

Attorney General

JUL 18 2024

**CHARLES MIX COUNTY
STATES ATTORNEY
PO BOX 370
LAKE ANDES, SOUTH DAKOTA 57356
Phone: 605-487-7441
Fax: 605-487-6041**

July 12th, 2024

Open Meetings Commission
Attn: Chairperson Emily Sovell
P.O. Box 505
Onida, SD 57564

RE: Open meeting complaint

Ms. Sovell:

My office received a complaint (letter) from Jolene Stewart regarding the Charles Mix County Commissioners meeting conducted on May 23, 2024. The Letter, which is attached hereto as exhibit 1, states that there was not an agenda posted on the door of the Charles Mix County Courthouse for the May 23, 2024 commissioners' meeting. Upon receiving Ms. Stewart's letter I met with the County Auditor who is in charge of posting the agenda. The Auditor explained to me that there was an agenda posted on the North door, however it was the agenda from the meeting two weeks prior. The agenda for the May 23, 2024 meeting was properly posted to the Charles Mix County website 24 hours or more prior to the meeting. Ms. Stewart was present at the May 23, 2024 meeting. Ms. Stewart had previously been on meeting agendas to address a hand count petition that she and other tax payers signed and filed with the Auditor. There is pending litigation regarding the hand count petition and the commission's decision to reject the petition. I am forwarding this letter and the complaint letter to you pursuant to SDCL 1-25-6.1(3) and (4) Thank you and have a good day.

CC: South Dakota Attorney General's Office

1302 E Hwy 14
Suite 1
Pierre, SD 57501

Sincerely,

Steven R. Cotton
State's Attorney
Charles Mix County

May 24, 2024

29870 393rd Ave
Wagner, SD 57380

Mr. Steven Cotton
Charles Mix County State's Attorney
PO Box 370
Lake Andes, SD 57356

Dear Mr. Cotton:

This is a formal complaint regarding the failure to comply with SDCL 1-25-1.1

On Thursday, May 23, 2024, at 9:37 a.m. there was no agenda posted for the County Commission Meeting that was to occur at 10 a.m. The agenda posted on the north courthouse door was the agenda for the May 9, 2024 meeting and there was no agenda posted on the south courthouse door. Photos were taken of the doors.

This is a violation of the following statute:

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.

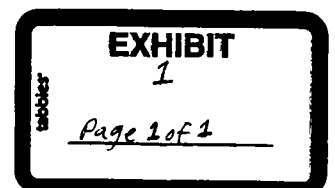
Sincerely,



Jeff Stewart



Jolene Stewart



Attorney General
JUL 26 2024



SOVELL LAW OFFICE, PC
ATTORNEY AT LAW

ONIDA OFFICE:
110 S. MAIN, PO BOX 505
ONIDA, SD 57564
605-258-2546

EMILY J. SOVELL
jsovell@venturecomm.net

RICHARD H. KAKELDEY
IN MEMORIAM

HIGHMORE OFFICE:
PO BOX 125
HIGHMORE, SD 57345
605-852-2761

July 22, 2024

Steven Blair
1302 E. Hwy 14, Ste. 1
Pierre, SD 57501
Steven.blair@state.sd.us

Dear Mr. Blair:

Please find enclosed the original July 12, 2024 letter to the Open Meetings Commission from Steven R. Cotton, Charles Mix County State's Attorney, along with the May 24, 2024 letter from Complainant against the Charles Mix County Commission. I have retained a copy for my file.

Sincerely,

A handwritten signature in black ink, appearing to read 'Emily J. Sovell', written over the word 'Sincerely,'.

Emily J. Sovell
EJS:ddn

Enclosures: July 12, 2024 Letter; May 24, 2024 Letter

**CHARLES MIX COUNTY
STATES ATTORNEY
PO BOX 370
LAKE ANDES, SOUTH DAKOTA 57356
Phone: 605-487-7441
Fax: 605-487-6041**

July 12th, 2024

Open Meetings Commission
Attn: Chairperson Emily Sovell
P.O. Box 505
Onida, SD 57564

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CC: South Dakota Attorney General's Office

1302 E Hwy 14
Suite 1
Pierre, SD 57501

Sincerely,

Steven R. Cotton
State's Attorney
Charles Mix County

May 24, 2024

29870 393rd Ave
Wagner, SD 57380

Mr. Steven Cotton
Charles Mix County State's Attorney
PO Box 370
Lake Andes, SD 57356

Dear Mr. Cotton:

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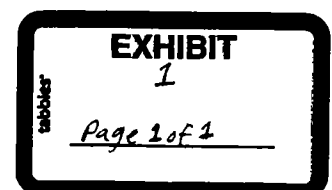
Sincerely,



Jeff Stewart



Jolene Stewart



STATE OF SOUTH DAKOTA



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

August 8, 2024

Jeff & Jolene Stewart
29870 393rd Avenue
Wagner, SD 57380

Re: In the Matter of Open Meeting Complaint 2024-11, Charles Mix County
Commissioners – Charles Mix County

Dear Mr. & Mrs. Stewart,

This letter is to acknowledge receipt of an open meetings complaint filed by you against the Charles Mix County Commissioners. Charles Mix County State's Attorney Steven Cotton forwarded the complaint to the Open Meetings Commission for its review. Enclosed is a copy of all the materials I have received. A copy of the complaint materials has also been submitted to the County Commission for their response. I have asked the County Commission to file a response no later than September 7, 2024. I have also requested that the County Commission 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.

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

Sincerely,

A handwritten signature in black ink, appearing to read "SRB".

Steven R. Blair
Assistant Attorney General

SRB/jm

Enclosures

Cc w/o Encl: Keith Mushitz, Chairman for Charles Mix County Commission
Steven Cotton – Charles Mix County State's Attorney Office

STATE OF SOUTH DAKOTA



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

August 8, 2024

Charles Mix County Commission
Attn: Keith Mushitz, Chairman
PO Box 70
Lake Andes, SD 57356

Re: In the Matter of Open Meeting Complaint 2024-11, Charles Mix County
Commission – Charles Mix County

Dear Chairman Mushitz,

I assist the South Dakota Open Meetings Commission with their duties. Charles Mix County State's Attorney Steven Cotton has forwarded to the Commission, pursuant to SDCL 1-25-6(3), a complaint concerning the Charles Mix County Commission. The complaint was signed by Jeff and Jolene Stewart. Enclosed is a copy of all the materials I have received.

If the County Commission wishes to file a response to the complaint, please send it to the above address on or before September 7, 2024. Please also send copies of any response to Jeff and Jolene Stewart, 29870 393rd Avenue, SD 57380 and to Charles Mix County Deputy State's Attorney Steven Cotton.

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.

August 8, 2024

Re: In the Matter of Open Meeting Complaint 2024-11, Charles Mix County Commission – Charles Mix 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 "S. Blair". The signature is fluid and cursive, with a long horizontal stroke at the end.

Steven R. Blair
Assistant Attorney General

SRB/jm
Enclosures

Cc w/o Encl: Jeff and Jolene Stewart
Steven Cotton – Charles Mix County State's Attorney Office

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

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

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MARTY J. JACKLEY
ATTORNEY GENERAL

BRENT K. KEMPEMA
CHIEF DEPUTY

October 21, 2024

Jeff & Jolene Stewart
29870 393rd Avenue
Wagner, SD 57380

Charles Mix County Commission
Attn: Keith Mushitz, Chairman
PO Box 70
Lake Andes, SD 57356

Re: In the Matter of Open Meeting Complaint 2024-11, Charles Mix County
Commissioners – Charles Mix County

Dear Mr. & Mrs. Stewart & Chairman Mushitz,

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 25, 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 2024-11
MEETINGS COMPLAINT AGAINST)	
CHARLES MIX COUNTY)	NOTICE OF HEARING
COMMISSION – CHARLES MIX)	
COUNTY)	

TO: Jeff & Jolene Stewart, 29870 393rd Avenue, Wagner, South Dakota 57380;
and Charles Mix County Commission, Attn: Keith Mushitz, Chairman, PO
Box 70, Lake Andes, South Dakota 57356:

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 25, 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 21st 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 25, 2024
9:00 a.m. Central Time

1. Approval of the Agenda
2. Public Comment period as per SDCL 1-25-1
3. Consideration of Pending Complaints

A. In the Matter of Open Meeting Complaint 2024-06 Carlyle Township

Oral Presentations:

Complainants Terry and Todd Koerner -15 minutes (a portion of this time may be reserved for rebuttal)

Carlyle Township -15 minutes

B. In the Matter of Open Meeting Complaint 2024-07 Pennington County Board of Commissioners

Oral Presentations:

Complainants Deb Hadcock and Travis Lasseter -15 minutes (a portion of this time may be reserved for rebuttal)

Pennington County Board of Commissioners -15 minutes

C. In the Matter of Open Meeting Complaint 2024-08 Sturgis City Council

Oral Presentations:

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

Sturgis City Council -15 minutes

D. In the Matter of Open Meeting Complaint 2024-09 City Of Lead Commission

Oral Presentations:

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

City of Lead Commission -15 minutes

[LUNCH BREAK 12:00-1:00 P.M CENTRAL TIME]

E. In the Matter of Open Meeting Complaint 2024-10 Green Valley Sanitary District

Oral Presentations:

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

Green Valley Sanitary District -15 minutes

F. In the Matter of Open Meeting Complaint 2024-11 Charles Mix County Commission

Oral Presentations:

Complainants Jeff and Jolene Stewart -15 minutes (a portion of this time may be reserved for rebuttal)

Charles Mix County Commission -15 minutes

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

Oral Presentations:

Complainants Cody Fischer -15 minutes (a portion of this time may be reserved for rebuttal)

Tripp City Council -15 minutes

8. Discussion regarding future meeting.

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

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

STATE OF SOUTH DAKOTA
OPEN MEETINGS COMMISSION

IN THE MATTER OF OPEN)	OMC 2024-11
MEETINGS COMPLAINT AGAINST)	
CHARLES MIX COUNTY)	CERTIFICATE OF SERVICE
COMMISSION – CHARLES MIX)	
COUNTY)	

The undersigned hereby certifies that a true and correct copy of the Notice of Hearing and proposed Agenda in the above-captioned matter, were served by United States mail, first class, postage prepaid upon Jeff & Jolene Stewart, 29870 393rd Avenue, Wagner, South Dakota 57380; and Charles Mix County Commission, Attn: Keith Mushitz, Chairman, PO Box 70, Lake Andes, South Dakota 57356, on this 21st day of October 2024.



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

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

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MARTY J. JACKLEY
ATTORNEY GENERAL

BRENT K. KEMPEMA
CHIEF DEPUTY

November 4, 2024

Jeff & Jolene Stewart
29870 393rd Avenue
Wagner, SD 57380

Charles Mix County Commission
Attn: Keith Mushitz, Chairman
PO Box 70
Lake Andes, SD 57356

Re: In the Matter of Open Meeting Complaint 2024-11, Charles Mix County
Commissioners – Charles Mix County

Dear Mr. & Mrs. Stewart & Chairman Mushitz,

Enclosed please find a courtesy copy of the revised proposed agenda for the Commission's November 25, 2024 meeting. A Microsoft Teams link has been arranged that will allow the parties to appear remotely if they desire. Please let me know, as soon as possible, if you intend to appear remotely or in person. Also, please provide your email address and phone number so that you can be reached if technical difficulties arise. I can be reached at steven.blair@state.sd.us. As previously indicated, presentations regarding complaints will begin at 9:00 a.m. central time or as soon thereafter as matters may be heard.

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

Sincerely,

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

Steven R. Blair
Assistant Attorney General

SRB/jm
Enclosure

SOUTH DAKOTA OPEN MEETINGS COMMISSION

AGENDA

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

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9:00 a.m. Central Time

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

Meeting ID: 237 127 537 841

Passcode: YmqUmF

Or to join by **telephone** dial:

(605) 679-7263 with Phone conference ID: **212 419 247#**

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.