

DAKOTA DUNES COMMUNITY IMPROVEMENT DISTRICT
BOARD OF SUPERVISORS REGULAR MEETING
MARCH 18, 2024 - 6:00 P.M.
WELCOME CENTER
335 SIOUX POINT ROAD, DAKOTA DUNES, SOUTH DAKOTA

MINUTES

The Board of Supervisors met in a regular session on March 18, 2024, at 6:00 p.m., at Welcome Center, 335 Sioux Point Road, Dakota Dunes. Members present were: Messrs. Beaulieu, Shorma, Wetz, Ms. Shanafelt and Ms. Finzen. Also present were: Mr. Jesse, of Crary Law Firm, counsel for the CID. Employees present were: Andrew Tramp and Amanda Sindelar. Also present were: Bart & Nathan Conelly with Conelly Development and Jay Layman with Two Rivers Golf. Also present was Chris McGowan with the Siouxland Chamber of Commerce and The Siouxland Initiative.

1. CALL TO ORDER

The regular meeting was called to order by Chairman Beaulieu.

2. PLEDGE OF ALLEGIANCE

Chairman Beaulieu led the recital of the Pledge of Allegiance.

3. APPROVAL OF AGENDA

A motion was made by Mr. Wetz and seconded by Ms. Finzen to approval the agenda.

Motion passed 5-0.

4. CONFLICTS OF INTEREST DISCLOSURE

No conflicts of interest were presented.

5. APPROVAL OF FEBRUARY 20, 2024, REGULAR MEETING MINUTES

A motion was made by Mr. Shorma and seconded by Ms. Finzen to approve the minutes of the February 20th, 2024, regular meeting.

Motion passed 5-0.

6. PUBLIC COMMENT

Chris McGowan with the Siouxland Chamber of Commerce and The Siouxland Initiative presented Dakota Dunes with the 2023 Top Metro Siouxland Ranks #1 Per Capita for Economic Development in the Site Selection Magazine Award.

7. EXECUTIVE SESSION – ECONOMIC DEVELOPMENT

A motion was made by Ms. Shanafelt and seconded by Mr. Wetz to move into an executive session at 6:04 p.m. to discuss economic development.

Roll call was taken: Beaulieu – aye, Shorma – aye, Shanafelt – aye, Finzen – aye, Wetz – aye. Motion passed 5-0. Also in attendance were Jesse, Tramp and Sindelar. Bart & Nathan Connelly and Jay Layman were in attendance also and departed at 6:32 p.m.

A motion was made by Ms. Finzen and seconded by Mr. Wetz to move out of executive session at 7:10 p.m.

Roll call was taken: Beaulieu – aye, Shorma – aye, Shanafelt – aye, Finzen – aye, Wetz – aye. Motion passed 5-0.

No actions were taken on Economic Development.

- A motion was made by Ms. Finzen and seconded by Ms. Shanafelt to form a Community Association Collaboration Committee consisting of Ms. Shanafelt, Mr. Wetz and Mr. Tramp.

Motion passed 5-0.

8. TREASURER/FINANCIAL REPORT

A motion was made by Ms. Finzen and seconded by Mr. Shorma to accept the February 2024 financial statements and March 2024 vouchers payable in the amount of \$262,809.89.

Motion passed 5-0.

- GENERAL FUND BUDGET (FLOWERS & GROUND)

Following discussion, a motion was made by Ms. Shanafelt and seconded by Mr. Wetz to authorize Mr. Tramp to sign the Coughlin Landscaping contract for \$35,000.00 for the annual flowers and grounds planting and maintenance with plants and supplies provided by Coughlin Landscaping.

Motion passed 5-0.

9. NEW BUSINESS

- BOND RESOLUTION NO 1-2024-1 FOR FORCE MAIN IMPROVEMENT PROJECT

RESOLUTION NO. 1-2024-1:

RESOLUTION GIVING APPROVAL TO THE ISSUANCE BY DAKOTA DUNES COMMUNITY IMPROVEMENT DISTRICT OF ITS WASTEWATER SURCHARGE REVENUE BOND, SERIES 2024, IN AN AMOUNT NOT EXCEEDING \$411,708 TO FINANCE, DIRECTLY AND INDIRECTLY, CONSTRUCTION OF IMPROVEMENTS TO THE DISTRICT'S WASTEWATER SYSTEM; APPROVING THE FORM OF LOAN AGREEMENT AND REVENUE BOND; AUTHORIZING THE SALE OF SAID REVENUE BOND; PLEDGING WASTEWATER SURCHARGE REVENUES FOR SERVICING DEBT ISSUED HEREUNDER; AND THE MANNER OF EXECUTION AND ISSUANCE OF SAID BOND.

WHEREAS, Dakota Dunes Community Improvement District (the "District") is authorized pursuant to SDCL Chapter 7-25A to establish, construct, equip, operate and maintain wastewater systems, and pursuant to SDCL 7-25A-26 and SDCL Chapters 9-40 and 6-8B (the "Acts") is authorized to issue bonds to defray the cost of such extensions, additions, and improvements; and

WHEREAS, the Board of Supervisors of the District has determined that it is necessary and in the best interests of the District to make certain improvements to the District's wastewater system (the "Wastewater System"), such improvements being more fully described as:

Construction of force main improvement project (replacing force main to Sioux City) as outlined in the CEC LLC facilities plan dated March 2022 (the "Project"),

and to finance \$411,708 of the costs thereof through the South Dakota Clean Water State Revolving Fund Loan Program administered by the South Dakota Conservancy District ("SDCD") pursuant to SDCL 46A-1-49; and

WHEREAS, the District has determined that it is necessary and appropriate to issue its Wastewater Surcharge Revenue Bond, Series 2024 in the amount of \$411,708, as more fully described herein (the "Bond") to the SDCD pursuant to the South Dakota Clean Water State Revolving Fund Loan Program to finance a portion of the costs of the Project; and

WHEREAS, pursuant to the Acts, including specifically SDCL 9-40-15, and Resolution No. 1-2024-2 (adopted March, 2024), the District has adopted a surcharge (the "Surcharge") in order to repay the principal of and interest on the Bond; and

WHEREAS, the Board of Supervisors has determined that the issuance of the Bond would be in the best interests of the District,

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Dakota Dunes Community Improvement District, as follows:

ARTICLE I: THE BOND

9. NEW BUSINESS (CONTINUED)
**(BOND RESOLUTION NO 1-2024-1 FOR FORCE MAIN IMPROVEMENT PROJECT
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Section 1.01 Findings. It is hereby found, determined and declared that:

- (a) The District is a political subdivision of the State of South Dakota and a body corporate and politic.
- (b) The District finds and determines that, without making the improvements included in the Project, the Wastewater System would pose a health hazard to the residents of the District, and the lands adjacent thereto.
- (c) As authorized by this Resolution and the Act, the District has determined that it is necessary and desirable to issue the Bond in a principal amount not to exceed \$411,708. The proceeds of the Bond are to be used (i) to pay a portion of the costs of the Project and (ii) to pay the costs of issuance of the Bond.
- (d) The Bond will be issued, sold and delivered by the District pursuant to the terms of the Revenue Obligation Loan Agreement between the District and SDCD (the “Loan Agreement”).

Section 1.02 Authorization and Execution of Bond; Terms. The District will issue one fully registered Bond in the principal amount not to exceed the sum of \$411,708 (as defined in the Loan Agreement, the “Committed Amount”). The Bond will be designated “Wastewater Surcharge Revenue Bond, Series 2024,” will be numbered R-1 and will be dated as of the date of its issuance. The Bond will be payable in eighty (80) quarterly installments over a twenty-year period which will commence and be due in the manner provided in the Loan Agreement.

The Bond will bear interest at the rate of 1.75% per annum pursuant to the Loan Agreement. In addition, as required by the Loan Agreement, the District will pay the holder of the Bond an administrative expense surcharge on the outstanding principal amount of the Bond at a rate of .25% per annum. The Bond is issued under the authority of Chapters 9-40 and 6-8B of the South Dakota Codified Laws, as amended.

The Bond will be signed by the manual signatures of the Chairman and District Finance Officer, and sealed with the corporate seal of the District, or a facsimile thereof. The approval hereby given to the Bond includes an approval of such additional details therein as may be necessary and appropriate and approved by the District’s legal counsel prior to the execution thereof. The execution of the Bond by the Chairman and District Finance Officer will be conclusive evidence of the approval of the Bond in accordance with the terms hereof.

Section 1.03 Authorization of Financing Documents. The documents required to accomplish the issuance of the Bond include the following:

- (a) the Revenue Obligation Loan Agreement between the SDCD and the District, and pursuant thereto to pledge the Surcharge revenues to secure the payment of the District’s obligations thereunder;

9. NEW BUSINESS (CONTINUED)
**(BOND RESOLUTION NO 1-2024-1 FOR FORCE MAIN IMPROVEMENT PROJECT
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(b) the Bond; and

(c) such other documents, agreements or instruments as may be necessary to make covenants and recite facts required to demonstrate the validity and enforceability of Bond under the laws of the State of South Dakota and to assure the exclusion of the interest thereon from the gross income of the owners of the Bond under the Code and to effectuate the terms and intent of this Resolution.

The execution and delivery of such documents is hereby authorized, approved and confirmed, and the Chairman and District Finance Officer are hereby authorized and directed to execute and deliver the Loan Agreement in the form and content presented to the Board of Supervisors on this date (the terms of which are incorporated herein by this reference), with such changes as the District Attorney deems appropriate and approves, for and on behalf of the District. The Chairman and District Finance Officer are hereby further authorized and directed to implement and perform the covenants and obligations of the District as set forth in or required by the Loan Agreement.

Section 1.04 Form of Bond. The Bond will be in substantially the form set forth on Appendix B to the Loan Agreement.

Section 1.05 Sale of Bond. The sale of the Bond to the SDCD for the purchase price of \$411,708 plus interest accrued to the date of delivery of the Bond, is ratified and confirmed; and the officers of the District are authorized and directed to do any and all acts necessary to conclude delivery of the Bond to said purchaser, upon receipt of the purchase price, as soon after the effective date of this Resolution as is convenient.

Section 1.06 Application of Bond Proceeds. Proceeds of the Bond will be deposited in the manner provided in the Loan Agreement.

Section 1.07 Inspection of Documents. All documents referred to herein will be available for public inspection in the office of the District Finance Officer during regular business hours.

ARTICLE II: SECURITY FOR THE BOND

Section 2.01 Pledge of Wastewater Surcharge Revenues. Pursuant to SDCL 9-40-15, the District hereby irrevocably pledges to the SDCD all revenues received from the Surcharge (the “Pledged Revenues”) in order to secure the District’s obligation to pay all amounts payable under the Loan Agreement and the Bond. The District will set aside and segregate in a separate account on a monthly basis such Pledged Revenues for payment of the principal and interest on the Bond.

Section 2.02 Deposit of Pledged Revenues. All moneys in the account provided for above will be deposited with such financial institution as designated from time to time by the District.

ARTICLE III: OTHER COVENANTS

Section 3.01 Compliance With Laws. The District hereby covenants and agrees with the holder or holders, from time to time of the Bond, that it will punctually perform all duties with reference to the Bond required by the Constitution and laws of the State of South Dakota and by this Resolution.

9. NEW BUSINESS (CONTINUED)
**(BOND RESOLUTION NO 1-2024-1 FOR FORCE MAIN IMPROVEMENT PROJECT
CONTINUED FROM PAGE 5)**

Section 3.02 Other Covenants. The District agrees and covenants that it will purchase the improvements included in the Project. The District will not sell, lease, mortgage or in any other manner dispose of the Project, or any substantial part thereof, until the Bond has been paid in full. The District covenants and agrees with the owners of the Bond that it will prepare, keep and file records, statements and accounts as provided for in this Resolution and the Loan Agreement.

Section 3.03 Additional Bonds. Additional bonds payable from the Pledged Revenues may be issued on a parity with the Bond, but only as permitted in the Loan Agreement and no provision of this Resolution will have the effect of restricting the issuance of, or impairing the first lien of, such additional parity bonds. The District will have the right to issue additional bonds secured by a lien subordinate to the lien for the Bond but only as permitted by the Loan Agreement.

ARTICLE IV: MISCELLANEOUS

Section 4.01 Limited Obligations. The Bond, together with the interest thereon, will not constitute a charge against the District's general credit or taxing power, but will be a limited obligation of the District payable solely out of the Pledged Revenues, which payments, revenues and receipts are hereby and in the Loan Agreement pledged and assigned for the equal and ratable payments of the Bond and will be used for no other purpose than to pay the principal of and interest on the such Bond, except as may be otherwise expressly authorized in the Loan Agreement. The Bond will not constitute indebtedness within the meaning of any constitutional or statutory debt limitation.

Section 4.02 Severability. If any section, paragraph, clause or provision of this Resolution or the Loan Agreement is held invalid, the invalidity of such section, paragraph, clause or provision will not affect any of the other provisions of this Resolution or the Loan Agreement. The Chairman, District Finance Officer, the District's legal counsel and District officials will be and they are hereby authorized to execute and deliver for and on behalf of the District the Bond any and all other certificates, documents or other papers and to perform such other acts as they may deem necessary or appropriate in order to implement and carry out the matters herein authorized.

Section 4.03 Retention of Bond Counsel. The District hereby retains the firm of Davenport, Evans, Hurwitz & Smith, L.L.P., Sioux Falls, South Dakota, to act as bond counsel with respect to the Bond.

Section 4.04 Effective Date. This Resolution, after its final passage, will be recorded in a book kept for that purpose, will be authenticated by the signature of the Chairman and District Finance Officer, will be published in the District's officially designated newspaper, and will be effective on the 20th day following such publication. After becoming effective, this Resolution will be irrevocable until the Bond issued hereunder has been paid in full, except that prior to issuance of the Bond, this Resolution may be amended at any time by adoption of an administrative resolution or ordinance.

9. NEW BUSINESS (CONTINUED)
**(BOND RESOLUTION NO 1-2024-1 FOR FORCE MAIN IMPROVEMENT PROJECT
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Dated this 18th day of March, 2024.

Kenneth Beaulieu
Chairman, Board of Supervisors

ATTEST:

District Secretary

9. NEW BUSINESS (CONTINUED)
**(BOND RESOLUTION NO 1-2024-1 FOR FORCE MAIN IMPROVEMENT PROJECT
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CERTIFICATE

The undersigned hereby certifies that the foregoing Resolution is a true and exact copy of the Resolution adopted by the Board of Supervisors of Dakota Dunes Community Improvement District at a meeting duly called and held on March 18, 2024.

Adopted: March 18, 2024
Published: March 28, 2024
Effective: April 17, 2024

Dated this 18th day of March, 2024.

District Secretary

Following discussion and exploring various options, a motion was made by Mr. Wetz and seconded by Ms. Shanafelt to authorize Chairman Beaulieu to sign and District Secretary Tramp to attest Resolution 1-2024-1 a Bond Resolution for Force Main Improvement Project.

Motion passed 5-0.

- SURCHARGE RESOLUTION NO 1-2024-2 FOR FORCEMAIN IMPROVEMENT PROJECT

RESOLUTION NO. 1-2024-2

RESOLUTION OF DAKOTA DUNES COMMUNITY IMPROVEMENT DISTRICT TO APPROVE A SURCHARGE APPLICABLE TO USERS OF THE DISTRICT'S WASTEWATER SYSTEM IN ORDER TO REPAY A SURCHARGE REVENUE BOND IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$411,708.

WHEREAS, the Dakota Dunes Community Improvement District (the "District") has determined that it is necessary to make certain modifications and improvements (the "Improvements") to the District's wastewater system (the "System"); and

WHEREAS, in order to pay for a portion of the cost of the Improvements, including engineering costs, legal and financing costs, and other related costs, the Board of Supervisors has determined that it is necessary and advisable for the District to issue and sell the District's Wastewater Surcharge Revenue Bond, Series 2024 (Clean Water SRF loan CW-01, in an amount not to exceed \$411,708 (the "Bond") in connection with a loan to be made under a Revenue Obligation Loan Agreement to be entered into by

9. NEW BUSINESS (CONTINUED)
**(SURCHARGE RESOLUTION NO 1-2024-2 FOR FORCE MAIN IMPROVEMENT
PROJECT CONTINUED FROM PAGE 8)**

the District with the South Dakota Conservancy District (the “Loan Agreement”) and a resolution to be adopted by the District authorizing the issuance of the Bond; and

WHEREAS, the District has determined that all users of the System will benefit from the Improvements; and

WHEREAS, the District has proposed to adopt a surcharge pursuant to SDCL 9-40-15 on all users of the System to be pledged for the repayment of the principal of and interest on the Bond.

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of Dakota Dunes Community Improvement District, as follows:

1. Surcharge and Rate. The District does hereby establish, in addition to its normal sanitary sewer system user fee, a surcharge in the amount of \$1.75 per user per month (the “Surcharge”) which will be charged to all meters on the System excluding Commercial and Residential Irrigation Meters. The Surcharge will be imposed beginning January, 2025. The Surcharge amount is subject to adjustment as follows:

(a) The Board of Supervisors will adjust the amount of the Surcharge if it determines that final project costs and federal or state assistance allows the District to reduce the principal amount of the Bond.

(b) The Board of Supervisors will review the Surcharge rate annually, and adjust it upwards or downwards to a level which, assuming a 10% delinquency rate, will produce income at the times and in amounts sufficient to pay when due the principal of and interest on the Bond over a period of 20 years, together with interest thereon at an interest rate of 1.75% per annum plus an administrative expense surcharge of .25% in accordance with the Loan Agreement.

2. Surcharge Found to be Equitable. It has been found that all users of the System benefit from the Improvements paid for in part from the proceeds of the Bond, and that the Surcharge is found to be equitable for the services provided by such improvements. Therefore, the Surcharge will be applicable to all users of the System, current and future, whether in or out of the District.

3. Segregation of Surcharge Receipts. The revenues collected from the Surcharge will be segregated from all other funds of the District, and will be pledged to secure the Bond. The Bond will be payable solely from such segregated revenues, and not from the general revenues of the System. Until adequate provision has been made for the debt service on the Bond, moneys in the segregated account may not be used for any purpose other than for the repayment of the Bond. The District in its discretion may from time to time advance moneys from the general revenues of the System to make payments on the Bond, but any moneys so advanced will be repaid from Surcharge collections within one year of the date of such advance.

9. NEW BUSINESS (CONTINUED)
**(SURCHARGE RESOLUTION NO 1-2024-2 FOR FORCE MAIN IMPROVEMENT
PROJECT CONTINUED FROM PAGE 9)**

4. Duration of Surcharge; Automatic Repeal. The Surcharge shall remain in effect until such time as the Bond is discharged or defeased. The initial Surcharge shall be collected at the same time as other charges of the System. Upon payment of all principal and interest on the Bond or any refunding bonds, or until the same have been defeased, the Surcharge will automatically be repealed without any further action of the Board of Supervisors.

5. Billing and Accounting. The Surcharge will be included in the monthly bill. Nothing contained herein requires the Surcharge to be indicated on the billing, but the Surcharge segregation must be specifically reflected in the books of the District.

6. Severability. If any one or more of the provisions of this Resolution is held invalid, illegal, or unenforceable in any respect, by final decree of any court of lawful jurisdiction, such invalidity, illegality, or unenforceability will not affect any other provision hereof.

7. Surcharge Bond Not to Create Constitutional Indebtedness. The Surcharge provided for herein is for the purpose of paying the Bond, which will not constitute indebtedness within the meaning of the South Dakota Constitutional Chapter XIII, Section 4.

Dated this 18th day of March, 2024.

APPROVED:

Kenneth Beaulieu
Chairman, Board of Supervisors

ATTEST:

District Secretary

9. NEW BUSINESS (CONTINUED)
**(SURCHARGE RESOLUTION NO 1-2024-2 FOR FORCE MAIN IMPROVEMENT
PROJECT CONTINUED FROM PAGE 10)**

CERTIFICATE

The undersigned hereby certifies that the foregoing Resolution is a true and exact copy of the Resolution adopted by the Board of Supervisors of Dakota Dunes Community Improvement District at a meeting duly called and held on March 18, 2024.

Adopted: March 18, 2024

Published: March 28, 2024

Effective: April 17, 2024

Dated this 18th day of March, 2024.

District Secretary

Following discussion, a motion was made by Mr. Shora and seconded by Ms. Shanafelt to authorize Chairman Beaulieu to sign and District Secretary Tramp to attest Resolution 1-2024-2 a Surcharge Resolution for the Force Main Improvement Project.

Motion passed 5-0.

9. NEW BUSINESS (CONTINUED)

- SAFE DEPOSIT BOX

Following discussion, a motion was made by Mr. Shorma and seconded by Ms. Finzen to add Amanda Sindelar as an authorized user on the Safe Deposit Box account with Security National Bank.

Motion passed 5-0.

- PRAIRIE PARK PLAYGROUND EQUIPMENT

Following discussion, the board recommended Ms. Finzen and Mr. Tramp to discuss the design and costs to be discussed at a future meeting.

9. NEW BUSINESS (CONTINUED)

- WALKING TRAIL ALONG BIG SIOUX RIVER

Mr. Tramp discussed options to manage the dust being stirred up from the Walking Trail along the Big Sioux River. The board asked Mr. Tramp to get quotes for the cost of having the limestone walking trail asphalted and the timeline of when this could be completed to discuss at a future meeting.

- EQUIPMENT LEASE AGREEMENT

Following discussion, a motion was made by Ms. Finzen and seconded by Mr. Wetz to approve the Equipment Lease Agreement for J&M Property Management Inc for the Spring Cleanup Event and authorize Chairman Beaulieu to sign the agreement.

Motion passed 5-0.

- PARKING ON FIRETHORN (WINGED FOOT)

Following discussion, a motion was made by Mr. Wetz and seconded by Ms. Shanafelt to have signs placed on Firethorn (Winged Foot) stating No River Access, No Parking, Private Property.

Motion passed 5-0.

10. OTHER

- Mr. Tramp reported that the Missouri River Basin is below average for snowpack and expected runoff as reported by U.S. Army Corps of Engineers March 7, 2024.

11. ADJOURNMENT

A motion was made by Ms. Shanafelt and seconded by Mr. Wetz to adjourn at 8:19 p.m.

Motion passed 5-0.

Submitted by,
Andrew Tramp, Secretary