

STATE OF SOUTH DAKOTA



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December 11, 2012

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Re: Matter of Open Meeting Complaint 12-03, Union County Weed Board

Gentlemen:

Enclosed find the final Findings of Fact, Conclusions of Law, and Reprimand in the above referenced matter. They are also posted on the Attorney General's website along with other decisions of the Open Meeting Commission.

Sincerely,

Diane Best
Assistant Attorney General

December 10, 2012

STATE OF SOUTH DAKOTA

OPEN MEETING COMMISSION

IN THE MATTER OF OPEN MEETING)	FINDINGS OF FACT,
COMPLAINT 12-03, UNION COUNTY)	CONCLUSIONS OF LAW
WEED BOARD)	AND REPRIMAND
)	

INTRODUCTION

The state of South Dakota has enacted a statute setting forth certain requirements involving the agenda and notice of public meetings. Pursuant to SDCL 1-25-1.1, these public meetings shall only be conducted after proper notice is made with the proposed agenda. This notice is to be provided to the public at least twenty-four (24) hours prior to the meeting. Furthermore, the required notice shall be posted in a location visible to the public at the principal office of the public body holding the meeting. The same rule applies to special meetings to the extent that the circumstances permit. A violation of these requirements is a Class 2 misdemeanor.

FINDINGS OF FACT

1. On August 21, 2012, Ross Jordan signed a Complaint alleging that the Union County Weed Board violated the open meeting agenda requirements found at SDCL 1-25-1.1. Specifically, the complaint alleged that a quorum of the Union County Weed Board held a meeting on May 29, 2012, without posting notice or an agenda for said meeting.

2. The Complaint, lodged with the Union County States' Attorney, was forwarded to the Open Meeting Commission (OMC) on August 21, 2012.

3. The Union County Weed Board routinely meets in the Union County Courthouse. Its principal place of business is the Union County Courthouse.

4. The record shows that a quorum of the Weed Board did, in fact, hold a meeting on May 29, 2012. The record (including the minutes of said meeting and a September 5, 2012 letter from the Weed Board to the OMC), demonstrates that the Weed Board failed to give notice and post an agenda for the May 29 meeting 24 hours in advance of the meeting.

5. The Union County Weed Board admitted that it did not post the requisite notice or agenda. The Weed Board's response stated that previous meeting notices had been posted on a small board in the courthouse basement albeit without the knowledge of the Board itself. No notice or agenda was, however, posted for the May 29 meeting.

6. The Union County Weed Board is the entity responsible for ensuring that notice of its meetings and agendas are posted and it failed to do so.

7. A reprimand is warranted.

CONCLUSIONS OF LAW

1. The Union County Weed Board is an entity subject to the provisions of the Open Meeting Law in SDCL ch. 25.

2. The law in force on May 29, 2012* required the Union County Weed Board to prepare and post the notice of its meetings in a location visible to the

public at the principal office of the public body at its principal place of business, along with a proposed agenda, at least 24 hours prior to any meeting pursuant to SDCL 1-25-1.1.

3. The Weed Board has admitted its failure to prepare and post notice and an agenda. This is a violation of SDCL 1-25-1.1 and is subject to a public reprimand.

REPRIMAND

The Union County Weed Board is hereby publicly reprimanded for its May 29, 2012 violation of the South Dakota Open Meeting Law.

Issued by Commissioners Brenner, Sovell, Steele, and Rothschadl. Chairman Steele, having been absent when oral presentations were made on this matter, did not participate in issuing the foregoing Findings of Fact, Conclusions of Law and Reprimand.

*SDCL 1-25-1.1 has now been amended and requires the Weed Board and other public entities to “provide public notice, with proposed agenda, that is visible, readable, and accessible for at least an entire twenty-four hours before any meeting, by posting a copy of the notice, visible to the public at the principal office of the public body holding the meeting” and, further, requires that the agenda and notice be posted on the public body’s website if it has one. These changes became effective on July 1, 2012.