

October 19, 2010  
Unapproved minutes  
Union County Commissioners

The Union County Board of Commissioners met in regular session on October 19, 2010, at the Courthouse in Elk Point, SD at 8:40 a.m.

Members present were Karpen, Neely, Jordan and Ustad. Schempp absent.  
Karpen excused from meeting at 9:45 a.m.

Motion by Ustad second by Neely to approve the agenda. Carried.

Motion by Ustad, second by Neely to approve the minutes from the October 5 meeting. Carried.

#### September Monthly Reports

Veterans Service Officer reported 49 individual contacts.

Clerk of Courts reported \$83,638.08 in fines and fees.

Register of Deeds' reported \$8,524.50 in transfer tax and \$9,907 in fees.

Federal Prisoner & INS room & board fees-\$4,290.

County Nurse- \$55 in donations.

#### Resignation

Motion by Neely, second by Ustad to accept the resignation of Anna Faulk, deputy treasurer and thank Faulk for her years of service to the County. Carried.

#### General Fund Surplus Analysis

To be in compliance with SDCL 7-21-18.1, it is required to publish in the minutes the total unreserved, undesignated fund balance of the general fund of the county as of March 31 and September 30. This amount may not exceed 40% of the total amount of all general fund appropriations contained in the budget for the next fiscal year. As of September 30, 2010 Union County has \$395,524.75 in undesignated funds. This figure is 6.6% of the 2011 General Fund Budget.

#### Fuel Quote

Motion by Ustad, second by Neely to accept the quote for 7200 gallons of #2 Diesel from Turkey Ridge Oil at 2.417. Carried. Quote was also received from SE Farmers Elevator Coop @ 2.528.

#### Resolution #UCC-2010-006

Commissioner Jordan introduced the following resolution and moved its adoption, which motion was seconded by Commissioner Ustad:

##### Resolution #UCC-2010-006

RESOLUTION AUTHORIZING ISSUANCE AND SALE, PRESCRIBING THE  
FORM AND DETAILS AND PROVIDING FOR THE PAYMENT OF GENERAL  
OBLIGATION REFUNDING BONDS, SERIES 2010

BE IT RESOLVED by the Board of Commissioners (the Board) of Union County, South  
Dakota (the County), as follows:

## SECTION 1. RECITALS, AUTHORIZATION AND SALE.

### 1.1. Recitals and Authorization.

(a) The County has heretofore issued its General Obligation Bonds, Series 2003, dated, as originally issued, as of June 1, 2003, in the original principal amount of \$1,215,000 (the Series 2003 Bonds), the proceeds of which were used to refund certain outstanding general obligation bonds issued to finance the construction and equipping of additional jail facilities and related improvements in the County.

(b) The County can achieve a debt service savings by issuing its General Obligation Refunding Bonds, Series 2010 (the Bonds), the proceeds of which will be used, together with County funds on hand as may be required, to currently refund the Series 2003 Bonds maturing in 2011 and later years (the Refunded Bonds), which are outstanding in the aggregate principal amount of \$695,000, and to pay the costs of issuance of the Bonds.

(c) It is hereby found, determined and declared that it is in the best interest of the County to issue the Bonds in accordance with the provisions of South Dakota Codified Laws, Chapters 6-8B and 7-24.

1.2. Sale and Bond Purchase Agreement. The Bonds authorized hereby shall be sold to Dougherty & Company LLC, of Minneapolis, Minnesota (the Underwriter) at a purchase price of not less than 98.5% of par, plus accrued interest and less any original issue discount (not exceeding 2% of par) and the Bonds shall bear interest at a rate or rates per annum resulting in an average interest rate not greater than 2.25% per annum and mature over a period not to exceed 8 years. The principal amount of the Bonds shall not exceed the amount necessary to refund the Refunded Bonds on the Redemption Date (as hereinafter defined) and to pay costs of issuance, including underwriter's discount and any bond insurance premium. The Chairperson and County Auditor are hereby authorized and directed to agree with the Underwriter upon the exact purchase price, principal amount, maturities, redemption provisions and interest rate or rates for the Bonds, within the parameters set forth in this Section 1.2. The execution of a Bond Purchase Agreement setting forth such final terms by the Chairperson and County Auditor is hereby approved and authorized and such execution shall be conclusive evidence of such agreement and shall be binding upon the County. The provisions of the Bond Purchase Agreement, as so executed, including all exhibits and appendices thereto, are incorporated herein by reference. The law firm of Dorsey & Whitney LLP, in Minneapolis, Minnesota, is hereby appointed as bond counsel and disclosure counsel for purposes of this issue of Bonds.

1.3. County Officers Authorized to Execute Documents. The Chairperson and County Auditor are hereby authorized and directed to execute and deliver the Bond Purchase Agreement and the documents required thereunder, the Official Statement, the Bonds and any other documents required to complete the financing contemplated hereby. Execution and delivery of such documents by the Chairperson and County Auditor shall constitute evidence that such items are consistent with the terms of this resolution and have been duly authorized, executed and delivered by the County and are enforceable against the County in accordance with their terms, subject to customary exceptions relating to bankruptcy, reorganization, insolvency and other laws affecting creditors' rights. The Chairperson and County Auditor are further authorized to take such other

actions as may be required to effectuate the terms and intent of this resolution. In the event of the absence or disability of the Chairperson and County Auditor, the acting Chairperson or the County Auditor are hereby authorized to act in the place and stead of the Chairperson and County Auditor, and to take all actions and execute all documents approved hereby.

1.4. Official Statement. The Bonds will be offered for sale by means of an Official Statement. The Chairperson and County Auditor, are authorized, in cooperation with the Underwriter, to prepare an Official Statement to be distributed to prospective purchasers of the Bonds. The Chairperson and County Auditor are hereby authorized and directed to approve, and, if requested, to execute the final Official Statement. The County hereby consents to the distribution of the Official Statement to prospective purchasers of the Bonds.

## SECTION 2. BOND TERMS, EXECUTION AND DELIVERY.

2.1. Date, Maturities and Interest Rates. The Bonds shall be issued in denominations of \$5,000 each, or any integral multiple thereof, shall mature on the dates and in the respective years and amounts, and shall bear interest from date of original issue until paid or duly called for redemption payable on the dates and at the respective annual rates stated opposite such maturity years as shown on Exhibit A to the Bond Purchase Agreement. The Bonds shall be issuable only in fully registered form. The interest thereon and, upon surrender of each Bond, the principal amount thereof, shall be payable by check or draft issued by the Registrar described herein; provided if the Bonds are registered in the name of a securities depository, or a nominee thereof, in accordance with Section 2.7 hereof, principal and interest shall be payable in accordance with the operational arrangements of the securities depository.

2.2. Dates and Interest Payment Dates. Each Bond shall bear a date of original issue as set forth in the Bond Purchase Agreement. Upon the initial delivery of the Bonds pursuant to Section 2.6 and upon any subsequent transfer or exchange pursuant to Section 2.5, the date of authentication shall be noted on each Bond so delivered, exchanged or transferred. Interest on the Bonds shall be payable on the dates specified in the Bond Purchase Agreement, to the owner of record thereof as the close of business on the fifteenth day of the immediately preceding month, whether or not such day is a business day and shall be computed on the basis of a 360 day year composed of twelve 30 day months.

2.3. Redemption. The Bonds shall be subject to redemption prior to maturity, at the option of the County, in the years and at the redemption prices set forth in Exhibit A to the Bond Purchase Agreement in such order of maturities as may be designated by the County and, within any maturity, in \$5,000 principal amounts selected by the Registrar by lot, assigned in proportion to their principal amounts (or if applicable, by the bond depository in accordance with its customary procedures). The County Auditor shall cause notice of the call for redemption thereof to be published as and if required by law, and, at least thirty days prior to the designated redemption date, shall cause notice of the call thereof for redemption to be mailed, by first class mail, to the registered owners of any Bonds to be redeemed at their addresses as they appear on the bond register described in Section 2.5 hereof, but no defect in or failure to give such mailed notice shall affect the validity of proceedings for the redemption of any Bond not affected by such defect or failure. The notice of redemption shall specify the redemption date, redemption

price, the numbers, interest rates and CUSIP numbers of the Bonds to be redeemed and the place at which the Bonds are to be surrendered for payment, which is the principal office of the Registrar. Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the County shall default in the payment of the redemption price) such Bonds or portions of Bonds shall cease to bear interest. Upon partial redemption of any Bond, a new Bond or Bonds will be delivered to the registered owner without charge, representing the remaining principal amount outstanding.

2.4. Appointment of Initial Registrar. The County hereby appoints The First National Bank in Sioux Falls, Sioux Falls, South Dakota, as the initial bond registrar, transfer agent and paying agent (the Registrar). The Chairperson and the County Auditor are authorized to execute and deliver, on behalf of the County, a contract with the Registrar. Upon merger or consolidation of the Registrar with another corporation, if the resulting corporation is a bank or trust company authorized by law to conduct such business, such corporation shall be authorized to act as successor Registrar. The County agrees to pay the reasonable and customary charges of the Registrar for the services performed. The County reserves the right to remove the Registrar upon thirty days' notice and upon the appointment of a successor Registrar, in which event the predecessor Registrar shall deliver all cash and Bonds in its possession to the successor Registrar and shall deliver the bond register to the successor Registrar. On or before each principal or interest due date, without further order of this Board, the County Auditor shall transmit to the Registrar, from the Bond Fund described in Section 4, money sufficient for the payment of all principal and interest then due.

2.5. Registration. The effect of registration and the rights and duties of the County and the Registrar with respect thereto shall be as follows:

(a) Register. The Registrar shall keep at its principal corporate trust office a bond register in which the Registrar shall provide for the registration of ownership of Bonds and the registration of transfers and exchanges of Bonds entitled to be registered, transferred or exchanged.

(b) Transfer of Bonds. Upon surrender for transfer of any Bond duly endorsed by the registered owner thereof or accompanied by a written instrument of transfer, in form satisfactory to the Registrar, duly executed by the registered owner thereof or by an attorney duly authorized by the registered owner in writing, the Registrar shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Bonds of a like aggregate principal amount and maturity, as requested by the transferor. The Registrar may, however, close the books for registration of any transfer of any Bond or portion thereof selected or called for redemption.

(c) Exchange of Bonds. Whenever any Bonds are surrendered by the registered owner for exchange the Registrar shall authenticate and deliver one or more new Bonds of a like aggregate principal amount and maturity, as requested by the registered owner or the owner's attorney in writing.

(d) Cancellation. All Bonds surrendered upon any transfer or exchange shall be promptly canceled by the Registrar and thereafter disposed of as directed by the County.

(e) Improper or Unauthorized Transfer. When any Bond is presented to the Registrar for transfer, the Registrar may refuse to transfer the same until it is satisfied that the endorsement on such Bond or separate instrument of transfer is valid and genuine and that the requested transfer is legally authorized. The Registrar shall incur no liability for the refusal, in good faith, to make transfers which it, in its judgment, deems improper or unauthorized.

(f) Persons Deemed Owners. The County and the Registrar may treat the person in whose name any Bond is at any time registered in the bond register as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on such Bond and for all other purposes, and all such payments so made to any such registered owner or upon the owner's order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

(g) Taxes, Fees and Charges. For every transfer or exchange of Bonds, the Registrar may impose a charge upon the owner thereof sufficient to reimburse the Registrar for any tax, fee or other governmental charge required to be paid with respect to such transfer or exchange.

(h) Mutilated, Lost, Stolen or Destroyed Bonds. In case any Bond shall become mutilated or be destroyed, stolen or lost, the Registrar shall deliver a new Bond of like amount, number, maturity date and tenor in exchange and substitution for and upon cancellation of any such mutilated Bond or in lieu of and in substitution for any such Bond destroyed, stolen or lost, upon the payment of the reasonable expenses and charges of the Registrar in connection therewith; and, in the case of a Bond destroyed, stolen or lost, upon filing with the Registrar of evidence satisfactory to it that such Bond was destroyed, stolen or lost, and of the ownership thereof, and upon furnishing to the Registrar of an appropriate bond or indemnity in form, substance and amount satisfactory to it, in which both the County and the Registrar shall be named as obligees. All Bonds so surrendered to the Registrar shall be canceled by it and evidence of such cancellation shall be given to the County. If the mutilated, destroyed, stolen or lost Bond has already matured or been called for redemption in accordance with its terms it shall not be necessary to issue a new Bond prior to payment.

2.6. Execution, Authentication and Delivery. The Bonds shall be prepared under the direction of the County Auditor and shall be executed on behalf of the County by the signatures of the Chairperson and the County Auditor, and countersigned with the signature of a resident, licensed attorney provided that all signatures may be printed, engraved or lithographed facsimiles of the originals. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be such officer before the delivery of any Bond, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery. Notwithstanding such execution, no Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Resolution unless and until a certificate of authentication on such Bond has been duly executed by the manual signature of an authorized representative of the Registrar. Bonds of authentication on different Bonds need not be signed by the same representative. The executed certificate of authentication

on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution. When the Bonds have been so prepared, executed and authenticated, the County Auditor shall deliver the same to the Underwriter upon payment of the purchase price in accordance with the contract of sale heretofore made and executed and the Underwriter shall not be obligated to see to the application of the purchase price.

2.7. Securities Depository.

(a) For purposes of this section the following terms shall have the following meanings:

“Beneficial Owner” shall mean, whenever used with respect to a Bond, the person in whose name such Bond is recorded as the beneficial owner of such Bond by a Participant on the records of such Participant, or such person’s subrogee.

“Cede & Co.” shall mean Cede & Co., the nominee of DTC, and any successor nominee of DTC with respect to the Bonds.

“DTC” shall mean The Depository Trust Company of New York, New York.

“Participant” shall mean any broker-dealer, bank or other financial institution for which DTC holds Bonds as securities depository.

“Representation Letter” shall mean the Representation Letter pursuant to which the sender agrees to comply with DTC’s Operational Arrangements.

(b) The Bonds shall be initially issued as separately authenticated fully registered bonds, and one Bond shall be issued in the principal amount of each stated maturity of the Bonds. Upon initial issuance, the ownership of such Bonds shall be registered in the bond register in the name of Cede & Co., as nominee of DTC. The Registrar and the County may treat DTC (or its nominee) as the sole and exclusive owner of the Bonds registered in its name for the purposes of payment of the principal of or interest on the Bonds, selecting the Bonds or portions thereof to be redeemed, if any, giving any notice permitted or required to be given to registered owners of Bonds under this resolution, registering the transfer of Bonds, and for all other purposes whatsoever; and neither the Registrar nor the County shall be affected by any notice to the contrary. Neither the Registrar nor the County shall have any responsibility or obligation to any Participant, any person claiming a beneficial ownership interest in the Bonds under or through DTC or any Participant, or any other person which is not shown on the bond register as being a registered owner of any Bonds, with respect to the accuracy of any records maintained by DTC or any Participant, with respect to the payment by DTC or any Participant of any amount with respect to the principal of or interest on the Bonds, with respect to any notice which is permitted or required to be given to owners of Bonds under this resolution, with respect to the selection by DTC or any Participant of any person to receive payment in the event of a partial redemption of the Bonds, or with respect to any consent given or other action taken by DTC as registered owner of the Bonds. So long as any Bond is registered in the name of Cede & Co., as nominee of DTC, the Registrar shall pay all principal of and interest on such Bond, and shall give all notices with respect to such Bond, only to Cede & Co. in accordance with DTC’s Operational Arrangements, and all such payments shall be valid and effective to fully satisfy and discharge the County’s obligations with respect to the principal of and interest on the Bonds to the extent of the sum or sums so paid. No person other than DTC shall

receive an authenticated Bond for each separate stated maturity evidencing the obligation of the County to make payments of principal and interest. Upon delivery by DTC to the Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the Bonds will be transferable to such new nominee in accordance with paragraph (e) hereof.

(c) In the event the County determines that it is in the best interest of the Beneficial Owners that they be able to obtain Bonds in the form of bond certificates, the County may notify DTC and the Registrar, whereupon DTC shall notify the Participants of the availability through DTC of Bonds in the form of certificates. In such event, the Bonds will be transferable in accordance with paragraph (e) hereof. DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving notice to the County and the Registrar and discharging its responsibilities with respect thereto under applicable law. In such event the Bonds will be transferable in accordance with paragraph (e) hereof.

(d) The execution and delivery of the Representation Letter to DTC by the Chairperson or County Auditor is hereby authorized and directed.

(e) In the event that any transfer or exchange of Bonds is permitted under paragraph (b) or (c) hereof, such transfer or exchange shall be accomplished upon receipt by the Registrar of the Bonds to be transferred or exchanged and appropriate instruments of transfer to the permitted transferee in accordance with the provisions of this resolution. In the event Bonds in the form of certificates are issued to owners other than Cede & Co., its successor as nominee for DTC as owner of all the Bonds, or another securities depository as owner of all the Bonds, the provisions of this resolution shall also apply to all matters relating thereto, including, without limitation, the printing of such Bonds in the form of bond certificates and the method of payment of principal of and interest on such Bonds in the form of bond certificates.

2.8. Bond Form. The Bonds shall be prepared in substantially the form attached hereto as Exhibit B.

### SECTION 3. USE OF PROCEEDS; REDEMPTION OF REFUNDED BONDS.

3.01. Use of Proceeds. Upon payment for the Bonds by the Underwriter, the County Auditor shall deposit proceeds of the Bonds in the sinking fund established for payment of the Series 2003 Bonds, together with funds of the County in such amount as may be required, with cash retained in the sinking fund, to pay all principal and interest to become due on the Refunded Bonds to and including the Redemption Date (as hereinafter defined) and to pay and redeem the outstanding principal of the Refunded Bonds on the Redemption Date. [The monies in the sinking fund shall be invested by the County Auditor in securities authorized by SDCL 6-8B-54, maturing on or before the Redemption Date – *is this necessary if the intention is to close on the redemption date?*]. The remaining proceeds of the Bonds shall be applied to pay issuance expenses, including the bond insurance premium, if any, and shall be deposited in the Bond Fund described in Section 4 hereof.

3.02. Redemption of Refunded Bonds. The County Auditor is directed to call, or to cause the paying agent for the Refunded Bonds to call, for redemption and prepayment the Refunded Bonds on a date not more than 90 days following delivery of the Bonds, specified by the Underwriter (the Redemption Date) and to give, or cause to be given,

notice of redemption in accordance with the resolution authorizing the issuance of the Series 2003 Bonds.

**SECTION 4. GENERAL OBLIGATION REFUNDING BONDS, SERIES 2010 BOND FUND.** So long as any of the Bonds are outstanding and any principal or interest thereon unpaid, the County shall maintain as a separate account on its books and records a General Obligation Refunding Bonds, Series 2010 Bond Fund (the Bond Fund). The Bond Fund shall be used for no purpose other than payment of the principal of and interest on the Bonds. The Board irrevocably appropriates to the Bond Fund (a) accrued interest, if any, received from the Underwriter upon delivery of the Bonds; (b) all taxes levied in accordance with Section 5 hereof; and (c) all such other moneys as shall be received and appropriated to the Bond Fund from time to time. If any payment of principal of and interest on the Bonds shall become due when there is not sufficient money in the Bond Fund to make such payment, the County Auditor shall pay the same from any other available funds of the County, and such other funds shall be reimbursed for such advances out of the proceeds of the taxes levied for the payment of the Bonds when received. In order to ensure compliance with the Internal Revenue Code of 1986, as amended (the Code) and applicable Treasury Regulations (the Regulations), the County Auditor, upon allocation of any funds to the Bond Fund, shall ascertain the balance then on hand in the Bond Fund. If it exceeds the amount of principal and interest on the Bonds to become due and payable through December 1 next following, plus a reasonable carryover equal to 1/12<sup>th</sup> of the debt service due in the following bond year, the excess shall (unless an opinion is otherwise received from bond counsel) be used to prepay or purchase Bonds, or invested at a yield which does not exceed the yield on the Bonds calculated in accordance with Section 148 of the Code.

**SECTION 5. LEVY OF TAX.** For the prompt and full payment of the principal of and interest on the Bonds as such payments respectively become due, the full faith, credit and unlimited taxing powers of the County shall be and are hereby irrevocably pledged. The taxes shall be irrevocable as long as any of the Bonds are outstanding and unpaid; provided the County reserves the right and power to reduce the tax levies in accordance with the provisions of Section 13-16-11, SDCL. In order to produce aggregate amounts not less than the amounts needed to meet when due the principal and interest payments on the Bonds, there is hereby levied a direct, annual ad valorem tax to be spread upon the tax rolls for the years and in the amounts set forth on the Certificate as to Tax Levy attached hereto as Exhibit A. The County Auditor, upon execution of the Bond Purchase Agreement described in Section 1.2 hereof, shall compute the required tax levy and shall complete and file the Certificate as to Tax Levy prior to delivery of the Bonds to the Underwriter.

**SECTION 6. DEFEASANCE.** When all of the Bonds have been discharged as provided in this section, all pledges, covenants and other rights granted by this resolution to the holders of the Bonds shall cease. The County may discharge its obligations with respect to any Bonds which are due on any date by depositing with the Registrar on or before that date a sum sufficient for the payment thereof in full; or, if any Bond should not be paid when due, it may nevertheless be discharged by depositing with the Registrar a sum sufficient for the payment thereof in full with interest accrued from the due date to the date of such deposit. The County may also discharge its obligations with respect to any prepayable Bonds called for redemption on any date when they are prepayable according



to their terms, by depositing with the Registrar on or before that date an amount equal to the principal, interest and redemption premium, if any, which are then due, provided that notice of such redemption has been duly given as provided herein. The County may also at any time discharge its obligations with respect to any Bonds, subject to the provisions of law now or hereafter authorizing and regulating such action, by depositing irrevocably in escrow, with a bank qualified by law as an escrow agent for this purpose, cash or securities which are general obligations of the United States or securities of United States agencies which are authorized by law to be so deposited, bearing interest payable at such time and at such rates and maturing or callable on such dates as shall be required, without reinvestment, to pay all principal and interest to become due thereon to maturity or, if notice of redemption as herein required has been irrevocable provided for, to such earlier redemption date.

#### SECTION 7. TAX COVENANTS AND ARBITRAGE MATTERS.

7.1. General Tax Covenant. The County covenants and agrees with the registered owners of the Bonds that it will not take or permit to be taken by any of its officers, employees or agents any actions that would cause interest on the Bonds to become includable in gross income of the recipient under the Code and applicable Regulations and covenants to take any and all actions within its powers to ensure that the interest on the Bonds will not become includable in gross income of the recipient under the Code and the Regulations. It is hereby certified that the proceeds of the Refunded Bonds were used to finance facilities for use in carrying out the governmental functions of the County and that such facilities financed are owned and operated by the County. So long as the Bonds are outstanding, the County will not enter into any lease, use agreement, management agreement or other contract or agreement respecting said facilities and the use thereof by any nongovernmental entity which would cause the Bonds to be considered “private activity bonds” or “private loan bonds” pursuant to the provisions of Section 141 of the Code.

7.2. Arbitrage Certification. The Chairperson and County Auditor being the officers of the County charged with the responsibility for issuing the Bonds pursuant to this Resolution, are authorized and directed to execute and deliver to the Underwriter a certificate in accordance with the provisions of Section 148 of the Code and applicable Regulations, stating the facts, estimates and circumstances in existence on the date of issue and delivery of the Bonds which make it reasonable to expect that the proceeds of the Bonds will not be used in a manner that would cause the Bonds to be “arbitrage bonds” within the meaning of the Code and Regulations and setting forth the County’s covenants and expectations with respect to the application of Section 148(f)(4) of the Code to the Bonds.

7.3. Arbitrage Rebate Exemption. It is hereby determined that the Bonds qualify for the “small issuer” exemption from arbitrage rebate set forth in Section 148(f)(4)(D) of the Code, as modified by Section 148(f)(4)(D)(v) of the Code since:

- (a) the Refunded Bonds qualified for the exception from arbitrage rebate provided by Section 148(f)(4)(D)(i) of the Code;
- (b) the aggregate face amount of the Bonds does not exceed \$5,000,000;
- (c) the average maturity of the Bonds will not exceed the remaining average maturity of the Refunded Bonds; and

(d) no Bond has a maturity date which is later than 30 years after the date the Refunded Bonds were issued.

7.4. Qualified Tax-Exempt Obligations. This Board hereby designates the Bonds as “qualified tax-exempt obligations” for purposes of Section 265(b)(3) of the Code relating to the disallowance of interest expense for financial institutions, and hereby finds that the reasonably anticipated amount of qualified tax-exempt obligations (within the meaning of Section 265(b)(3) of the Code) which will be issued by the County and all subordinate entities thereof during calendar year 2010 does not exceed \$30,000,000.

SECTION 8. CONTINUING DISCLOSURE. The Securities and Exchange Commission (the SEC) has promulgated certain amendments to Rule 15c2-12 under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the “Rule”) that make it unlawful for an underwriter to participate in the primary offering of municipal securities in a principal amount of \$1,000,000 or more unless, before submitting a bid or entering into a purchase contract for the Bonds, it has reasonably determined that the issuer or an obligated person has undertaken in writing for the benefit of the bondholders to provide certain disclosure information to prescribed information repositories on a continuing basis or unless and to the extent the offering is exempt from the requirements of the Rule. The principal amount of the Bonds is less than \$1,000,000. The County hereby represents that it has not issued within the six months before the date of issuance of the Bonds, and that it reasonably expects that it will not issue within six months after the date of issuance of the Bonds, other securities of the County of substantially the same security and providing financing for the same general purpose or purposes as the Bonds. Consequently, this Board hereby finds that the Rule is inapplicable to the Bonds, because the aggregate principal amount of the Bonds and any other securities required to be integrated with the Bonds thereunder is less than \$1,000,000. Therefore, the County will not enter into any undertaking to provide continuing disclosure of any kind with respect to the Bonds.

SECTION 9. CERTIFICATION OF PROCEEDINGS.

9.1. Filing with County Auditor. The County Auditor is directed to file a certified copy of this Resolution in the County’s records and to issue a certificate stating that the Bonds have been entered upon the Auditor’s bond register and the tax required by law has been levied.

9.2. Certification of Proceedings. The officers of the County are authorized and directed to prepare and furnish to the Underwriter and to Dorsey & Whitney LLP, bond counsel, certified copies of all proceedings and records of the County relating to the authorization and issuance of the Bonds and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the Bonds as such facts appear from the officer’s books and records or are otherwise known to them. All such certified copies, certificates and affidavits, including any heretofore furnished, shall be deemed representations of the County as to the correctness of all statements contained therein.

SECTION 10. AMENDMENT. This resolution may be amended at any time prior to the issuance of the Bonds by adoption of an administrative resolution.

Upon vote being taken thereon, the following voted in favor thereof: Ustad, Neely, Karpen and Jordan.

and the following voted against the same: 0

whereupon the resolution was declared duly passed and adopted and was signed by the Chairperson and attested by the County Auditor.

Public Building

Supt of Grounds and Building Sexton met with the board to discuss the gas-fired RTU for the jail. Motion by Jordan, second by Neely to approve replacing the unit @ \$8,167. Carried.

Recess

Chairman declared a recess at 9:00 to 9:04.

Highway

PWA Roggow met with the board for various matters.

Motion by Ustad, second by Neely to approve the following resolution for bridge replacement. Carried.

HD10-08

FEDERAL AID BRIDGE REPLACEMENT OR REHABILITATION PROGRAM  
RESOLUTION FOR COUNTY AND URBAN PROJECTS

WHEREAS, Union County desires the replacement of the bridge as hereinafter described:

STRUCTURE NUMBER AND LOCATION:

Structure # 64-010-112 located 10.2 miles south of Beresford over Brule Creek

AND WHEREAS, Union County is obligated and hereby agrees to provide proper maintenance as required by the Federal Highway Act as amended and supplemented thereto for project after construction is completed and to regulate or cause to be regulated the installation of utility facilities within the limits of the right-of-way of the proposed project in accordance with State and Federal requirements.

AND WHEREAS, Union County is obligated and hereby agrees to reimburse the State for all costs not reimbursable with Bridge Replacement Funds.

AND WHEREAS, the bridge is in need of replacement/rehabilitation for the following reasons:

1. The sufficiency rating is 64.7.
2. The bridge is not located on a County or Township designated Minimum Maintenance Road.
3. The bridge is located on a school bus route, a mail route, a field to farm to market route, a lake or recreation access route.
4. The load carrying capacity of the existing bridge cannot be improved to carry legal loads by rehabilitation of the existing bridge.

NOW THEREFORE BE IT RESOLVED,

That the South Dakota Department of Transportation be and hereby is authorized and requested to program for construction, in accordance with the "Secondary Road Plan" and the State's "Standard Specifications for Roads and Bridges", the bridge replacement or rehabilitation project at the above described location. Items to be handled by State forces with Federal Participation will include hydraulic study review, foundations investigation (if necessary), plan reviews, and construction administration.

Estimated Cost of Project Including Engineering: \$610,000.00

Federal Share (80%): \$488,000.00

Local Share (20%): \$122,000.00

Proposed Year of Construction: 2013

Vote of Commissioners: Yes 4 No 0

Motion by Neely, second by Ustad to approve the force account agreement with SDDOT for Project No. ER 6157(09) PCN 02ZJ; Site 4, Limiting Amount- \$28,841.82. This is the location of Union County Hwy 4 between CR1G and CR3 along the west side of the Big Sioux River. Carried. (Full agreement on file at the Union County Highway Department).

Discussion took place on entrance permit application from Albert Hine. Chairman called for a motion. Died for lack of motion.

Motion by Neely, second by Jordan to approve the application from MidAmerican Energy for CR #5/N. Shay Rd. and Sioux Pt. Rd. Twp #89N, R48W; NW1/4, Sec. 22, place underground high voltage line in 5" conduit-two conduits placed. Carried.

Motion by Jordan, second by Neely to approve the application from Clay Rural Water to approve the crossings on various county roads for the bores – 2.5" & larger will be encased. Carried.

#### Executive Session

Motion by Jordan, second by Neely to enter executive session to discuss personnel at 9:30. Chairman declared out of executive session at 9:43.

#### Vice-Chairman

Vice Chairman Ustad took over as Chairman Karpen excused himself from the meeting at 9:45.

#### WIC

Grace Freeman met with the board to give a quarterly update.

#### Proclamation

Motion by Jordan, second by Neely to declare October as Domestic Violence month. Motion carried.

**WHEREAS**, *domestic violence is a serious crime that affects people of all races, ages, income levels, lifestyles and genders; and in fact is probably affecting someone you know; and*

**WHEREAS**, *one in three women will be a victim of violence in her lifetime, and domestic violence violates an individual's human rights by destroying dignity, security and self-worth, due to the systematic use of physical, emotional, sexual, psychological and economic control or abuse; and*

**WHEREAS**, *in Union County confidential victim-survivor services are provided by Children's Inn, the Council on Sexual Assault & Domestic Violence, and Domestic Violence Safe Options Services and are available 24 hours a day at no charge.*

**WHEREAS**, *other professionals have joined together to participate and support the Union County Coordinated Community Response to Dating, Domestic and Sexual Violence to support each other in their work and to provide Union County and its citizens with a central source of information on domestic violence.*

**WHEREAS**, *the impact of domestic violence affects all of the members of the community, and only a coordinated community response will put a stop to this atrocious crime and assure funding is continuously available to provide these life-saving services.* **NOW, THEREFORE, I, Doyle Karpen, Chair, Union County Board of Commissioners, on behalf of Union County, do hereby proclaim the month of October 2010 as “DOMESTIC VIOLENCE AWARENESS MONTH”**

In Union County, South Dakota and I urge all citizens to actively participate in the scheduled events and programs and to think about the fact that it is someone you know.

#### Treasurer

Treasurer Hertel met with the board and discussed Anna Faulk’s resignation and advertising for FT and PT positions.

#### States Attorney

SA Miller met with the board to discuss the fairboard leases. Motion by Jordan, second by Neely to set the minimum bid for facilities at the Union County fairgrounds as follows: Beef Barn-\$450; Show Ring-\$1,200; Rabbit/Poultry Barn-\$500; Main Exhibit Building-\$1,000; New Hoop Building-\$500; Fairground Parking Area-\$1250. Auction date is set for November 16, 2010 at 9:00 a.m. Carried.

#### Contingency Transfer

Motion by Jordan, second by Neely to approve a contingency transfer of \$2600 to the fair budget. Carried.

#### Executive Session

Motion by Jordan, second by Neely to enter executive session to discuss legal matters at 10:40. Carried. Vice-Chairman declared them out of session at 11:05.

#### Jail Meal Bids

Ollie’s Drive Inn submitted a bid for the jail meals. Motion by Jordan, second by Neely to accept the 2-year bid from the lone bidder Ollie’s Drive Inn at \$3.50-breakfast; \$4.50-lunch; \$4.00-dinner. Total of \$12.00 per day. Carried.

#### Director of Equalization

DOE Kistner met with the board.

Motion by Jordan, second by Neely to change the 2010 Future View Training in contract to 2011. Carried.

Motion by Neely, second by Ustad to approve the two authorizations to proceed to allow for 2011 website subscription sales. Vote: 2 aye, 1 nay. (Jordan). Carried.

#### Land Plats

Motion by Neely, second by Jordan to approve the following plat:

#### Resolution

Be It Resolved by the Board of Commissioners of Union County that Survey Plat of Sundstrom Tracts 1 and 2 in the N1/2NW1/4 of Section 20, T94N, R50W of the 5th PM, Union County, SD owned by John and Janet Sundstrom, surveyed by Kim McLaury, Be and the same is hereby approved.

Motion by Neely, second by Jordan to approve the following plat:

Resolution

Be It Resolved by the Board of Commissioners of Union County that Plat of Lots A & B of Gunnare Tract 1 in the West 1/2 of Section 10, T95N, R49W of the 5th PM, Union County, SD owned by Michael and Mary Limoges, surveyed by Randal Schoellerman, Be and the same is hereby approved.

Motion by Neely, second by Jordan to approve the following plat:

Resolution

Be It Resolved by the Board of Commissioners of Union County that Survey replat of SFEC Tracts 4 & 5. being a part of Lot 1 in the NW1/4 and Lot 1 in the NE 1/4 of Section 3, T90N R49W of the 5th PM, Union County, owned by SE Farmers Elevator Coop, surveyed by Kim McLaury, Be and the same is hereby approved.

Motion by Jordan, second by Neely to approve the following plat:

Resolution

Be It Resolved by the Board of Commissioners of Union County that Survey replat of SFEC Tract 10, being a part of Lot 1 in the NW1/4, of Section 3, T90N R49W of the 5th PM, Union County, owned by SE Farmers Elevator Coop, surveyed by Kim McLaury, Be and the same is hereby approved.

Motion by Neely, second by Jordan to approve the following plat:

Resolution

Be It Resolved by the Board of Commissioners of Union County that Survey replat of SFEC Tracts 1 & 2, S1/2 of SE1/4 of Section 3, T90N R49W of 5th PM, Union County, owned by SE Farmers Elevator Coop, surveyed by Kim McLaury, Be and the same is hereby approved.

Motion by Neely, second by Jordan to approve the following plat:

Resolution

Be It Resolved by the Board of Commissioners of Union County that Survey replat of SFEC Tract 6, being a part of Lot 2 of the NW1/4 of Section 3, T90N R49W of the 5th PM, Union County, owned by SE Farmers Elevator Coop, surveyed by Kim McLaury, Be and the same is hereby approved.

Motion by Neely, second by Jordan to approve the following plat:

Resolution

Be It Resolved by the Board of Commissioners of Union County that Survey replat of SFEC Tract 3, being a part of Barnard Tract 1 in the North 1/2 of the SE 1/4 of Section 3, T90N R49W of the 5th PM, Union County, owned by SE Farmers Elevator Coop, surveyed by Kim McLaury, Be and the same is hereby approved.

Motion by Neely, second by Jordan to approve the following plat:

Resolution

Be It Resolved by the Board of Commissioners of Union County that A plat of McCook Lake Izaak Walton League Conservation Easement Tract 1 in the SE1/4NW1/4, the SW1/4NE1/4 and the SE1/4NE1/4, all in section 36, T90N, R49W of the 5th PM, Union County, SD owned by McCook Lake Izaak Walton League, surveyed by Paul Reiland, Be and the same is hereby approved. Motion carried.

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: Bi-Weekly payroll for 10-22-2010: Highway \$20,924.95; Sheriff \$29,273.78; State's Attorney \$1,304.86; Public Building \$689.00; Election \$106.02; Nurse \$154.43; WIC \$276.90; Register of Deeds \$606.13; Weed \$369.29; Coroner \$58.00. Alcester Union (Ads) \$37.60; Alliance Communication (Phone) \$519.27; Amber Fischer (Subpoena Fee) \$45.16; American Bar Assn (Membership) \$410.00; Artic Ice (Ice) \$15.00; Barnes Distribution (Supplies) \$43.46; Beresford Republic (Ad) \$298.40; Bierschbach Equipment (Clothing) \$50.00; Boyer Trucks Sioux Falls (Supplies) \$592.22; Brian L Wells (Maint) \$650.46; Campbell Supply (Supplies) \$129.99; Cathy Rehfuss (MI Hearing) \$33.00; Celeste Overhulser (Subpoena Fee) \$45.90; Chesterman Co (Water) \$132.25; Cindy A Foley (Transcripts) \$185.40; City Of Alcester (Utilities) \$44.85; City Of Elk Point (Utilities) \$4,101.81; Continental Research Corp (Supplies) \$1,400.00; Country Estates Truck Repair (Repairs) \$893.11; Crystal Harkness (Per Diem) \$64.00; Dakota Pc Warehouse (Supplies) \$72.95; Dakota Rigger & Tools (Supplies) \$115.44; Dale Neely (Mileage) \$33.30; Denise Cody (MI Hearing) \$33.00; Dennis Henze (Mileage) \$456.95; Diamond Mowers Inc (Repairs) \$83.63; Donna K Dietrich (MI Hearing) \$232.45; Doyle Karpen (Mileage) \$14.80; Dr Jim Slattery (Care) \$160.00; Ferdigs Body Shop (Towing) \$132.00; Frank Roos (Subpoena Fee) \$20.00; G & H Distributing Inc (Repairs) \$200.11; Gary E Mikelson (MI Hearing) \$49.20; GCR Tire Center (Supplies) \$2,200.04; Graham Tire (Repairs) \$11.00; Great Plains Int'l (Supplies) \$144.04; Hickory Tech (Phone) \$127.54; Hydraulic World Inc (Repairs) \$41.36; Inland Truck Parts (Repairs) \$7.90; Jacks Uniform & Equip (Supplies) \$109.95; John P Slattery (Pub Def) \$2,891.29; Jones Food Center (Supplies) \$32.16; Ken McDonald (Services) \$75.00; Knife River Midwest, L.L.C (Supplies) \$59,518.76; Knology (Phone) \$209.31; Leader Courier (Ads) \$144.00; Linweld (Supplies) \$49.52; Matt Hampton (Subpoena Fee) \$20.00; McLeods (Supplies) \$305.85; Melissa Dawdy (Per Diem) \$64.00; Michael McGill (Pub Def) \$3,617.73; Microfilm Imaging System (Rental) \$120.00; Mid Country Machinery Inc (Repairs) \$1,157.12; MidAmerican Energy Co (Utilities) \$243.88; Midwest Wheel Companies (Repairs) \$782.56; Milton Ustad (Mileage) \$33.30; Minnehaha County Auditor (Reimb Mi) \$180.00; Myrl & Roys Paving (Supplies) \$1,925.56; National 4-H Council Supply (Supplies) \$9.95; Northern States Supply (Repairs) \$125.62; Northern Truck Equipment (Repairs) \$202.51; Office Elements (Supplies) \$621.93; Ollies Drive Inn (Meals For Jail) \$5,422.00; Olson Biochemistry Lab (Supplies) \$84.00; Pedersen Machine (Repairs) \$303.76; Perkins Office Solutions (Supplies) \$346.57; Peterson, Stuart & Rumpca (Public Def) \$5,782.58; Pete's Produce (Supplies) \$37.75; Pioneer Drug (Drugs) \$187.99; Pitney Bowes (Rental) \$149.00; Quill Corporation (Supplies) \$433.26; Qwest (Phone) \$1,379.91; Ray Cota (Interpreter) \$100.00; Road Machinery & Supplies (Repairs) \$30.09; Ross Jordan (Mileage) \$11.10; Sam's Club (Supplies) \$72.99; SDSU-ARS Dept Of Animal & (Supplies) \$15.00; Select Parts Inc (Supplies) \$138.89; Servall Towel & Linen (Maint) \$51.17; Sheehan Mack Sales & Equip (Repairs) \$42.59; Shepherd Reporting (Transcripts) \$25.00; Sheriff Of Woodbury County (Return) \$47.94; Sign Pro (Supplies) \$95.00; Sioux City Truck & Trailer (Repairs) \$387.04; Sioux Falls Two-Way Radio (Supplies) \$92.50; Siouxland Humane Society (Care) \$101.00; Staples Credit Plan (Supplies) \$304.61; State Of South Dakota (State Phone) \$415.72; Sturdevant's Auto Parts (Supplies) \$1,676.65; Sunshine

Roos (Subpoena Fee) \$45.16; The Akron Hometown (Ad) \$36.52; The Fillin' Station (Repairs) \$14.85; Total Stop Food Store (Supplies) \$8.98; Town And Country Tire & Se (Repairs) \$12.89; Verizon Wireless (Phone) \$424.00; Vermeer Equipment (Repairs) \$370.23; Volunteers Of America (Care) C.L. \$2,641.92; Woodbury County Disaster (Maint) \$251.51; Woodbury County Juvenile (Care) S.H. \$300.00; Yankton County (Mi Hearing) \$207.50; Juror Fee \$645.78.

Adjournment

Motion by Jordan, second by Neely to adjourn the board meeting at 11:42 a.m. until November 4, 2010. Motion carried.

ATTEST: \_\_\_\_\_  
Carol Klumper, Auditor  
Union County

\_\_\_\_\_  
Doyle Karpen, Chairman  
Union County Board of Commissioners

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