

STATE OF SOUTH DAKOTA



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MARTY J. JACKLEY
ATTORNEY GENERAL

BRENT K. KEMPEMA
CHIEF DEPUTY

April 17, 2025

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

Charles Mix County Commission
Attn: Keith Mushitz, Chairman
400 Main Street
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 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 2024-11, Charles Mix County Commissioners –
Charles Mix 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 horizontal line and a small flourish.

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 BOARD)	FINDINGS OF FACT,
OF COMMISSIONERS)	CONCLUSIONS OF LAW, &
)	DECSISION

The above captioned matter was heard before the South Dakota Open Meetings Commission (Commission) on November 25, 2024. Complainants, Jolene & Jeff Stewart, appeared personally. The Charles Mix County Commission did not appear and did not appear through counsel. 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 solely upon the materials submitted, the Commission enters the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. The Commission takes official notice that Charles Mix County is a political subdivision of the State of South Dakota created by the Legislature and duly organized and operated according to applicable provisions of South Dakota Codified Law.

2. The Commission further takes notice that the Charles Mix County Commission is a public body elected pursuant to applicable provisions of state law to govern Charles Mix County.

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Charles Mix County Board of Commissioners
Findings and Conclusions

3. The Charles Mix County Commission met on May 23, 2024. At the time of the meeting, the agenda for the County Commission's previous May 9 meeting, and a notice about election tabulator testing, were posted on the north door of the courthouse. The notice regarding tabulator testing was posted on the south door of the courthouse. Notice of the County Commission's May 23 meeting was not physically posted at the County courthouse.

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.

5. Complainants, Jolene & Jeff Stewart, submitted an open meetings complaint to the Charles Mix County State's Attorney on May 24, 2024. The Stewarts alleged that the Board of Commissioner's violated the open meetings laws by failing to give proper notice of an official meeting as required by SDCL 1-25-1.1.

6. On July 12, 2024, Charles Mix County State's Attorney Steve Cotton forwarded the complaint to the Commission pursuant to SDCL § 1-25-6.1(3).

7. In submitting the complaint to the Commission, State's Attorney Cotton relayed that the Charles Mix County Auditor had explained that the

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Findings and Conclusions

wrong agenda was posted on the north door of the courthouse for the May 23 meeting. State's Attorney Cotton also relayed that the meeting was properly noticed on the Charles Mix County website.

8. The Board of Commissioners did not respond to this complaint.

9. 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 Charles Mix County Board of Commissioners, as the governing body of Charles Mix 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. SDCL 1-25-1.1. requires physical posting of notice of an official meeting at least twenty-four hours in advance of the meeting. It is uncontested that Charles Mix County failed to physically post notice of its May 23, 2024, meeting at the County courthouse.

3. The Commission concludes that the Charles Mix County Board of Commissioners did violate the open meetings laws by failing to physically post proper notice of its May 23, 2024, 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 Charles Mix County Board of Commissioners for violating the South Dakota Open Meetings Laws by failing to physically post notice of its May 23, 2024, meeting.

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

Dated this _____ day of _____.

SOUTH DAKOTA OPEN MEETINGS COMMISSION

Emily Sovell, Chair

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 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 2024-11
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 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 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 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.

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_ODU0YTRhYjUtNDNlNi00MjRhLWFIYjUtMTI4NjliZjk0MjVm%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#