

June 28, 2011
Unapproved minutes
Union County Commissioners

The Union County Board of Commissioners met in regular session on June 28, 2011, at the Courthouse in Elk Point, SD at 8:30 a.m.

Members present were Jordan, Karpen, Neely and Ustad. Schempp absent.

Motion by Ustad, second by Neely to approve the agenda as amended. Carried.

Motion by Neely, second by Ustad to approve the minutes from June 14 as presented. Carried.

Recess

Chairman declared a five minute recess.

New Hires & Personnel

Motion by Jordan second by Ustad to approve the following new hires and personnel matters: Robert Vanderlinde & Beverly Roth effective 6/23/2011 @ \$10.00 per hour- EMA; Maria Love-6/25/2011 @ \$10.00 per hour- PT Custodian Highway; Cammy Abbey and Melissa Gregg have also been working extra hours at their current rate to be paid out of EMA. Don Kniffen to cover Veteran's office on July 7 & 8 in the absence of VSO Ron Jenkins. Motion carried.

Resignation

Motion by Ustad second by Jordan to approve the following resignations.

Jerrine Collins as of May 21, 2011 Highway, Neal Barnes as of June 16, 2011, Highway. Carried.

Abatement

Motion by Neely second by Jordan to approve the abatement application #2011-010 for Bailey/Quinn. Property was abandoned and destroyed. Abate: NSC-\$12.83; DV School-\$53.47; County-\$18.78; DV Emergency Service-\$4.08. Total- \$89.16. Carried.

Automatic Supplements

Motion by Ustad, second by Neely to approve automatic supplements as follows: Highway budget- \$3,010.91 (damage reimbursement); Sheriff Budget-\$684 (insurance and safety grant); Weed-3,500.00 (Weed & Pest grant). Carried.

Pictometry

Nel Golden, Assessor's office, discussed an update on pictometry. She also told the board that Dakota Dunes would like to have a fly over and that they would pay for it. Discussion on whether the County should also have one at the same time. Motion by Jordan to do a 3-mile County fly over with Dakota Dunes, second by Ustad. Motion failed. This will be tabled until July 12. Motion by Jordan, second by Neely for Dakota Dunes to have a fly-over at their expense. Carried.

Treasurer

Treasurer Hertel met with the board to discuss purchasing a computer during the purchase freeze. Board agreed to the purchase because of the necessity.

Recess

Chairman declared a five-minute recess.

Cash Transfer and Budget Supplement

Discussion took place regarding the method to apply cash for the supplement to EMA fund due to flooding with an operating transfer of \$350,000. Motion by Jordan, second by Neely to use the emergency funds in the Highway Fund (\$120,000); utilize the money in the capitol outlay accumulation for highway building in the General fund (\$155,000) and utilize the Capitol Outlay Accumulation funds that were budgeted in the 2011 General fund budget but not yet earmarked (\$75,000) for a total of \$350,000. \$350,000 will be supplemented to the EMA budget for flood-related expenses. Carried.

Enterprise Solutions

Nancy Larsen, Curt Lukes, Luverne and John Limoges meet with the board and showed a short video on the SEFP program. They wanted to see if the board would be interested in bring the program to Union County. They will contact the board later in the year.

Executive Session

Motion by Jordan, second by Neely to enter executive session for legal reasons. Carried.

Highway

Roggow with an update on flooding and various matters.

Malt Beverage License Renewal

Public hearing held on Xcelerate Live Entertainment (Park Jefferson Speedway)- this matter tabled until July 12 as the taxes on the property have not been paid.

Extension of meeting

Motion by Jordan, second by Neely to extend meeting 15 minutes. Carried.

Joint Powers Agreement

Motion by Jordan, second by Ustad to sign the following Joint Powers Agreement.

JOINT POWERS AGREEMENT
AMONG
UNION COUNTY, DAKOTA DUNES COMMUNITY
IMPROVEMENT DISTRICT,
AND

THE SOUTH DAKOTA DEPARTMENT OF PUBLIC SAFETY

JOINT POWERS AGREEMENT is entered into this __ day of June, 2011, by the State of South Dakota, acting through its Department of Public Safety, 118 W. Capitol

Avenue, Pierre, SD 57501 Pierre, SD 57501, hereinafter identified as the "State", Union County, acting through its Board of County Commissioners, 209 E. Main Street, Elk Point, SD 57025, hereinafter referred to as the "County", and the Dakota Dunes Community Improvement District, acting through its Board of Supervisors, P.O. Box 1997, Dakota Dunes, SD 57049, hereinafter referred to as the "District" (collectively, the "Local Governments").

WHEREAS, pursuant to SDCL 33-15-23, the State has established a Special Emergency and Disaster Special Revenue Fund (the "Fund") which is to be used only for purposes of meeting the special emergency requirements of the Division of Emergency Management (the "Division") not included in the general and special appropriations for the operation and maintenance of the Department of Public Safety (the "Department") for carrying out the objectives and provisions of SDCL chapter 33-15 (the "Act"); and

WHEREAS, the State is authorized and empowered by the provisions of the Act, to provide financial assistance, for additional operational costs needed for a particular emergency or disaster situation up to a maximum of sixty percent (60%) of additional local effort expenditures to be paid or advanced from the Fund upon vouchers executed by the county treasurer and approved by the Secretary, Department of Public Safety (the "Secretary"); and

WHEREAS, the Governor has officially declared an emergency or disaster to exist pursuant to the Act as required by SDCL 33-15-24.4; and

WHEREAS, SDCL 33-15-24.8 provides that financial assistance from the Fund shall be disbursed and administered according to rules promulgated by the Department; and

WHEREAS, the District has requested financial assistance from the Fund in the form of financing for the additional operational costs needed for the current flood control work in the Community Improvement District; and

WHEREAS, pursuant to SDCL 33-15-24.3, the County has a duty to assist all other local government subdivisions within its political jurisdiction with all available emergency and disaster funds; and

WHEREAS, the State and the Local Governments have the authority and power to enter into joint powers agreements pursuant to SDCL chapter 1-24; believe it is a more efficient use of scarce state and local governmental resources to enter into this joint undertaking to allow financial assistance from the Fund to be made available to the District in lieu of the State providing assistance directly to the County per SDCL 33-15-24.4 and 33-15-24.5; and that such an agreement is to their mutual benefit.

NOW THEREFORE IT IS MUTUALLY AGREED AS FOLLOWS:

1. That the term of this Agreement shall commence upon the execution hereof effective the day and year above first written and continue until such financial assistance has been repaid in full by District pursuant to the terms of the SPECIAL EMERGENCY AND DISASTER SPECIAL REVENUE FUND LOAN AGREEMENT (the "Loan Agreement") dated the ____ day of June, 2011, entered into between the State and District simultaneously with the execution of this Agreement, a copy of which is attached hereto and by this reference incorporated herein, at such time this Agreement will terminate, unless otherwise amended or terminated or extended pursuant to the terms hereof.

2. In consideration of the State's agreement to provide financial assistance to the District in lieu of the County, pursuant to the Loan Agreement herein described, the Local Governments agree as follows:

- a. To act in full compliance with the provisions of SDCL ch. 33-15 regarding financial assistance paid from the Fund.
- b. To take all necessary actions to ensure the financial assistance offered to District by the State is utilized for the express purpose of flood control projects, including but not limited to the timely processing of vouchers.
- c. To jointly exercise any powers necessary to effectuate the purpose of this Agreement pursuant to SDCL ch. 1-24.
- e. To submit any matters under this Agreement which require official action by the Local Governments to the respective governing bodies for final approval.

3. In consideration of the Local Governments' observance and performance of the covenants, terms and conditions set forth herein, the State agrees to provide financial assistance from the Fund in an amount up to \$10,000,000 for the express purpose of flood control projects pursuant to the terms and conditions of the Loan Agreement.

4. Except as may otherwise be set forth in the Loan Agreement, each party to this Agreement shall bear responsibility for its own acts or omissions pursuant to this Agreement, and nothing in this Agreement shall be construed as an indemnification by one party of the other for liabilities of a party or third persons for property loss or damage or death or personal injury arising out of the performance of this Agreement. Any liabilities or claims for property loss or death or personal injury by a party or its agents, employees, contractors or assigns or by third persons, arising out of and during this Agreement shall be determined according to applicable law. Nothing in this Agreement shall be construed as creating any rights, claims or liabilities for property loss or death or personal injury by third persons, arising out of and during this Agreement.

5. This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, this Agreement will be terminated by the District. Termination for any of these reasons is not a default by the District nor does it give rise to a claim against the District, County or the State.

6. The parties acknowledge that no separate entity as contemplated in SDCL 1-24-4 is being created to implement this Agreement, and that the cooperative undertakings herein described shall be administered by the Secretary, Department of Public Safety for the State, the Chairman of the Board of County Commissioners for Union County, and the Chairperson of the Dakota Dunes Community Improvement District for the District, or their designees as contemplated in SDCL 1-24-5. The approval of the Secretary, Department of Public Safety, as required by SDCL 1-24-6, and the respective Chairpersons of the Local Governments is signified by their execution of this Agreement. The parties acknowledge that the State will file a true copy of this Agreement with the Office of Attorney General and the Legislative Research Council within 14 days of the execution hereof, as required by SDCL 1-24-6.1.

7. This Agreement may not be assigned without the express prior written consent of the parties. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of each of the parties hereto.

8. This Agreement can be terminated upon thirty (30) days written notice by any party and may be terminated for cause at any time with or without notice.

9. The rights and remedies herein conferred shall be cumulative and not alternative and shall be in addition and not in substitution of or in derogation of rights and remedies conferred by any other agreements between the parties hereto or by any applicable law. The failure to enforce strict performance of any covenant, promise, term, or condition herein contained, shall not operate as a waiver of that party's right thereafter to require that the terms hereof be strictly performed.

10. This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota.

11. Any notice or other communication required under this Agreement shall be in writing and sent to the address set forth above. Notices shall be given by and to the Secretary, Department of Public Safety on behalf of the State, by and to the Chairperson, Board of County Commissioners on behalf of Union County, and by and to the Chairperson of the District, on behalf of the District, or such authorized designees as the respective parties may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail or if personally delivered, when received by such party.

12. In the event that any provision of this Agreement shall be held unenforceable or invalid by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

13. All other prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.

14. Nothing in this Agreement is intended to waive the immunity of the State of South Dakota, or its officers, agents and employees. The State fully retains all immunities and defenses provided by law with regard to any action based on this Agreement.

IN WITNESS WHEREOF, the parties have set their hands effective on the day and year first written.

STATE OF SOUTH DAKOTA
DEPARTMENT OF PUBLIC SAFETY

By: _____
Trevor Jones
Secretary

UNION COUNTY

By: _____
Chairperson

Board of County Commissioners
DAKOTA DUNES
COMMUNITY IMPROVEMENT DISTRICT
By: _____
Chairperson

Claims

Motion by Jordan second by Neely to approve the following claims. Carried. The following claims have been audited, approved and warrants drawn on the same: The following claims have been audited, approved and warrants drawn on the same: Bi-Weekly payroll for 07-01-11: Auditor \$73.50; Treasurer \$210.00; State's Attorney \$581.80; Public Building \$702.00; Assessors \$769.13; Register of Deeds \$569.02; Sheriff \$29,602.77; Nurse \$159.75; WIC \$282.23; Extension \$712.50; Weed \$3919.41; Highway \$23,698.15; EMA \$1,202.36; Flood Control \$17.99. Courthouse payroll for the month of January, 2011: Commissioners \$5,000.00; Auditor \$8,296.63; Data Processing \$219.41; Treasurer \$12,292.40; State's Attorney \$13,575.04; Public Building \$3,933.87; Assessor \$9,987.58; Register of Deeds \$6,141.11; Veteran \$1,287.50; Sheriff \$4,491.56; Nurse \$878.13; Jail \$108.96; Extension \$2,883.46; Weed \$106.09; Planning & Zoning \$3,260.09; Highway \$8,773.75; EMA \$1,008.98. Am San (Supplies) \$668.66; Artic Ice (Repair) \$15.00; Bierschbach Equipment (Sup/Rep) \$1,551.34; Boyer Trucks Sioux Falls (Sup/Rep) \$1,165.87; Brian L Wells (Maint) \$570.00; Brian McKee Backhoe Svc (Repairs) \$102.40; C & R Supply Inc (Repair) \$162.70; Casey's General Store (Supplies) \$212.89; Cindy Bergman (Supplies) \$22.39; City Of Elk Point (Utilities) \$569.11; Community Health Clinic (Care) \$282.75; Concrete Plus (Supplies) \$16,212.35; Dale Neely (Mileage) \$44.40; Dawn Steckelberg (Per Diem) \$82.00; Donelda Golden (Per Diem) \$82.00; Doyle Karpen (Mileage) \$14.80; Dustar Contracting LLC (Supplies) \$880.00; Electronic Engineering (Maint) \$63.00; Fedex Kinko's (Supplies) \$51.36; Five Star Awards (Supplies) \$91.00; Foulk Bros Plumbing Inc (Maint) \$536.80; Hickory Tech (Phone) \$122.70; Homandberg Electric (Repairs) \$132.60; Hydraulic Sales (Maint) \$183.38; Industrial Tools & Machine (Repairs) \$90.19; Jeanne M Bossman Rpr (Transcripts) \$2,620.75; Jeff's Lawn Care Inc (Lawn Care) \$445.00; Ken McDonald (Service) \$75.00; Kevin O'Dell Electric Inc (Repairs) \$310.71; L G Everist Inc (Supplies) \$25,157.48; Limoges Service & Repairs (Repairs) \$162.29; Maintenance Engineering (Supplies) \$342.89; McLeods (Supplies) \$86.44; MidAmerican Energy Co (Utilities) \$257.49; Milton Ustad (Mileage) \$49.95; Mobile Electronic Service (Supplies) \$43.00; Motorola Inc (Supplies) \$527.50; Northern Truck Equipment (Repairs) \$132.56; Nygren's True Value (Supplies) \$204.31; Office Depot (Supplies) \$83.55; Office Elements (Maint) \$93.49; Olson Welding (Repairs) \$47.00; Perkins Office Solutions (Supplies) \$78.43; Pitney Bowes (Rental) \$371.16; Prairie States Trucking In (Supplies) \$11,737.50; Quill Corporation (Supplies) \$433.78; Qwest (Phone) \$1,003.09; Ross Jordan (Mileage) \$50.32; SD Law Enforcement Training (ID Cards) \$5.00; SD State Health Lab (BL Draw) \$1,269.00; SDACC (CLERP) \$4,939.05; SDACO (Web Site) \$200.00; SDSU Extension Service (Mileage) \$168.95; Servall Towel & Linen (Maint) \$45.60; Sign Pro (Repairs) \$17.00; Sioux Sales (Supplies) \$565.00; Siouxland Paramedics

(Supplies) \$7,802.87;The Fillin' Station (Repairs) \$237.95;Us Bank (Travel/Sup)
\$2,147.51;Woodbury County Disaster & (Maint) \$2,259.39;Yankton Co. Sheriff (MI
Return) \$25.00.

Adjournment

Motion by Jordan, second by Neely to adjourn at 12:15 p.m. until July 12, 2011.
Carried.

ATTEST: _____
Jackie Sieverding, Deputy Doyle Karpen, Chairman
Union County Auditor Union County Board of Commissioners

Published once at the total approximate cost of_____.