

Office of
**Deuel County
States Attorney**

Attorney General

FEB 23 2026

THIRD FLOOR
DEUEL COUNTY COURTHOUSE

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CLEAR LAKE, SOUTH DAKOTA 57226-0590
PHONE: 605-874-2840
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February 17, 2026

South Dakota Attorney General's Office
Open Meetings Commission
1302 East Highway 1889, Suite 1
Pierre, South Dakota 57501

ENC
Flash
drive

RE: Alleged Violation of Open Meeting Laws – City Council, City of Gary, SD

Dear Open Meetings Commission:

Please find enclosed the complaint against the City Council of the City of Gary, South Dakota, as outlined pursuant to SDCL § 1-25-1. I have included the investigative materials, police reports, and related documentation received and reviewed during our investigation.

Please contact me if you have additional questions regarding this complaint.

Statement of Material Facts:

On November 3, 2025, the City Council of Gary, South Dakota, held a regular meeting at Gary City Hall. During the meeting, at the time designated for public input, three individuals were asked to leave the meeting. Those asked to leave are city employees. These individuals believed this action to be a violation of open meeting laws. The meeting continued as an open public meeting after their departure. The incident was reported to the Deuel County Sheriff's Office, and a subsequent investigation was conducted, including review of the meeting recording and statements from those involved. The police report concludes that, in the absence of disorderly conduct, members of the public cannot be removed from an open public meeting. The city employees are members of the public. (COMPLAINT 1-25-1.pdf, p. 5) .

Legal Question:

The legal question presented is whether a city council may remove members of the public, including city employees, from an open public meeting absent disruption or entry into executive session under the exceptions provided by SDCL 1-25-2.

Related Litigation:


At present, I am not aware of any litigation related to the subject of this complaint.

State's Attorney Conclusions:

SDCL 1-25-1 requires that all official meetings of the state and its political subdivisions be open to the public unless specifically exempted by law. The investigation determined that the City Council of Gary, South Dakota, violated this statute by asking certain individuals to leave the public meeting without lawful justification (id., p. 1) .

Please see the attached complaint, police reports, and meeting minutes for further details.

Respectfully,



Craig D. Evenson
Deuel County State's Attorney

enclosures

STATE OF SOUTH DAKOTA) IN CIRCUIT COURT
) :SS
COUNTY OF DEUEL) THIRD JUDICIAL CIRCUIT

STATE OF SOUTH DAKOTA,
Plaintiff,

COMPLAINT

**VIOLATION OF OFFICIAL MEETING
OPEN TO THE PUBLIC
CLASS 2 MISDEMEANOR
VIOLATION OF SDCL 1-25-1**

CITY COUNCIL, CITY OF GARY
1113 SUMMIT STREET
GARY, SD 57238
Defendant.


CRAIG D. EVENSON, Deuel County State's Attorney, being duly sworn upon oath and charges:

COUNT 1

On or about the 3rd day of November, 2025, in the County of Deuel, State of South Dakota, CITY COUNCIL, CITY OF GARY, SOUTH DAKOTA, did commit the public offense of VIOLATION OF OFFICIAL MEETING OPEN TO THE PUBLIC, a Class 2 Misdemeanor, in violation of SDCL 1-25-1, in that the CITY COUNCIL, CITY OF GARY, SOUTH DAKOTA, did, at said time and place, fail to make the City of Gary Council Meeting open to the public, at which time the meeting was open for public input, by asking certain people in attendance to leave the meeting.

All contrary to the statute in such case made and provided and against the peace and dignity of the State of South Dakota.

Dated this 26 day of January, 2026.



COMPLAINANT

Subscribed and sworn to before me this 26 day of January, 2026.

(SEAL)


Notary Public, South Dakota

My Commission expires:
08-03-2030



Deuel County Sheriff's Office



400 4th Street West ** PO Box 217 ** Clear Lake, SD 57226-0217
Phone: (605) 874-8212 Fax: (605) 874-2916 Email: deuelco@iitctel.com

Case DEU25-01053

Printed on November 12, 2025

Status	Approved
Report Type	Incident
Primary Officer	Cory Borg
Investigator	None
Reported At	11/10/25 10:56
Incident Date	11/10/25 10:56
Incident Code	SUSP : Suspicious Activity
Location	1113 SUMMIT ST, GARY, SD 57237
Zone	Other
Beat	
Disposition	Open
Disposition Date/Time	11/10/25 11:19
Review for Gang Activity	None

Dispatch Information

CFS # 202545605
Location 1113 SUMMIT ST, GARY, SD 57237
Incident Code SUSP : Suspicious Activity
Occurred Between 11/10/25 10:56:10 and
Assigned 11:01:12 **Enroute** 11:01:27 **On Scene** 11:01:27 **Completed** 11:01:27

Complainant

Deuel County

400 4TH ST WEST
CLEAR LAKE, SD

1-25-1 - Official meetings open to public - Referred

Offender

City Of Gary

1113 SUMMIT ST
GARY, SD 57237

1-25-1 - Official meetings open to public - Referred

GRABOW, JAY EMIL

Male, DOB 10/18/65

407 OAK AVE
GARY, SD

(605) 881-1114 Cell

1-25-1 - Official meetings open to public - Referred

Suspect

City Of Gary

1113 SUMMIT ST
GARY, SD 57237

1-25-1 - Official meetings open to public - Referred

GRABOW, JAY EMIL

Male, DOB 10/18/65
407 OAK AVE
GARY, SD
(605) 881-1114 Cell

1-25-1 - Official meetings open to public - Referred

Witness

Crocker, Austin Dale

Male, DOB 3/29/94
112 10TH ST SE
WATERTOWN, SD 57201
(605) 520-7114 Cell

1-25-1 - Official meetings open to public - Referred

ENGESSER, JODIE JAN

Female, DOB 1/2/75
905 LAC QUI PARLE ST
GARY, SD 57237
(507) 829-5202 Cell

1-25-1 - Official meetings open to public - Referred

Hinsvark, Rachel E

Female, DOB 11/11/79
17980 486TH AVE
GARY, SD 57237
(605) 237-8207 Cell

1-25-1 - Official meetings open to public - Referred

Kjelden, Joni

Female, DOB 12/23/79
912 LAC QUI PARLE ST
GARY, SD 57237

1-25-1 - Official meetings open to public - Referred

LANNERS, ROBIN MARIE

Female, DOB 1/1/79
17756 467TH AVE
GOODWIN, SD 57238
(605) 949-1026 Cell

1-25-1 - Official meetings open to public - Referred

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Deuel County Sheriff's Office



400 4th Street West ** PO Box 217 ** Clear Lake, SD 57226-0217
Phone: (605) 874-8212 Fax: (605) 874-2916 Email: deuelco@itctel.com

Case DEU25-01053

Printed on November 21, 2025

Primary Narrative By Cory Borg, 11/12/25 16:40

On November 10, 2025, I (Sheriff Borg 23-1A) was requested by Deuel County Auditor Courtney Parker to come and talk with her. I arrived in her office and she informed me, that Deuel County Commissioner and Gary City Counsel member Jay Grabow had talked with her and asked that she check in with Joni Kjelden because she had a rough meeting.

I knew the City of Gary had a counsel meeting on November 3, 2025.

Parker went on to say that during the meeting, 3 people were asked to leave for public input. Those 3 people are also employees of the City of Gary but thought this to be a violation of open meeting laws.

I filled out a subpoena for the recordings of the Gary City Counsel meeting. I know the City to record meetings from previously being on the city council. The subpoena was signed by Deuel County States Attorney Craig Evenson. The subpoena was delivered in person to the City of Gary Finance Officer at 1113 Summit St, Gary. I also gave the city a drive to put any recordings on.

I received the drive back with two recordings on it. One video/audio of the meeting and another that is just audio. For this report, I only listened to the video/audio recording. At about 18:50 on the video there is public input.

- The summary of the video is as follows: All the people mentioned, I personally know to be accurate.
- Mayor Stokes, asked for public input
- Jodie Engesser, requested a meeting with just the counsel
- Counselman Nelson, asked about excusing Joni and Austin (city employees)
- Jodie Engesser, stated Joni for sure
- Rachel Hinsvark, stated if you'd like we can wait for executive session
- Joni Kjelden, stated its up to the counsel but I can leave
- Counselman Jay Grabow, if the public wants to speak I think we should listen.
- Rachel Hinsvark, stated I ask she leave the building and also asked that Robin Lanners leave.
- Austin Croker, Joni Kjelden and Robin Lanners exited the meeting area.
- Rachel Hinsvark, stated again, I asked that Joni leave the building
- Counselman Jay Grabow, leaves the meeting area, comes back and states she's in the machine part.
- Meeting that is open to the public continues after 3 people left the meeting area.

This concludes the part of the meeting in asking people to leave the meeting.

In my opinion the public or an elected official cannot ask for a person to be removed from an open public meeting, unless they are disrupting the meeting. In my opinion, Austin Crocker was sitting at his chair saying nothing, Robin Lanners was sitting in her chair saying nothing, Joni Kjelden was sitting in her chair and talked when needed as part of her job and did not arise to disorderly conduct.

I talked with Attorney General Beverly Katz who is on the open meeting commission. I asked Katz if an employee can be removed from an open meeting. Her answer is no, an employee is

still a member of the public and cannot be removed from an open meeting, the same as anyone else, unless the meeting goes into executive session and they must meet the qualified state law for executive session.

I have also attached a copy of the minutes of the November 3, 2025 City of Gary meeting.

Since there is no signed complaint or notarized at the time of the report, it will be documented, videos preserved and referred to the Deuel County States Attorney.

Sheriff Cory Borg 23-1A
Deuel County Sheriff's Office

City of Gary, South Dakota
Regular City Council
Monday, November 3, 2025 at 6:30 p.m. at Gary City Hall

1. Call meeting to order
2. Pledge of Allegiance
3. Roll call
4. Additions/corrections to agenda- approval
5. Meeting minutes of October 6, 2025- approval
6. Warrants and claims for October, 2025- approval
7. Employee Contribution: Joni, Austin, Robin
8. Committee Reports:
Golf Course- Doug Sanitary- Mike Parks- Jessica Liquor- Larry & Doug Library- Mike
Streets/Alleys- Jay Cemetery- Neil Law Enforcement- Darwyn Water/Sewer- Darwyn & Neil
9. Ward Reports: *City Wide: Mayor Larry Stoks Ward I: Darwyn Engesser & Neil Schumacher*
Ward II: Jay Grabow & Jessica Christians Ward III: Mike Nosbush & Doug Nelson
10. Public Input
11. Mark Junker, Banner Associates- 2025 Bridge Inspection results
12. Jordan & Mike Hinsvark-water/sewer
13. SRF 7th payment request approval- \$436,979
14. ACH Utility Payments-Banyon Proposal \$1,190, Agreement with DNB
15. Wellmark 2026 health insurance renewal notice
16. 2026 SDML Worker's Comp renewal billing- \$6,384
17. Gary Liquor Store
 - a. open until 10:00 pm Christmas Eve
 - b. advertising KXLG
 - c. ceiling fans
18. Executive Session Pursuant to SDCL 1-25-2 (1) Personnel (3) Legal
19. Other Discussion
20. Building Permits issued in October: Jodie Engesser
21. Next regular meeting will be Monday, December 1 , 2025 at 6:30 pm
22. Adjournment

City of Gary, South Dakota
Regular City Council Meeting
Monday, November 3, 2025 at 6:30 pm at Gary City Hall

The Gary City Council met in regular session Monday November 3, 2025 at 6:30 pm in the City Hall.

The Pledge of Allegiance was said. Mayor Larry Stoks presided. Aldermen Darwyn Engesser, Mike Nosbush, Jay Grabow, Doug Nelson, Jessica Christians, and Neil Schumacher were present. Also, present were Joni Kjelden, Austin Crocker, Robin Lanners, Mark Junker, Patti Haas, Sara Guest, Jodie Engesser, Lori Nosbush, Melinda Baker, Ashley Baker, Johanna Wyman, Sharon Kloos, Tina Moeller, Rachel Hinsvark, Kimberly Meyen, Mel Borg, Mary Nosbush, James DeBoer, Marty Grabow, Jordan Hinsvark and Mike Hinsvark.

Motion by Nosbush, second by Schumacher to approve the agenda as written. All voting aye; carried.

Motion by Engesser, second by Nosbush to approve the minutes of the October 6th meeting. All voting aye; carried.

General- October 2025 Bills

Finance Office-1,811.25;Fire Dept-12.82;Streets-2,390.50;Rubble-113.41;Cemetery-231.81;Golf-143.50;Parks-809.47;Library-652.75;Water-1,391.44;Sewer-2,401.41;Aflac-Sept premium-165.64;AT&T-data connect-44.19;Austin Crocker-cell phone-25.00;Bjerke Sanitation-Oct garbage-2,555.61;BDRW-604,000 gallons-2,042.00;Christianson Plbg & Htg-Grand Blvd-13,572.00;City of Gary-water,sewer,garbage-firehall-41.74,garbage-city hall-17.00;Clear Lake Courier-proceedings,notices-66.83;D&L Digging-repair water leak-950.00;DCFU-monthly fuel charges-1,625.27;DCSO-law enforcement-588.33;EFTPS/941 Tax-FWT-1,593.20,OASI-463.31;Gary Post Office-stamps-100.00;Gate City General-supplies-60.93;HD Electric-cemetery electricity-41.67;ITC-phone,internet,fax,alarm loop-98.19;Library,DSL, Static IP-53.45;Menards-supplies-15.86;Mueller Co-annual EZ reader maintenance-1,275.96;Office Peeps-toner-123.46;Ottetail Power Co-electricity-815.07;SD Public Health Lab-coliform test-40.00;SD DOR-garbage tax-320.62;SD One Call-July-Sept messages-48.30;SDRS-Oct contribution-1,065.92;State Line Tree Service-tree removal-3,000.00;Sun Life- October premium-465.00;Wellmark BCBS-November premium-2,640.66.

Liquor- October 2025 Bills

Liquor-11,297.84;Aflac-Sept premium-358.83;Broken Oak-Oct 11 entertainment-500.00;Cash-WA Dist-food/supplies-834.32;Cask&Cork-liquor-176.00;Chesterman-pop-527.90;City of Gary-water,sewer,garbage-172.13,2026 on/off sale liquor license renewal-600.00;EFTPS/941 Tax-FWT-461.91,OASI-1,449.66;Ellwein Bros-beer-6,078.00;Gary Post Office-stamps-39.00;Gate City General-food/supplies-43.76;First Bank & Trust-credit card-206.76;Harry's Pizza-978.00;Henry's Foods-tobacco,food,supplies-2,462.03;ITC-phone,DSL-TV-251.32;Jim Dandy-jerky-99.00;Johnson Bros-liquor-3,923.75;Minn-Kota Pest Services-annual prepaid pest services-541.50;Neon Gypsy-Oct 18 entertainment-400.00;Nosbush Plbg & Htg-AC unit-3,006.92;Old Dutch Foods-chips-170.52;Ottetail Power Co-electricity-620.19;Peer Pressure Sound-Oct 25 entertainment-300.00;Pepsi-Cola-pop-360.41;Pizza & Burger Shack-pizza-270.00;Porter Dist Co-beer,wine/coolers-1,154.75;Rangaard Electric, Inc-service call-215.84;RNDC-liquor-1,161.65;Robin Lanners-cell phone-25.00;SD DOR-sales tax-3,187.48;SDRS-Oct contribution-1,056.76;Southern Glazers-liquor-874.92;Technicolor Screen Printing-apparel-5,371.51;Star Laundry-towels, rugs-90.56;Vibe Entertainment-Oct 31 entertainment-350.00;Wellmark BCBS-November premium-3,395.13.

Wastewater- October 2025 Bills

D&G Excavating, Inc-construction-156,910.47;Helms & Associates-soil testing,survey,observation-37,674.49.

Motion by Nosbush, second by Engesser to approve the verified claims and issue warrants in payment thereof. All voting aye; carried.

Employee contribution, committee, and ward reports were heard.

Public input: Jodie Engesser asked to talk to just the council, resulting in all employees asked to leave the open meeting. Some of those in attendance voiced complaints regarding employees.

Mark Junker, with Banner Associates Engineer Firm discussed the inspection results of the Lac Qui Parle & Second Ave bridges. The council plans to review in detail again in the spring and decide on repairing or replacing the bridges.

Jordan Hinsvark owns vacant property with no planned use that currently has water and sewer services. He asked whether capping the services would allow him to avoid paying the surcharge. Motion by Grabow, second by Schumacher if water and sewer is capped at property line, surcharge can be excluded. All voting aye, carried. The city needs to be informed of anyone wishing to do this and must receive proof once it is completed.

The seventh payment request from the State Revolving Fund loan in the amount of \$436,979 was approved to send in with a motion by Nosbush, second by Engesser. All voting aye; carried

A proposal to implement the ACH payment method for utility bills was discussed. This option would allow customers, regardless of their financial institution to have their utility bill automatically paid at no cost to them. Motion by Nosbush, second by Grabow to proceed with the ACH feature. All voting aye; carried.

Motion by Nelson, second by Grabow to renew the current Wellmark BCBS health insurance policy at the 2026 rates. All voting aye; carried.

Motion by Engesser, second by Nosbush to renew 2026 SDML Worker's Comp. All voting aye; carried. A complete list of covered employees, officials and volunteers is on file at the city office.

Motion by Schumacher, second by Engesser to close the Liquor Store at 10:00 pm on Christmas Eve. All voting aye; carried.

A discussion to advertise in 2026, the Liquor Store happenings on KXLG radio for \$600/yr was held. Nelson moved to advertise, second by Schumacher. Engesser, Nelson, Christians, Schumacher, aye; Nosbush, no; Grabow, Absent; carried.

Motion by Grabow, second by Nosbush to enter executive session at 8:33 pm for personnel and legal matters. All voting aye; carried. Mayor declared out of executive session at 8:51 pm.

Building permits issued in October: Jodie Engesser

The next council meeting will be Monday, December 1, 2025 at 6:30 pm at the Gary City Hall.

Motion by Nosbush, second by Engesser to adjourn. All voting aye; carried.

City Council, City of Gary

Joni Kjelden, Finance Officer

Published November 12, 2025

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