



Office of the
CUSTER COUNTY STATE'S ATTORNEY

Tracy L. Kelley, State's Attorney
Wendy T. Lampert McGowan, Deputy SA

November 13, 2025

South Dakota Open Meetings Commission
1302 East Hwy 1889, Ste 1
Pierre, SD 57501

Re: Open Meetings Complaint

Dear Commission:

The enclosed complaint was presented to the Custer County State's Attorney's Office for investigation.

Date of Violation: April 22, 2025

Statement of Material Facts: The Board of Trustees for the Town of Hermosa properly noticed a meeting of the Board for April 22, 2025 to begin at 6:00 p.m.. With all, or a majority of the Board present, the Board commenced what they termed a "work session" on or before 5:18 p.m.. A recording of the session commenced at 5:18 p.m. and it clearly appeared that discussions had started prior to the time of the recording. No public notice nor proposed agenda was provided for such work session. The Board President, that May 6, 2025 Board Meeting, acknowledged and apologized for the work session held on April 22, 2025.

The Complaint made additional allegations concerning one or more emergency meetings of the Board occurring on July 14th and July 19th, 2025; however, I was unable to verify any meeting of Board members on those dates to substantiate any violation(s).

Additionally, the complaint questioned the abatement committee and process which does not present open meeting violation issues.

Statement of Legal Issue presented: Does the "work session" held by the Board of Trustees prior to the regularly noticed Board meeting violate Open Meeting Laws, particularly, SDCL 1-25-1.1?

Conclusion: It is my opinion that the impromptu "work session" held by the Board of Trustees for the Town of Hermosa on April 22, 2025 is a violation of SDCL 1-25-1.1.

Legal Issue to be considered by the Commission: Did the alleged unnoticed "work session" commenced by the Board of Trustees for the Town of Hermosa forty-five

420 Mt. Rushmore Rd.
Custer, SD 57730

StateAttorney@custercountysd.com

Ph: 605.673.8175
Fax: 605.673.8153

minutes to an hour prior to their properly noticed meeting scheduled to commence at 6:00 p.m. violate SDCL 1-25-1.1 and the South Dakota Open Meeting Laws?

Sincerely,



Tracy L. Kelley
Custer Co. State's Attorney

TLK/tlk

Cc: Vicki Henrichsen
Town Of Hermosa

Formal Complaint Regarding Open Meeting Law Violations – Hermosa, South Dakota

To Whom It May Concern,

This letter serves as a formal complaint against the Board of Trustees for Hermosa, South Dakota, for violating the Open Meeting Law on April 22, 2025. A meeting was held at 5:00 PM that was neither posted nor properly documented. A recording of the meeting began at 5:18 PM. To my understanding, a citizen, who is a former board president, was present at 5:00 PM, along with Board President Linda Kramer and another board member. The remaining trustees were reportedly contacted and asked to attend this unposted meeting.

While a 6:00 PM meeting was properly scheduled and posted with an agenda, the board president initiated a work session at 5:18 PM, as evidenced by the recording. Citizens were understandably upset to find the board already in session when they arrived for the posted meeting, having rushed from work to attend.

This board has a history of disregarding Open Meeting Laws, tabling ordinances, ignoring violations, or altering them when it benefits themselves, their families, or friends. In 2023, numerous violations were filed but never investigated. These included verbal abuse, slander, bullying, and harassment. It is time for accountability.

Evidence of the illegal meeting on April 22, 2025, includes written documentation, verbal recordings beginning at 5:18 PM, and an apology recorded in the May 6, 2025 minutes. These records are also published in the *Custer Chronicle* as part of the official minutes.

Additionally, on July 14 and 19, 2025, a quorum was present before an emergency meeting that was not properly published. It should also be noted that the board president and vice president were left alone in the office after hours without the finance officer present. Files were left open, and office doors were unlocked. This lack of oversight has contributed to missing information, a recurring issue throughout the year.

A new abatement committee has been formed, which I find ironic. In 2023, I served as the abatement officer and submitted reports involving board members and/or their families. These were tabled and, to my knowledge, remain unresolved. The current committee includes two of the three individuals involved in those violations. How can they now issue abatement letters or enforce ordinances fairly? This appears to be another instance of selective enforcement, which I find deeply troubling.

I believe fairness should apply to all, with few exceptions—and certainly not to this extent. I hope my faith in the system can be restored through a thorough investigation of this matter and the other issues outlined above.

Sincerely,



Vicki Henrichsen

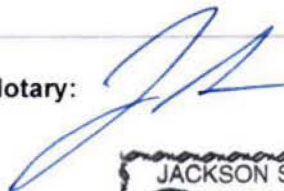
☎ 605-431-6424

☐ vickilhenrichsen@gmail.com

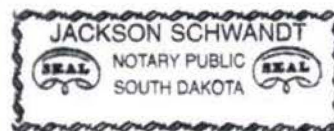
Copies Sent To:

- Tracy Kelly, Custer County States Attorney
- Jim Lintz, Custer County Commissioner
- Mark Hartman, Commissioner
- Mike Lindy, Commissioner
- Craig Hindle, Commissioner
- Mike Buszkohl, Commissioner

Notary:



expires 6-10-2028





CUSTER COUNTY SHERIFF'S OFFICE
 SHERIFF MARTY MECHALEY
 420 MT RUSHMORE ROAD, CUSTER, SOUTH DAKOTA, 57730
 PHONE: (605) 673-8146 FAX: (605)673-8154



Case Narrative for 2025-00423 (08/06/25 20:24)

Printed on November 13, 2025

Primary Report By Elizabeth Allen, 08/06/25 20:24

Case #2025-00423
 Typed By Elizabeth Allen

On 08/05/2025, I received an email from the States Attorneys Office. The email contained 3 forms from Vicki Henrichsen. Vicki was reporting open meeting violations, with the Board of Trustees, at the Town of Hermosa.

The letter references an open meeting violation on 04/22/2025. The letter stated the meeting occurred at 5:00 PM, which had not been posted. Vicki indicated the meeting was set for 6:00 PM, making the meeting happen an hour earlier than publicly posted. I found the YouTube recording, indicating it started recording at 1717 hours, on 04/22/2025. The individuals present were: Koontz, Serviss, Kramer, Ferguson, and Cornelison. Harris was present VIA phone call. Ferguson had been talking about selling fireworks, indicating the meeting had been started prior to the 1717 hours.

In the meeting they talked about firework stores, being at the Community Center, or possibly by the gas station. They talked about a meeting the next week in regards to a plan, at the Community Center. They talked about complaints, violations, and Planning and Zoning issues. They talked about yard waste cleanup. They talked about door locks, and surplusing the older patrol vehicle. They talked about the Hermosa Marshall and stuff regarding his position.

At 1748 hours, Kramer stated it was the end of their work session.

At 1759 hours, they are talking about building permits in the Extraterritorial Area. Later talking about lot 4, which would be Item 4.C on the Special Meeting Agenda. Then talking about annexation and that Mr. Hulbert bought the lot, making him not want water or sewer on the lot.

The meeting was officially started at 1802 hours, after an Attendee stated they should start the meeting.

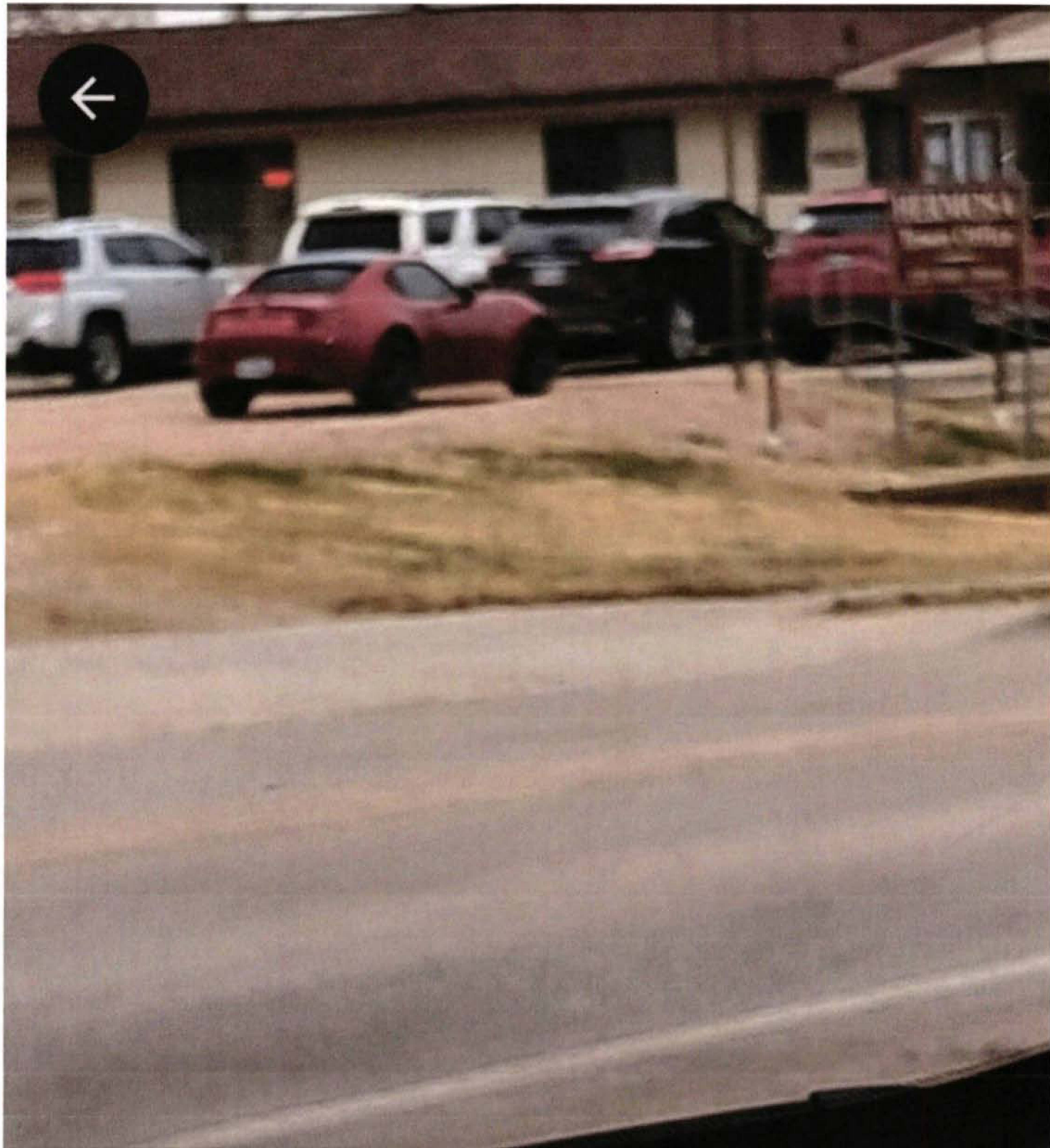
On 05/06/2025, they had a Regular Meeting. The meeting was listed to start at 6:00 PM, and started at.

At 1814 hours, Kramer stated "I would like to add a little bit of an update, about our last meeting. It was a special meeting. I would like to apologize to the board members, and also to the office staff. It was advertised at 6 o'clock for the special meeting, and two of us showed up at 5 o'clock, because that is when we were always having our work sessions, and that is in the minutes of March 3rd, or 6th. The board meeting on the 4th, that we would have a work session, every Tuesday night that there was not a regular meeting. Cal and I both showed up to do that, and the rest of the board actually looked (undecipherable) for the special meeting which called at 6. When we sat here a little while, and decided we would call them in here a little early so we could have some discussions. But it was not posted as a work session, other than being posted in the March 4th meeting minutes."

The videos can be looked up on YouTube, under the account name HermosaSouthDakota. The ID picture is a "H" in a green blue bubble. I am unable to download them, or link them to the report.

The complaint, and meeting information forms have been attached to the report.

Signed _____ Date _____
 Elizabeth Allen, Officer



Tue, Apr 22, 2025 • 5:25 PM



Add a caption Easemone

HERMOSA TOWN BOARD
SPECIAL MEETING
APRIL 22, 2025
6:00 PM



- 1) **ROLL CALL:**
 - A. BOT Roll Call: Kramer, Ferguson, Koontz, Harris, Serviss
 - B. Acknowledgement of other Attendees

- 2) **CALL FOR CHANGES:**
 - A. Review of current agenda items
 - B. Motion to accept the agenda as presented/amended

- 3) **CONFLICT OF INTEREST DECLARATION**

- 4) **ITEMS OF BUSINESS:**
 - A. Approve letter to Shorb for resolution of outstanding items
 - B. Approve bid from Pennington County for street work
 - C. Review of Building Permit – Extraterritorial Area – Tim Hurlbert – Barnier Tract #4 of McDermand Subdivision - FYI

- 5) **ITEMS FROM CONSTITUENTS:** No action can be taken by the board on any issue related without being first placed on a future agenda, to allow for proper notice.
 1. Reserved time for public comment is **15 minutes**.
 2. This is a time for citizens of the town of Hermosa or owners of property within town Limits to express concerns or discuss issues having relevance to the town.
 3. Anyone wishing to address the Town Board during this time shall be asked to stand and Identify themselves after being recognized the Board President.
 4. Each person will be allotted **3 minutes** to speak.
 5. After these time limits are reached, all further commentary shall be made only with the Chair's approval.

- 6) **TRUSTEE INPUT:**

- 7) **EXECUTIVE SESSION:**
 - A. Motion to enter Executive Session allowable by SDCL 1-25-2.1 – Legal/Personnel/Contract
 - B. Motion to exit out of Executive Session
 - C. Motions resulting from Executive Session

- 7) **ADJOURN:** Motion by _____; Second by _____ to adjourn the meeting at _____ PM.

**HERMOSA TOWN BOARD
TUESDAY, APRIL 22, 2025
SPECIAL MEETING @ 6:00pm**

ROLL CALL: Kramer called the meeting to order on Tuesday, April 22, 2025, at 6:02 pm with the following members present: Kramer, Ferguson, Koontz, and Serviss. Harris was present via the phone.

CALL FOR CHANGES: Motion by Ferguson and seconded by Koontz to approve agenda as presented; vote: all aye, motion carried.

CONFLICT OF INTEREST DECLARATION: All board members are responsible for refraining from discussion and voting on issues where they may have a conflict of interest.

ITEMS OF BUSINESS: Discussion was held on resolving outstanding items for the Shorb family. The Finance Officer was instructed to work with the Town Engineer to draft a letter stating the town would address all outstanding items. Motion by Harris and seconded by Serviss to approve the bid from Pennington County as presented for street work; vote: all aye, motion carried. Motion by Serviss and seconded by Ferguson to allow and approve Dan Holsworth to pick up necessary products needed for street work, with town purchasing necessary items; vote: all aye, motion carried. Permit #2025-09 – Extraterritorial Area – Tim Hurlburt – Barnier Tract #4 of McDermid Subdivision was presented for informational purposes. The town board recommends that floodplain permits are required from the county and to have the finance officer verify access for this parcel of land.

CITIZENS/TRUSTEE INPUT: Audience and trustees had input.

ADJOURN: Motion made by Ferguson and seconded by Koontz to adjourn the meeting at 6:52pm; vote: all aye, motion carried.

ATTEST:

Terri Cornelison
Finance Officer

Linda Kramer
Town Board President

Published once at the approximate cost of _____.

**HERMOSA TOWN BOARD
TUESDAY, MAY 6, 2025
REGULAR MEETING @ 6:00pm**

ROLL CALL. Kramer called the meeting to order on Tuesday, May 6, 2025, at 6:00 p.m. with the following members present: Kramer, Ferguson, Koontz, Serviss. Harris was available via the phone. Interested citizens, Attorney Hagg and Town Engineer Theodorou were also present. Pledge of Allegiance led by Kramer.

CALL FOR CHANGES: Motion by Ferguson and seconded by Serviss to approve the agenda as presented, vote: all aye, motion carried.

CONSENT CALENDAR: Motion by Harris and seconded by Serviss to approve April 15, 2025, regular meeting minutes and April 22, 2025, special meeting minutes as presented, vote: all aye, motion carried.

CONFLICT OF INTEREST DECLARATION. All board members are responsible for refraining from discussion and voting on issues where they may have a conflict of interest.

TOWN UPDATES. Joan Harris gave an update on current FEMA grant. Serviss inquired about the bulk water permit for the Custer County Fair Board as they will need water for the arena during roping events. Kramer apologized for the impromptu work session that was held before the last meeting on April 22, 2025.

ENGINEER. Motion by Serviss and seconded by Koontz to authorize Benesch Engineering to prepare a request for proposal for the water treatment system, vote: four aye and one abstain, motion carried. Motion by Koontz and seconded by Ferguson to approve the \$1,150 payment for the water rights permit, vote: all aye, motion carried. Harris left the meeting at 6:25 p.m. as she could not hear everyone talking while trying to participate via the phone. Motion by Koontz and seconded by Serviss to approve the Pay Application to Baroque Advantage LLC in the amount of \$108,323.10; vote: all aye, motion carried. Theodorou shared that Benesch has been rated #101 in the nation for the top 500 design firms. Discussion was held on the possibility of obtaining an FRA grant to construct a pedestrian bridge over Vilas Street. DANR has approved the Hermosa Lagoon Expansion project change orders 5 through 7. DANR has also approved the North Water Tank design.

PLANNING & ZONING. Motion by Ferguson and seconded by Koontz to approve Permit #2025-10 – Roof Covering for Office Building Application – Parcel #004135- Mark & Francine Cropley; vote: all aye, motion carried. Discussion was held on requirements to obtain utility services on a lot located on Whitney Street between 5th Street and Highway 79 (TR Skillingsstad West). Lot owner was encouraged to speak with the town engineer to address this.

CLAIMS. Motion made by Koontz and seconded by Serviss to approve the Payroll and Claims as presented, vote: all aye, motion carried. Motion was amended by Koontz and seconded by Serviss to pend approval of Time Equipment Rental invoice until reduction made for damaged hoses, vote: all aye, motion carried. A & B BUSINESS, monthly printer/fax fee, \$560.05, BANKWEST, classic web banking fee, \$25.00, BANKWEST CREDIT CARD, volunteer awards/District 9 meeting/adobe/stamps/trash pump rental/paper and envelopes for comprehensive plan survey, \$1,585.10, BENESCH, On-call services/office support, \$770.00, BENESCH, lagoon expansion/new DANR permit engineering fees, \$3,619.53, BENESCH, wastewater treatment plant engineering fees, \$2,752.00, BENESCH, north water tank engineering fees, \$8,208.00, BENESCH, FY22 DWSRF project engineering fees, \$5,185.00, BENESCH, lone coyote water & sewer extension engineering fees, \$5,619.75, BENESCH, comprehensive plan update-final engineering fees, \$1,820.00, BLACK HILLS ELECTRIC COOP, monthly utilities, \$2,972.90, CONRAD'S BIG "C" ELECTRIC, repair light poles, \$1,311.46, CUSTER COUNTY SHERIFF, dispatch contract May-June 2025, \$2,000.00, DAKOTA SUPPLY GROUP, lagoon gate valves, valve box, parts for WWTP, wire tracer and pipes, \$16,805.04, CHUCK FERGUSON, April 2025 contract services, \$3,120.00, GOLDEN WASTE TECHNOLOGIES, email issues from new website domain/setup new administrative assistant computer, \$360.00, HARVEY'S LOCK SHOP, rekey evidence room lock, \$139.40, HAWKINS, water treatment chemicals, \$636.04, JP COOKE COMPANY, pet license tags, \$124.95, LINDSEY LUCKETT, reimburse fingerprinting fee, \$30.00, MIDCONTINENT TESTING LABORATORIES, water and lagoon testing, \$796.00, MILLER CONSTRUCTION, 2 loads base course, \$1,057.48, OFFICE DEPOT, printing calculator, \$97.69, RURAL DEVELOPMENT, RD 1 Loan-April 2025 interest & principal, \$1,278.00, RD2 Loan-April 2025 interest & principal, \$417.00, RD3 Loan-April 2025 interest & principal, \$222.00, SUMMIT FIRE PROTECTION, annual fire extinguishers inspection, \$229.60, TIME EQUIPMENT RENTAL, rental of 4" trash pump, \$316.26, US BANK, May 2025 quarterly SRF loan payment, \$1,493.23, **Accounts Payable Total: \$63,551.48.** UTILITY DEPOSIT



Southern
Hills Law
Legal Solutions for the Black Hills

*J. Scott James
Attorney at Law
Licensed in SD, NY*

*Gina Ruggieri
Attorney at Law
Licensed in SD*

8 W. Mt Rushmore Rd, Custer, SD 57730 tel: 605.673.2503

southernhillslaw@gmail.com

VIA FACSIMILE TRANSMISSION TO (605)773-4106

Beverly J. Katz
Assistant Attorney General
1302 East SD Highway 1889
Suite 1
Pierre, South Dakota 57501

December 12, 2025

RE: Open Meetings Complaint for April 22, 2025 Special Town Meeting

Dear Ms. Katz:

Thank you for forwarding to my attention the recent open meetings complaint filed by Vicki Henrichsen concerning the special meeting held on April 22, 2025. I became City Attorney only recently on September 23 of this year and so I had to do some investigation of my own to determine what occurred on that date. We appreciate the opportunity to address this matter.

My review primarily consisted of viewing the video footage available of the Town meeting on the YouTube Site that the Town Board regularly posts content to. This particular meeting can be found at the following link:

https://www.youtube.com/watch?v=LGT735_O5WY

This was a special meeting of the board and not a regular meeting. It was noticed for April 22, 2025 to begin at 6:00 pm. As can be viewed, 4 of the 5 town board members are present, with a 5th member present by a video link and participating. There is a timestamp on the video reading "17:17:01" when the video begins. It appears that they may have been discussing matters slightly before the video began. The Board members clearly discuss matters of public policy, taking a break at one point, until Board President Kramer at 6:02 then announces that it is time to begin the special meeting. One of the citizens in the gallery asks if the video was recording them the whole time to which they reply yes, with a humorous jab at the citizen. The time spent prior to 6:00 is referenced as a "work session" by the Board President.

It is clear that the actions of the Board on this date violate the specific requirements of SDCL 1-25-1.1. After all, if a Board could simply meet earlier than the


announced agenda it could defeat the purpose of the statute which is to give citizens the ability to participate in the civic governance of their community.

In mitigation I would like to note a couple of items. First, you inquired about whether the Town of Hermosa had completed its annual review requirement of the Open Meetings Law Brochure for 2025. It does appear that this review was completed on July 8, 2025, and is reflected in the minutes for that date (see attached). I also went to that video to review the actual instruction given at that time. It is also viewable at the following link and occurs at approximately 46:41 minutes into the video (18:45:19) and goes until 54:30 into the video (18:53:52), and thus was approximately 8 minutes long, with questions:

<https://www.youtube.com/watch?v=6Y7BB9Y-nFA>

This review was done by former City Attorney Kent Hagg, and in as respectful a manner I can manage, is in my opinion inadequate. Attorney Hagg can be seen essentially focusing on only one component of the Open Meetings Law which is the issue of whether the Board can add agenda items and vote on them if they were not included in the proposed agenda noticed more than 24 hours earlier. Notably, he gets this issue confused, as he says that if they are going to vote on a matter, then they cannot add the item to the agenda. This is contrary to the Open Meetings Board's Opinion in the Matter of Open Meetings Complaint against Yankton County Commission OMC 2020-03, which notes that only the proposed agenda must be announced and that the Board may add items and vote on items added less than 24 hours into the meeting. After giving this information, Attorney Hagg then simply announces that the Brochure is "self-explanatory" which seems to obviate the statutory purpose of the need for review in the first place. If the brochure were self-explanatory, then the legislature could simply have required that all board members be furnished the brochure and not that they acknowledge a review at a meeting. It is my fear that the Board may not have been getting consistently good information on this topic prior to the April 22, 2025 Special meeting which contributed to the violation.

Additionally, In the segment of time between 5:17 and 6:20 the Board does not take any votes on any matter, it is more or less an informal discussion. It is also clear that the Board had no intent to withhold information from the public, as they transmitted the segment of the meeting in dispute on a publicly accessible video which was posted to the Town's website.



*J. Scott James
Attorney at Law
Licensed in SD, NY*

*Gina Ruggieri
Attorney at Law
Licensed in SD*

It would be my humble request, that the Board take these mitigating factors into account when deciding on the appropriate action. I would gladly volunteer to administer a full and detailed review of the open meetings laws which would also be captured on the Town's recording system, which your office could review to ensure that the appropriate information was being relayed to Board members and the public on this topic. We would request informal reprimand and the proposed training to be provided. If there is anything else I can do to assist in this matter, please do not hesitate to ask.

Very Truly Yours,

J. Scott James
City Attorney
Hermosa, South Dakota