Office of the
CUSTER COUNTY STATE'S ATTORNEY

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

June 17, 2026

Jerald E. Styles
PO Box 300
Hermosa, SD 57744

Town of Hermosa
Board of Trustees
Via email only to:
Terri Cornelison terri@hermosasd.com
lmkw2018ins@gmail.com
dmoferguson@gmail.com
foothills10@proton.me
aaron.serviss.87@gmail.com
southernhillslaw@gmail.com
Board President boardpresident@hermosasd.com

RE: Open Meeting Complaint

Dear People:

This opinion is in response to the enclosed complaint filed in my office on or about May 19, 2026 alleging a violation of the open meeting laws. The essence of the complaint revolves around an informational meeting held by and in support of the re-election of the current Town Board President, Kelburn Koontz. Two additional members of the Town Board attended the meeting. The Town Board did not post notice of any meeting or a notice of quorum.

SDCL §1-25-1.1 requires a political subdivision to provide public notice of a meeting and post a proposed agenda for the meeting at least 24 hours in advance. Based on my review of the campaign flyer distributed about the "meeting", it is clear this was not a meeting of the Board of Trustees for the Town of Hermosa. I put notations around the term "meeting" for the reason that the gathering was more in line with a candidate forum to support the re-election of Mr. Koontz rather than a "meeting" as that term is intended under the open meeting laws. As such, posting of a notice of the meeting and a proposed agenda is not required.

SDCL §1-25-1 requires, for an event hosted by a non-governmental entity to which a quorum of the public body is invited and public policy may be discussed, that the public body post a notice of quorum. Three of the five trustees attended the

420 Mt. Rushmore Rd.
Custer, SD 57730
StateAttorney@custercountysd.com
Ph: 605.673.8175
Fax: 605.673.8153

informational meeting, constituting a quorum of the Board. Three elements are required to trigger the notice provision under SDCL §1-25-1: 1) the event is hosted by a non-governmental entity, 2) a quorum of the public body is invited, and 3) public policy may be discussed.

In answer to the first element, the event was hosted by a non-governmental entity. It was hosted individually by Kelburn Koontz as part of his election efforts.

The event was publicly advertised constituting an invite to the public as a whole (which includes the trustees). The event was attended by three Trustees, constituting a quorum. According to at least one of the Trustees, the event was discussed by the Board of Trustees and certain of the Trustees believed the event was being noticed for purposes of a potential quorum. Indication from other Trustees was that the event was not discussed by the Board. In any event, a notice of quorum was never posted.

Lastly, there was no doubt that public policy may be discussed. The flyer distributed for the event clearly identified topics involving public policy and actions of the Board.

Based on the foregoing, it would appear that a Notice of Quorum should have been posted under these circumstances. Based on my opinion, this will be forwarded to the Open Meeting Commission for further action.

Sincerely,

Tracy L. Kelley
Custer County State's Attorney

TLK/tlk

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

Primary Report By Elizabeth Allen, 05/21/26 20:32

Case #2026-00265
Typed By Elizabeth Allen

On 05/21/2026, I got an email about an open meeting violation regarding the Town of Hermosa Board members. The email was from Jerald Styles, regarded Kelburn having a political event, where two other board members were present. The other members were Lina Kramer, and Trena Matheny.

In the statement form it indicated there was a video recording of the incident. I reached out to Kelburn, and got no response. A voice-mail was completed, and I am waiting for a call back.

I have attached the form from Jerald.

Signed _____ **Date** _____
Elizabeth Allen, Officer

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

Supporting Report By Elizabeth Allen, 06/05/26 13:02

Case #2026-00265
Typed By Elizabeth Allen

On 05/29/2026, I met with Aaron Serviss and Donna Ferguson. I spoke with them at separate times, in separate locations. When speaking with them, they both indicated they knew about the meeting before it happened. Both stated they did not want to go to the meetings. They also both did not like how there was a quorum, without a petition filled out.

On 06/05/2026, I met with Linda Kramer, and Trena Matheny. I spoke with them at separate times, in separate locations. When speaking with them, they both indicated they had knew about the meeting from the fliers, and were not handed a flier at their houses. Trena stated she did not see Kelburn walking door to door. Linda stated she knew Kelburn had went door to door. They both stated they thought it was put out that there was going to be a possible quorum. They attended the first event together. Linda did not go to the second one, but Trena did.

I went to the Town of Hermosa Office and spoke with the Administrative Assistant. She stated there as no open quorum request for Kelburn's first meeting, but there was one for the other two.

Signed _____ **Date** _____
Elizabeth Allen, Officer

Tracy L. Kelley

From: Terri Cornelison <terri@hermosasd.com>
Sent: Wednesday, May 27, 2026 3:59 PM
To: Tracy L. Kelley
Subject: RE: Open Meeting Complaint

Tracy:

I believe the information for the meeting was on a campaign flyer that he distributed around the town. I never saw the flyer and it was not presented at any meeting. I am not aware of him inviting the whole board to his informational meeting.

Terri Cornelison
Finance Officer
(605)255-4291
terri@hermosasd.com

From: Tracy L. Kelley <tkelley@custercountysd.com>
Sent: Wednesday, May 27, 2026 3:53 PM
To: Terri Cornelison <terri@hermosasd.com>
Subject: Open Meeting Complaint

Terri:

I am once again looking into an open meeting complaint against the Town Board for Hermosa. This complaint revolves around an "information meeting" held by the Board President Kelburn Koontz. Can you tell me if an invitation was extended to the Board to attend the "meeting"? An invitation should have been presented to the board via a mail item directed to the Board or maybe a verbal invite at a meeting of the Board?

Thank you,
Tracy L. Kelley

Custer County State's Attorney
Custer County Courthouse
420 Mt. Rushmore Road
Custer, SD 57730

Subject: Formal Complaint Requesting Investigation of Possible Open Meeting Law Violations

Tracy Kelly,

I am submitting this letter as a formal complaint requesting review and investigation of a possible violation of South Dakota Open Meeting laws involving members of the Hermosa Board of Trustees.

On May 14, 2026, I attended a public re-election informational meeting hosted by Board President Kelburn Koontz at St. Michael's Church in Hermosa. When I arrived, I observed that the meeting was being video recorded by Mr. Koontz. I also observed that three sitting members of the Hermosa Board of Trustees were present: Kelburn Koontz, Linda Kramer, and Trena Matheny.

Because the Hermosa Board of Trustees consists of five members, the presence of three trustees constituted a quorum of the Board.

To my knowledge, no public notice was posted indicating that a quorum of the Board of Trustees would be present or that Town business could be discussed at this gathering.

I attended the meeting because I had prepared several written questions concerning matters of public interest involving Kelburn campaign and actions he had or had not taken while serving as a BOT member including:

1. Statements being made regarding Referendum 2026-05;
2. Transparency regarding a compliance agreement with SD DANR involving disposal of lagoon sludge;
3. Accountability regarding remediation costs associated with that matter.

During the discussion, questions were raised by Board members regarding how I obtained information related to these issues. I explained that information concerning Referendum 2026-05 came from communications with SD DANR, and that information concerning the lagoon sludge compliance matter came from public records obtained through a Freedom of Information request to SD DANR.

At that point, discussion among the Board members turned toward actions the Town should take regarding SD DANR communications with private citizens. Linda Kramer stated words to the effect that private citizens should not be receiving information from SD DANR unless the information was also being provided to the Town. She further stated that she intended to draft a letter for the Board of Trustees to send to SD DANR concerning that issue. The other two Board members present expressed agreement with those statements.

My concern is that a quorum of the Board discussed Town business and potential Board action during a gathering that was not publicly noticed as an official Board meeting as required under South Dakota Open Meeting laws.

The discussion involved matters directly related to Town business, communications with a state regulatory agency, and possible future official action by the Town. Citizens were not provided notice that a quorum of the Board would be present and discussing Town business at this event.

I respectfully request that your office review whether this gathering and discussion constituted a violation of South Dakota's Open Meeting laws and take whatever action is appropriate under state law.

I also request you to review whether this incident, when considered alongside the recent open meeting violations, reflects a broader pattern requiring enforcement attention.

Thank you for your time and consideration.

Respectfully submitted,

Jerald E. Styles

STATE OF SOUTH DAKOTA)
: ss
COUNTY OF CUSTER)

Subscribed and sworn before me this 19 day of May, 2026, by Jerald E. Styles.

Notary Public – South Dakota

My Commission Expires: March 24, 2032

BRYLEE CAMIRE
SEAL NOTARY PUBLIC SEAL
SOUTH DAKOTA

RESOLUTION ON THE BALLOT

VOTE YES for CLEAN Water!!!

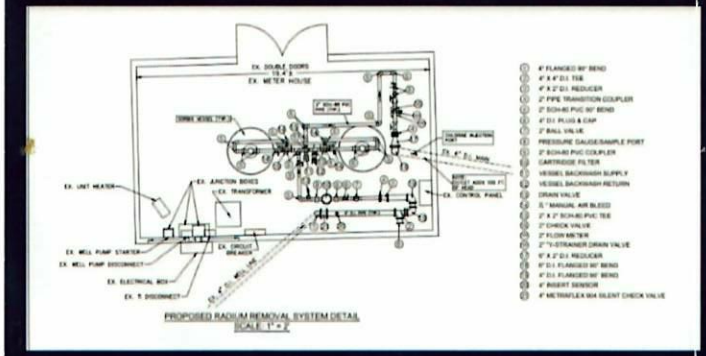
This year we have a Resolution on the ballot to decide to close on the DWSRF Drinking Water loan to pay for the Water System Upgrades.

This loan will allow us to complete ALL of our drinking water upgrades below:

- **Rebuild** the Battle Creek well,
- **Rebuild** the Tower Hill well,
- **Add** a filtration system,
- And **drill a new well** that pumps clean out of the ground!

CLEAN WATER FOR ONLY $27/MONTH PER HOUSEHOLD!

A vote of the People on infrastructure upgrades can only happen when we own our infrastructure. This is why I will only ever support local resource sovereignty!



STABLE LEADERSHIP

This Town has been plagued with instability stemming from highly emotionally charged, highly political, and highly personally motivated former and current Board members.

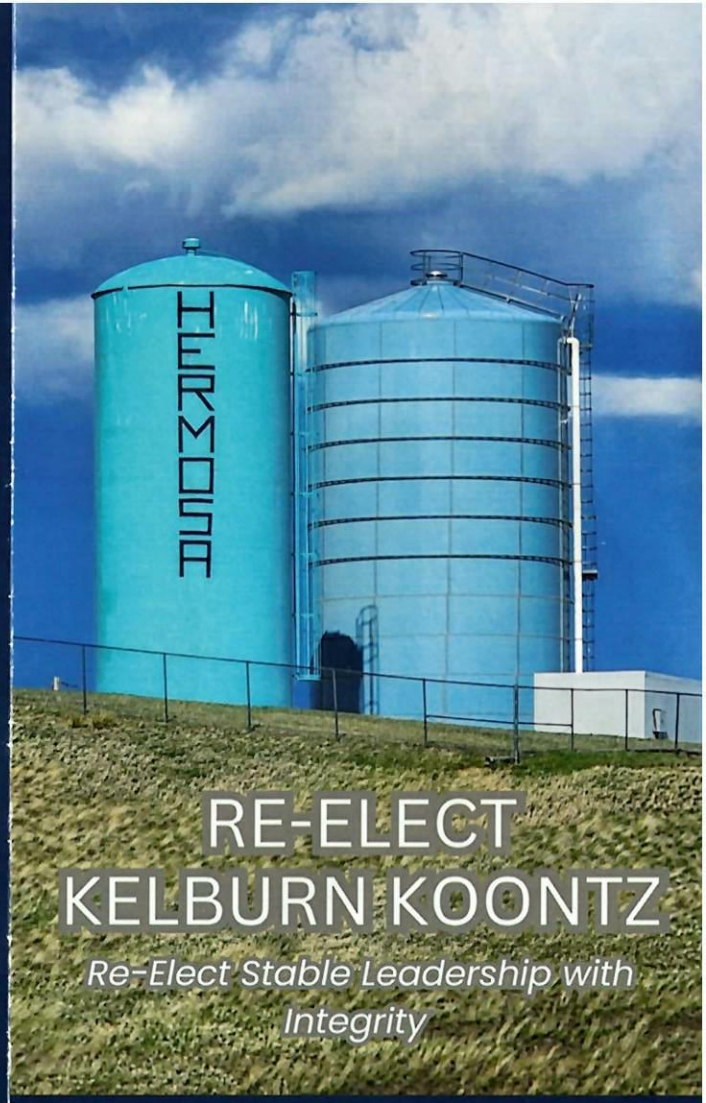
Since taking over the Town Board President position in July 2024, the Board meetings have been much smoother and much less contentious. The Board meeting tenor is a direct reflection of how the Town is run.

I am motivated to complete the remaining infrastructure projects and to work to encourage local development from which we all benefit.



About Me:

I currently live in the Ferguson subdivision with my wife and 2 children. We have lived in Hermosa since 2021. I have a Bachelor's Degree in Mechanical Engineering with a Minor in Materials Science and an Associate's Degree in Electronics. I have spent many years as a Field Service Engineer on Quality Control Systems in Paper Mills and currently I work remotely from home doing proposals for that same equipment. Solving complex problems is a passion and a necessity for me. I got involved locally to find out about all our infrastructure problems and work with the Board and Engineering to solve them completely.



RE-ELECT KELBURN KOONTZ

Re-Elect Stable Leadership with Integrity

Re-Elect Kelburn Koontz for Hermosa Town Board on June 2nd

Your current Town Board President and Your pro-infrastructure and pro-development candidate!

Come to my informational meetings:
May 14th, 21st, 28th
St. Michael's from 6-9pm

14380 SD Hwy 40, Hermosa, SD 57744

WATER SYSTEM UPGRADES

We have been working hard on fixing the NUMBER ONE issue in Hermosa, the drinking water quality!

As you may already know, our current wells have issues with a radioactive isotope, Radium. As of our last test, the radium levels in our usable well have been below the Federal limits.

But our Town deserves better than just squeaking under a Federal limit. When I was first elected I wanted to see if we could eliminate the problem altogther.

GUESS WHAT??
WE CAN!!!

THE PLANS BELOW ARE READY TO BUILD!

- Rebuild the Battle Creek well with a new pump and control panel,
- Rebuild the Tower Hill well with a new well pump and control panel,
- Add a filtration system to remove all the Radium from our drinking water,
- And drill a new well into the Madison aquifer, a water source with no known pollutants, a true redundant clean water solution!

But we **need your help!**
Vote **YES** on the **DWSRF Loan Resolution** to pay for these upgrades.
VOTE YES for CLEAN WATER!

LAGOON UPGRADES COMPLETE

PROMISES MADE
PROMISES KEPT

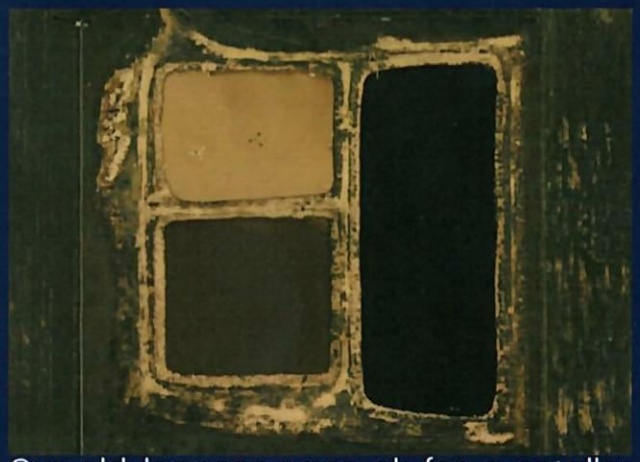
Our town is now setup for growth. With the Lagoon expansion and current Wastewater treatment plant we can support about 1000 total residents; or a mixture of Residential, Commercial, and light Industrial. We can easily increase our treatment capacity by installing another treatment plant module next to our current treatment plant.



WASTEWATER TREATMENT OPERATIONAL



OUR OLD LAGOONS



Our old lagoons were ok for a smaller town. But with the expected growth and changing State requirements, we can no longer depend on land application to discharge the partially treated wastewater onto local fields.

Instead of spreading our wastewater on the nearby fields, we are now able to discharge clean wastewater into Battle Creek. We can easily meet our permit requirements and are investigating expanding our permit to be able to process additional wastewater streams. This will give us the ability to generate revenue from our extra wastewater treatment capacity

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 AND EMAILED REPLY

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

August 3, 2026

RE: Open Meetings Complaint for May 14, 2026 "Informational Meeting"

Dear Ms. Katz:

Apologies for the delay in responding. Thank you for forwarding to my attention the recent open meetings complaint filed by Jerry Styles and substantiated by Custer County States Attorney Tracy Kelley concerning the attendance of board members at a campaign event by then Board President Kelburn Koontz at the St. Michael's Church in Hermosa, South Dakota.

My review primarily consisted of viewing the video footage available of the meeting on a public webpage at Rumble.com: https://rumble.com/v7a55jy-may-14th-meeting-at-st.-michaels-in-hermosa-sd.html (not certain if still public).

This appears to have been a political event which advocated for the re-election of then Board President Koontz, and was attended by Board members Linda Kramer and Trena Matheny. It was also attended by Town Engineer Theodorou. No notice was posted by the Town, as it was not a Town event. No notice of Quorum was posted for a non-governmental event either.

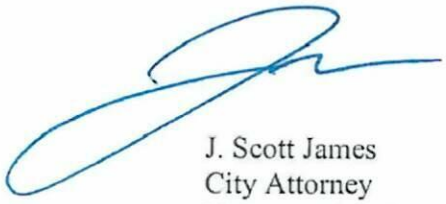
It is clear that in the video that matters of public concern are discussed and that the Board members themselves participate in the discussion. They discuss the need for a new water tower, a matter that was on the ballot for a citizen referendum. A flyer was also distributed which discussed public matters.

Unfortunately, unlike my response to the prior complaint from 2025, I have little to offer in mitigation on this occasion. These Trustees had attended my detailed open meetings review which followed the last complaint, and the topic of attendance at other functions where more than three members might be present was discussed in some detail.

At some town meetings which occurred after the complaint, one of the Trustees suggested that she thought a quorum notice had been sent, but this was unclear, as it had never been discussed at a previous meeting for a notice to go out.

The Board President who initiated this meeting is no longer in office, and for my part all that I can do is to reaffirm these duties in my open meetings presentation for this year. I am sorry that we are again before the Open Meetings Commission with a complaint again.

Very Truly Yours,



J. Scott James
City Attorney
Hermosa, South Dakota