

STATE OF SOUTH DAKOTA



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**MARTY J. JACKLEY**  
ATTORNEY GENERAL

**BRENT K. KEMPEMA**  
CHIEF DEPUTY

April 21, 2025

Steven Myers  
5648 Greenwood Ln.  
Rapid City, SD 57703

Erika S Olson  
Lynn Jackson Attorneys  
909 Saint Joseph Street, Suite 800  
Rapid City, SD 57104

Re: In the Matter of Open Meeting Complaint 2024-10, Green Valley Sanitary  
District – Pennington County

Dear Mr. Myers & Ms. Olson,

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 29<sup>th</sup>. Please submit any objections or proposed Findings or Conclusions to me via email ([steven.blair@state.sd.us](mailto: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 21, 2025

Re: In the Matter of Open Meeting Complaint 2024-10, Green Valley Sanitary District – Pennington 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

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IN THE MATTER OF OPEN	)	OMC 2024-10
MEETINGS COMPLAINT AGAINST	)	
GREEN VALLEY SANITARY	)	NOTICE OF HEARING
DISTRICT – PENNINGTON	)	
COUNTY	)	

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TO: Steven Myers, 5648 Greenwood Lane, Rapid City, South Dakota 57703; and  
Erika S Olson, Lynn Jackson Attorneys, 909 Saint Joseph Street, Suite 800,  
Rapid City, South Dakota 57701:

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 21<sup>st</sup> day of April 2025.



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

STATE OF SOUTH DAKOTA  
OPEN MEETINGS COMMISSION

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IN THE MATTER OF OPEN	)	OMC 2024-10
MEETINGS COMPLAINT AGAINST	)	
GREEN VALLEY SANITARY	)	CERTIFICATE OF SERVICE
DISTRICT – PENNINGTON	)	
COUNTY	)	

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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 Steven Myers, 5648 Greenwood Lane, Rapid City, South Dakota 57703; and Erika S Olson, Lynn Jackson Attorneys, 909 Saint Joseph Street, Suite 800, Rapid City, South Dakota 57701, on this 21<sup>st</sup> day of April 2025.



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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.**

# **SOUTH DAKOTA OPEN MEETINGS COMMISSION HEARING**

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

**NOTE:** The following information is pertinent only if you plan to speak to the Board during the public comment period or are participating in an agenda item. If interested in listening, please use the meeting livestream available at <https://www.sd.net/>.

**Following are two options to participate remotely in the “Public Comment” portion of the Board agenda.**

**If you are a participant in a specific scheduled agenda item, please choose one of the following options.** (Agenda items may be delayed by prior agenda items)

**Option 1.** Use Microsoft Teams - Join on your computer or mobile app  
(requires internet connection)

Click on or copy and paste the following link into your web browser to connect to the meeting. **Please keep your microphone muted unless addressing the board.**

Click on:

**[Join the meeting now](#)**

**Or Copy and paste following into web browser:**

[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_ODU0YTRhYjUtNDNiNi00MjRhLWFIYjUtMTI4NjliZjk0MjVm%40thread.v2/0?context=%7b%22Tid%22%3a%2270af547c-69ab-416d-b4a6-543b5ce52b99%22%2c%22Oid%22%3a%22877576c2-c895-4a49-be97-f04ffea1680%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_ODU0YTRhYjUtNDNiNi00MjRhLWFIYjUtMTI4NjliZjk0MjVm%40thread.v2/0?context=%7b%22Tid%22%3a%2270af547c-69ab-416d-b4a6-543b5ce52b99%22%2c%22Oid%22%3a%22877576c2-c895-4a49-be97-f04ffea1680%22%7d)

**Or in web browser go to:**

<https://www.microsoft.com/microsoft-teams/join-a-meeting> and enter

**Meeting ID:** 261 494 428 545 5

**Passcode:** uK6BK3Az

**Option 2.** Call in (audio only)

**Please keep your phone muted unless addressing the board. Use “Mute” button or \*6**

**Phone:** 605-679-7263

**Phone Conference ID:** 440 472 490#

STATE OF SOUTH DAKOTA  
OPEN MEETINGS COMMISSION

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IN THE MATTER OF OPEN	)	OMC 2024-10
MEETINGS COMPLAINT AGAINST	)	
GREEN VALLEY SANITARY	)	FINDINGS OF FACT,
DISTRICT – PENNINGTON	)	CONCLUSIONS OF LAW, &
COUNTY	)	DECSISION

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The above captioned matter was heard before the South Dakota Open Meetings Commission (Commission) on November 25, 2024, and concluded on February 25, 2025. Complainant, Steve Myers appeared personally on both dates. The Green Valley Sanitary District appeared on both dates through Counsel Erica Olson. 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 the Green Valley Sanitary District is located in Pennington 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 Green Valley Sanitary District Board of Trustees is the public body elected pursuant to applicable provisions of state law to govern the Green Valley Sanitary District.



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Green Valley Sanitary District  
Findings and Conclusions

3. On January 4, 2022, the Green Valley Sanitary District Board of Trustees took out a \$200,000 loan with Black Hills Federal Credit Union. The loan was taken out to help pay engineering costs incurred by the District in construction of a sewer project to benefit the District. The loan was signed for by each of the three currently serving members of the Board of Trustees.

4. The loan was discussed at multiple meetings in the months before securing the loan. On June 9, 2021, the Board of Trustees held a regularly scheduled meeting. The minutes of that meeting indicate the Board of Trustees discussed potential interim financing for the sanitation project with Black Hills Federal Credit Union. No formal vote was taken at this meeting to secure a loan.

5. On November 8, 2021, the Board of Trustees held a regularly scheduled meeting. The minutes of that meeting reflect further contemplation by the Board of Trustees of obtaining a short-term loan to help fund a sanitation project. No formal vote was taken to secure the loan at this meeting.

6. The Board of Trustees also met in a special meeting on November 17, 2021, held primarily for the purpose of acquiring the \$200,000 loan from Black Hills Federal Credit Union. No formal vote was taken at this meeting. The meeting minutes report discussion of the loan and that next steps regarding the loan would be pursued by the Board of Trustees.

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Findings and Conclusions

7. On December 8, 2021, the Board of Trustees met, and the meeting minutes indicate that updated documentation was needed to secure the loan. No formal vote was taken to secure the loan at this meeting.

8. At no time was an official resolution brought before the Board of Trustees for approval to take out the loan. And there was no official vote of the Board of Trustees to enter into the loan.

9. A resident of the District asked about the loan at the February 14, 2024, meeting of the District Board of Trustees. The resident was told that if the sewer project was not completed the loan would be repaid through a special assessment on the residents of the District.

10. Steve Myers submitted an open meetings violation to the Pennington County State's Attorney on February 26, 2024. Mr. Myers essentially alleged that the Green Valley Sanitary District Board of Trustees took formal action outside an official public meeting when it entered into the loan discussed above.

11. On June 18, 2024, Pennington County State's Attorney Lara Roetzel forwarded the complaint to the Commission pursuant to SDCL 1-25-6(3).

12. Green Valley Sanitary District provided a written response to the complaint in which it asserted that all meetings in question were open to the public with agendas posted in advance in compliance with SDCL 1-25-1.1. The District also noted that the requirement found in SDCL 1-25-3 to document

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Green Valley Sanitary District  
Findings and Conclusions

formal votes in the meeting minutes only applies to the State, and not to local government bodies.

13. The District provided affidavits indicating that a majority of the Board of Trustees agreed that the loan had been discussed at several meetings and that all were in agreement that the loan was necessary. All Trustees also do not recall a specific vote approving the loan.

14. SDCL 1-25-1 requires that the official meetings of all public bodies be open to the public. Further, SDCL 1-25-1.1. requires that notice be given of all meetings through the posting of a proposed agenda.

15. SDCL 1-25-3 requires the State to “keep detailed minutes of its proceedings of all regular or special meetings.” The minutes are required to reflect how “each individual member voted on any motion on which a roll call vote is taken.”

16. SDCL 34A-5-24 states that “[a] majority of the board of trustees constitutes a quorum but a small number adjourn from day to day. A concurrence of the majority is necessary to any action of the board.”

17. SDCL 34A-5-25 requires a board of trustees to “establish an office within the sanitary district and shall maintain a full, complete, accurate, and itemized account of all its proceedings, ordinances, orders, resolutions, and regulations.”

18. 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 Green Valley Sanitary District Board of Trustees, as the governing body of the Green Valley Sanitary District, Pennington County, 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. The Commission concludes that SDCL 1-25-1 and 1-25-1.1 clearly contemplate that official action of a public body may only be taken at a properly noticed official meeting of the body. The open meeting statutes are intended to afford members of the public the ability to know when official action of a public body may occur.

3. However, the statutes specific to sanitary districts only require “a concurrence of the majority” for a board of sanitary district trustees to take formal action. SDCL 34A-5-24. What constitutes proof of a concurrence is not defined in state law.

4. There is no provision found in SDCL ch. 1-25, or SDCL ch. 34A-5, that requires formal action of a sanitary district must be proceeded by a motion, second, and vote of a board of trustees.

5. Sanitary Districts are also not required to keep and post minutes of their meetings.

6. Here, the Board of Trustees for the Green Valley Sanitary District considered the loan at issue at several meetings prior to undertaking the loan

in January 2022. The record evinces that a concurrence of the Trustees was reached in undertaking the loan. The Commission concludes that the Green Valley Sanitary District Board of Trustees did not violate the state open meetings law by taking formal action outside an official meeting.

7. 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 determines the Green Valley Sanitary District Board of Trustees did not violate the South Dakota open meetings laws in regard to the facts and allegations raised by the complaint filed in this matter.

Decision entered by Commissioners **A. Hoffman, K. Hoffman, Russell, & Smith**. Decision not agreed with by **Sovell (Chair)**.

Dated this \_\_\_\_\_ day of May.

SOUTH DAKOTA OPEN MEETINGS COMMISSION

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Katelynn Hoffman, Vice-Chair