STATE OF SOUTH DAKOTA

OPEN MEETINGS COMMISSION

IN THE MATTER OF OPEN MEETINGS COMPLAINT AGAINST TOWN OF HERMOSA BOARD OF TRUSTEES – CUSTER COUNTY	)))))	OMC 2025-05 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 Vicki Henrichsen did not personally appear nor appear remotely. The Town of Hermosa, governed by the Board of Trustees, did not appear but was represented by and through counsel J. Scott James who did not personally appear nor remotely appear. Prior to the hearing, the Commission reviewed the letter from J. Scott James, counsel for the Board of Trustees, dated December 12, 2025, 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 Town of Hermosa is located in Custer 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 Town of Hermosa Board of Trustees is the public body elected pursuant to applicable provisions of state law to govern the Town of Hermosa.

3. On April 22, 2025, the Board of Trustees held a special meeting of the board and not a regular meeting.

4. The agenda was properly posted and advised the meeting was to start at 6:00 p.m. on April 22, 2025.

5. Prior to the meeting on or about 5:17 p.m. according to the time stamp on the video recording, the Board of Trustees with a quorum of trustees present, began discussing matters, took a break and then announced that it is time to begin the meeting as it was 6:00 p.m.

6. The time spent prior to 6:00 p.m. was referenced as a "work session" by the Board President.

7. 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 Board of Trustees, as the governing body of the Town of Hermosa, 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 § 1-25-1.1 states:

> Notice of meeting of political subdivision--Agenda--Violation as misdemeanor.
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> Each political subdivision shall provide public notice, with proposed agenda, that is visible, readable, and accessible for at least an entire, continuous twenty-four hours immediately preceding any official meeting, by posting a copy of the notice, visible to the public, at the principal office of the political subdivision holding the meeting. The proposed agenda shall include the date, time, and location of the meeting. The notice shall also be posted on the political subdivision's website upon dissemination of the notice, if a website exists. For any special or rescheduled meeting, the information in the notice shall be delivered in person, by mail, by email, or by telephone, to members of the local news media who have requested notice. For any special or rescheduled meeting, each political subdivision shall also comply with the public notice provisions of this section for a regular meeting to the extent that circumstances permit. A violation of this section is a Class 2 misdemeanor.

4. The Open Meetings Commission interpreted the Town of Hermosa's letter dated December 12, 2025, as an admission in that the Town of Hermosa did violate the open meetings law by holding a "work session" prior to the regularly noticed board meeting.

5. The Open Meetings Commission concludes the Town of Hermosa Board of Trustees did violate the open meetings law SDCL § 1-25-1.1 by failing to advise members of the public of the exact starting time of the April 22, 2025 Town of Hermosa Board of Trustees' 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 Town of Hermosa Board of Trustees for violating the South Dakota Open Meetings Laws in that the Board of Trustees improperly started the meeting prior to the scheduled 6:00 p.m. start time in violation of SDCL § 1-25-1.1.

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

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Michael J. Smith, Chair