STATE OF SOUTH DAKOTA

OPEN MEETINGS COMMISSION

IN THE MATTER OF OPEN MEETINGS COMPLAINT AGAINST CITY OF GARY - GARY CITY COUNCIL – DEUEL COUNTY	)))))	OMC 2026-02 PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

The above captioned matter was heard before the South Dakota Open Meetings Commission (hereafter "Commission") on April 27, 2026, in Pierre, South Dakota. Complainant Deuel County State's Attorney Craig D. Evenson appeared remotely in his personal capacity as the complainant. The City of Gary, governed by the Gary City Council (hereafter "Gary City Council"), did not appear but was represented by and through counsel Reed T. Mahlke who did not personally appear nor remotely appear. Prior to the hearing, the Commission reviewed the Stipulation and Agreement with Reprimand signed by counsel Reed T. Mahlke and Mayor Larry Stoks, the written submissions of the parties, as well as any other exhibit, pleading or paper on file herein. Based upon the materials submitted, and the arguments of the parties, the Commission enters the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. The Commission takes official notice that the City of Gary is located in Deuel County, South Dakota, and has been organized and operated according to applicable provisions of South Dakota Codified Law.

2. The Commission further takes notice that the Gary City Council is the public body elected pursuant to applicable provisions of state law to govern the City of Gary.

3. On November 3, 2025, the Gary City Council held a regularly scheduled meeting.

4. During the public comment period, three members of the public - who were also city employees - were asked to leave the November 3, 2025 meeting by the Gary City Council.

5. 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 Gary City Council, as the governing body of City of Gary, South Dakota, is a public body subject to the open meetings requirements of SDCL ch. 1-25.

2. The Open Meetings Commission has jurisdiction over this matter pursuant to SDCL ch. 1-25.

3. 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.

4. The Open Meetings Commission interpreted the Gary City Council's signed Stipulation and Agreement as an admission, that the Gary City Council did violate the open meetings law by failing to allow members of the public - who were also employees - to remain during the open meetings

portion of the November 3, 2025 Gary City Council meeting as required by SDCL § 1-25-1.

5. The Open Meetings Commission concludes the Gary City Council did violate the open meetings law SDCL § 1-25-1 by failing to allow members of the public to remain during the open meetings portion of the November 3, 2025 Gary City Council meeting.

6. 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 City of Gary – Gary City Council for violating the South Dakota Open Meetings Laws in that the Gary City Council improperly removed members of the public during the public comment portion of its open meeting as permitted by law pursuant to SDCL § 1-25-1.

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

Dated this _____ day of _____ 2026.

SOUTH DAKOTA OPEN MEETINGS COMMISSION

_____
Michael J. Smith, Chair