and
- d. December 4, 2023.

7. In its written response to the complaint, North Sioux City admitted that it did not properly post notice of the identified meetings on the City website as required by SDCL 1-25-1.1.

8. Before the Commission, the City relayed that the materials for each meeting were posted on the City website, but not posted at least twenty-four hours in advance. For three of the meetings (7/6/21, 9/5/23, and 12/4/23) the materials were posted on Monday for a Monday meeting. In one instance (7/24/23) the materials were timely posted, but erroneously posted in the 2022 meeting folder on the website instead of the appropriate 2023 folder.

9. The City also explained that it is undertaken steps to ensure that these situations do not occur in the future. The City has engaged in training regarding the state open meetings requirements, and ensured that adequate guidance and supervision are given to City staff.

10. Any Finding of Fact more appropriately labeled as a Conclusion of Law is hereby re-designated as such and incorporated below therein.

CONCLUSIONS OF LAW

1. The North Sioux City City Council, as the governing body of North Sioux City, South Dakota, is a public body subject to the open meetings requirements of SDCL ch. 1-25. The Open Meeting Commission has jurisdiction over this matter pursuant to SDCL ch. 1-25.

2. It is not disputed that North Sioux City maintains a website where meeting information and agendas are posted in the normal course of City business. It is also not disputed that North Sioux City failed to properly post notice of the identified meetings on the City's website.

3. The Commission concludes that the North Sioux City City Council did violate the open meetings laws by failing to properly post notice of the previously identified meetings on the North Sioux City website as required by SDCL 1-25-1.1. The statute requires publication of a proposed agenda on a public body's website – if one exists – for at least twenty-four hours prior to an official meeting.

4. Any Conclusion of Law more appropriately labeled as a Finding of Fact is hereby re-designated as such and incorporated above therein.

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, the South Dakota Open Meetings Commission hereby **REPRIMANDS** the North Sioux City City Council for violating SDCL 1-25-1.1 by failing to properly post a copy of the proposed agenda for the City's July 6, 2021; July 24, 2023; September 5, 2023; and December 4, 2023 meeting on the City's website.

Decision entered by Commissioners **Sovell (Chair), A. Hoffman, K. Hoffman, Russell, & Smith.**

Dated this _____ day of May, 2025.

SOUTH DAKOTA OPEN MEETINGS COMMISSION

Emily Sovell, Chair

STATE OF SOUTH DAKOTA
OPEN MEETINGS COMMISSION

IN THE MATTER OF OPEN)	OMC 2024-05
MEETINGS COMPLAINT AGAINST)	
NORTH SIOUX CITY CITY)	NOTICE OF HEARING
COUNCIL – UNION COUNTY)	

TO: Walter D Johnson, 1401 Belmont Park Ave, North Sioux City, SD 57049; and
North Sioux City City Council attorney Sarah K Kleber, Heidman Law, PO
Box 3086, Sioux City, IA 51102:

Please take notice that the final action to adopt the Findings of Fact,
Conclusions of Law and Decision regarding the above referenced open meetings
complaint will be held before the South Dakota Open Meetings Commission, at The
Lodge at Deadwood, Cody Room, 100 Pine Crest Drive, Deadwood, South Dakota, on
Friday, May 2, 2025. You are not required to be present, however, if you would like
to be present the hearing will commence at 2:00 P.M. mountain time and proceed in
the order noted in the attached agenda.

Dated this 17th day of April 2025.



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

STATE OF SOUTH DAKOTA
OPEN MEETINGS COMMISSION

IN THE MATTER OF OPEN)	OMC 2024-05
MEETINGS COMPLAINT AGAINST)	
NORTH SIOUX CITY CITY)	CERTIFICATE OF SERVICE
COUNCIL – UNION COUNTY)	

The undersigned hereby certifies that a true and correct copy of the proposed Findings of Fact, Conclusions of Law, & Decision and Notice of Hearing in the above-captioned matter, were served by United States mail, first class, postage prepaid upon Walter D Johnson, 1401 Belmont Park Ave, North Sioux City, SD 57049; and Sarah K Kleber, Heidman Law, PO Box 3086, Sioux City, IA 51102 on this 17th day of April, 2025.



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

THE LODGE AT DEADWOOD
CODY ROOM
100 PINE CREST DR.
DEADWOOD, SOUTH DAKOTA

May 2, 2025
2:00 p.m. Mountain Time

1. Approval of the Agenda
2. Public Comment period as per SDCL 1-25-1
3. Approval of the Minutes of February 24, 2025, meetings
4. Consideration of Findings of Fact and Conclusions of Law
 - A. In the Matter of Open Meeting Complaint 2021-02 Bennett County Board of Commissioners
 - B. In the Matter of Open Meeting Complaint 2024-01 Martin City Council
 - C. In the Matter of Open Meeting Complaint 2024-02 Bennett County Board of County Commissioners
 - D. In the Matter of Open Meeting Complaint 2024-03 Piedmont Board of Trustees
 - E. In the Matter of Open Meeting Complaint 2024-04 Lincoln County Commission
 - F. In the Matter of Open Meeting Complaint 2024-05 North Sioux City City Council
 - G. In the Matter of Open Meeting Complaint 2024-06 Carlyle Township
 - H. In the Matter of Open Meeting Complaint 2024-07 Pennington County Board of Commissioners
 - I. In the Matter of Open Meeting Complaint 2024-08 Sturgis City Council
 - J. In the Matter of Open Meeting Complaint 2024-09 City of Lead Commission
 - K. In the Matter of Open Meeting Complaint 2024-10 Green Valley Sanitary District
 - L. In the Matter of Open Meeting Complaint 2024-11 Charles Mix County Commission

M. In the Matter of Open Meeting Complaint 2024-12 Tripp City Council

5. Discussion regarding 2026 Legislative Session
6. Discussion regarding future meeting.

All items are scheduled for 2:00 p.m. Mountain 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.