

body elected pursuant to applicable provisions of state law to govern the Green Valley Sanitary District.

3. On April 10, 2024, the Board of Trustees held a regularly scheduled meeting.

4. On the April 10, 2024, proposed agenda, a generic or nonspecific executive session item was listed.

5. This proposed agenda was approved during the meeting and became a final agenda.

6. During the meeting April 10, 2024, the Board of Trustees went into executive session to discuss a “complaint” by Steve Myers.

7. A “complaint” by Steve Myers could entail any variety of “complaints” that could be discussed in an open meeting.

8. The Board of Trustees did not specify any particular matter enumerated in SDCL 1-25-2 prior to entering executive session.

9. The Board of Trustees did not specify a federal law that permits going into executive session.

10. On April 10, 2024, one of the trustees made a motion to convene into an executive session. No specific purpose or legal basis for convening into executive session was contained in the motion.

11. On May 8, 2024, the Board of Trustees held a regularly scheduled meeting.

12. Before the meeting officially started, citizen Steve Myers held up his hand-held audio recorder. Steve Myers told the person to his right that he

was recording. The recording device was on the table in the vicinity of Myers. This recording device was in plain sight on the table five (5) feet from the treasurer and six (6) feet from the president. No disruption of the meeting occurred at this point in time.

13. The meeting started. Sometime during the beginning of the meeting, Steve Myers expressed objection to the secretary misquoting him in past minutes of meetings. An exchange of words occurred between the trustees and Steve Myers. The meeting at this point could be considered disruptive concerning the alleged misquotations.

14. At approximately 7 1/2 minutes into the meeting and as shown on the recording of the meeting, Steve Myers then told the Board of Trustees that Myers was recording.

15. Trustee Val Lewton asked Steve Myers if he got everyone's permission to record? At approximately 8 minutes, President Scott Mohr says all it takes is one opposed and then Steve Myers is in violation of their rights.

16. At approximately 8 1/2 minutes, President Scott Mohr looked at Steve Myers and asked do we need to adjourn the meeting right now? Steve Myers stopped recording and put the recorder in his shirt pocket. Myers continued to argue his objection to the misquote.

17. An excerpt from Myers' recording of the May 8, 2024, meeting addressing these allegations was played for the Open Meetings Commission members.

18. At approximately just over 9 minutes into the meeting, another member of the public had Googled the question of recording a public meeting and stood up and read the answer. She stated the law allowed meetings to be recorded.

19. Prior to the announcement by Steve Myers that he was recording the meeting, it appeared the Board of Trustees did not notice that Steve Myers was recording the meeting.

20. The disruption of the meeting was not caused by the audio recording pursuant to SDCL 1-25-11 as there was no knowledge indicated by the Board of Trustees that the meeting was being recorded prior to Steve Myers announcing he was recording the meeting.

21. 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 Meetings Commission has jurisdiction over this matter pursuant to SDCL ch. 1-25.

2. SDCL 1-25-1 states, in pertinent part:

An official meeting of a public body is open to the public unless a specific law is cited by the public body to close the official meeting to the public.

3. SDCL 1-25-2 provides exceptions to the open meetings requirement set forth in SDCL 1-25-1. SDCL 1-25-2 permits governing bodies to enter executive or closed meetings for a litany of topics set forth in the statute.

4. SDCL 1-25-2 does not require that the specific subject of an exception be listed on the agenda as a condition for entering executive session. However, when the motion is made to convene an executive session, the motion must clearly state the specific purpose or legal basis for doing so, as authorized under applicable state statute or federal law.

5. On April 10, 2024, a motion is made to convene an executive session, and the motion did not clearly state a permissible specific purpose or legal basis for doing so, as authorized under applicable state statute or federal law.

6. The Commission concludes that the Board of Trustees did violate the state open meetings laws when Green Valley Sanitary District Board of Trustees went into executive session without stating an authorized specific purpose or legal basis for doing so in violation of SDCL 1-25-1 and 1-25-2.

7. SDCL 1-25-11 states:

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 section does not apply to meetings closed to the public pursuant to specific law.

8. The Commission concludes disruption of the meeting was not caused by actions of the audio recording pursuant to SDCL 1-25-11 as there was no acknowledgment displayed by the Board of Trustees that the meeting was being recorded prior to Steve Myers announcing he was recording the meeting.

9. The Commission concludes that the Board of Trustees did violate the state open meetings law SDCL 1-25-11 when a member of the Green Valley Sanitary District Board of Trustees asked Steve Myers to stop recording the public meeting and Steve Myers stopped his recording.

10. 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 Green Valley Sanitary District Board of Trustees for violating the South Dakota Open Meetings Laws in that the Green Valley Sanitary District improperly went into executive session without declaring the required specific exemption and illegally stopped citizen Steve Myers from tape recording a meeting when permitted by law pursuant to SDCL 1-25-1, 1-25-2, and 1-25-11.

Decision entered by Commissioners **E. Sovell** (Chair), **A. Hoffman**,
K. Hoffman, **L. Russell**, and **M. Smith**.

Dated this _____ day of _____ 2026.

SOUTH DAKOTA OPEN MEETINGS COMMISSION

Emily Sovell, Chair