Langford Board of Trustees

Monday, April 8, 2013

The Langford Board of Trustees met Monday, April 8, 2013 at the Finance Office. President Todd Sell called the meeting to order at 6:00 p.m., with Trustee Chad Hardy, Trustee Orville Helgeson, Utility Manager Blair Healy, and Finance Officer Melody Swearingen also in attendance, along with Lucas Hoover from Helm's Engineering and Bill Wyss from Swede's Corner.

Hoover addressed the council regarding estimates that were provided from various companies for televising and cleaning the sewer lines, the first step in the process of upgrading our wastewater system. Hardy made a motion to accept the estimate from A-Tech of Watertown at a total estimated cost of $27,896.50; seconded by Helgeson; motion carried. Information regarding estimates from other companies is available at the Finance Office upon request. Hoover left the meeting at 6:35 p.m.

Wyss was allowed to address the Council regarding Swede's Corner's liquor license and the liquor agreement between Swede's Corner and the City. Wyss left the meeting at 6:55 p.m.

Hardy made a motion to approve the minutes from the March meeting; seconded by Helgeson; motion carried.

FINANCE OFFICER REPORT: Profit and Loss reports reveal the following: for March, an overall income of $64,433.51, with overall expenses of $45,434.71, resulting in a net gain of $17,998.80; year-to-date, an overall income of $173,159.28, with overall expenses of $147,528.72, resulting in a net gain of $25,630.56.

The following Ordinance was approved, and this constitutes the second reading: 2012 AMENDED APPROPRIATION ORDINANCE NO. 127-1 is hereby amended to add funds to the following budgeted line items: IT IS HEREBY ORDAINED that $2,000.00 will be added to the Legal Fees Budget, and that $2,500.00 will be added to the Parks budget, and that $25,000.00 will be added to the Fire Dept. budget, all within the General Fund; which funds, in the total amount of $29,500.00, will be funded from cash reserves in the Electric Fund. Dated this 18th day of March, 2013, and effective April 9, 2013.

On April 17th Swearingen will attend a NEFOG meeting in Aberdeen (rescheduled from March) and an emergency mgmt meeting in Britton. Swearingen also discussed the following topics with the council: liquor contracts; delinquent utility account; Community Room rentals; and a request for updated hardware and software. Permission was granted to update Microsoft Suite software (for 2 computers), and to purchase a new monitor, at an estimated cost of $600.00.

UTILITY MANAGER REPORT: Healy reported that the 04/09 meeting in Pierre regarding mosquito spraying has been postponed, and that he will be going to Aberdeen on 05/01 for calibrations on mosquito spraying equipment.

Healy attended Heartland's annual meeting and reported that there may be grants available for meter reading equipment. He will follow up with Heartland on this.

Healy was contacted by someone who may be interested in moving a house, which would require us to run utility services to that site.

Last month it was reported that we would not pursue a grant for a lighting project in the Community Center at this time; Healy reported that he learned more information at the recent Heartland meeting. The Council reversed their position and instructed Healy to follow up on the possibility of securing funds for this purpose.

OLD BUSINESS: Healy reported that the tree grant has been approved, but he is required to meet with them before funds will be awarded.

Healy continues to explore options with Lake Region Electric as a source for electric system operation, maintenance and construction as NorthWestern will no longer be providing these services.

Swearingen reported that we have received additional contributions totaling $1,450.00 for the tennis/basketball court upgrade. Total funds in hand for this project include $20,000.00 earmarked in the City's 2013 budget, along with contributions as follows: $2500.00 from Horton Industries, $1000.00 from Langford Community Foundation, $800.00 from Dakota Kids 4-H and $650.00 from Marshall County 4-H. The total project cost is estimated at $25,000.00, which includes removing and replacing a section of cement with the possibility of grinding and sealing the surface after these repairs are made, and replacing basketball backboards and rims.

Healy provided more detailed information regarding the cost of equipment and supplies for the purpose crack sealing. Hardy made a motion to approve the purchase of the equipment at an estimated cost of $1,150.00.

Healy attended a leak detection class in Watertown and reported that our detector is in proper working order.

NEW BUSINESS: During a recent event at the Legion Hall, some individuals parked their vehicles on a resident's lawn. As this is not the first incidence, the Council grants approval to the resident to create a barricade to prevent parking on his property, and allows that the barricade may extend into the boulevard.

Regarding the upcoming sewer improvement project, USDA administrative contracts from NECOG were reviewed. Swearingen will get more details regarding the contract costs before these are signed. Hardy made a motion to allow Sell to sign these contracts in vacation; seconded by Helgeson; motion carried. In addition to the NECOG contract, documents from Meierhenry Sargent LLP, were reviewed. The Legal Services Agreement was approved and signed, and the following Resolutions were adopted:

RESOLUTION APPROVING LEGAL SERVICES AGREEMENT - BE IT RESOLVED by the Town of Langford that Meierhenry Sargent LLP be retained as bond counsel for the proposed Sewer Project Revenue Bond and that the President of the Board of Trustees and Finance Officer are authorized to negotiate and execute the form of the Legal Services Agreement on file with the Town Finance Officer. Motion by Hardy; seconded by Helgeson. Aye: all; Nay: none; Abstained: none (signed by Todd Sell, Board President; signed and sealed by Melody Swearingen, Finance Officer)

RESOLUTION NO. 13-01 - A RESOLUTION AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF NOT TO EXCEED $838,000 SEWER PROJECT REVENUE BONDS OF THE TOWN OF LANGFORD; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; PROVIDING FOR A SPECIAL CHARGE OR SURCHARGE FOR THE PURPOSE OF PAYING PRINCIPAL OF AND INTEREST ON SAID BONDS AS THEY BECOME DUE; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH. BE IT RESOLVED by the Board of Trustees of the Town of Langford, South Dakota (the "Town"), as follows:

SECTION 1. Bond Purpose and Authorization.

1.01. The Town currently operates a municipal sewer utility under SDCL 9-40 (the "Utility"), consisting of a system or part of a system, for the collection, treatment, and disposal of sewage and other domestic, commercial, and industrial wastes. The Town determines it necessary and expedient to issue Sewer Project Revenue Bonds (the "Bonds") for the purpose of defraying the cost of the improvements and hereby declares the necessity therefore.

1.02. The Town is authorized to borrow money and issue its revenue bonds under SDCL Chapter 9-40 and 6-8B (the "Act"), in order to defray the cost of acquiring and constructing improvements to the Utility, consisting of the improvements generally described on Exhibit A hereto (the "Improvements"). The Town is authorized to acquire the Improvements, to issue its Bonds, in order to defray the cost thereof, and to make all pledges, covenants and agreements authorized by law for the protection of the owners of the Bonds, including, without limitation, those covenants set forth in Sections 9-40-15 through 9-40-17 of the Act. The bonds are payable solely from the revenue or income derived from the operation of the improvements and shall not constitute an indebtedness of the Town within the meaning of South Dakota constitution Article 13 §4 or any statutory provisions or limitations.

SECTION 2. Terms of the Bonds.

2.01. The Bonds shall be issued in an aggregate principal amount not exceeding $838,000 and shall be sold to the United States of America. The Bonds will bear interest at a rate or rates per annum resulting in an interest rate not greater than 2.75% per annum and will mature over a period not to exceed forty (40) years. The Bonds shall be issued in one series. The President and Finance Officer are hereby authorized and directed to agree with the United States of America upon the exact purchase price, principal amount, maturities, interest rate or rates, payment dates and redemption provisions for the Bonds, within the parameters set forth in this Section.

SECTION 3. Execution, Authentication, Delivery and Form of the Bonds.

3.01. The Bonds shall be prepared under the direction of the Finance Officer and shall be executed on behalf of the Town by the signatures of the President of the Board of Trustees and the Finance Officer, and countersigned by an attorney actually residing in the State of South Dakota and duly licensed to practice therein, and shall be sealed with the official corporate seal of the Town; 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. The Town hereby appoints the Finance Officer of the Town as bond registrar, transfer agent and paying agent (the "Registrar") for the Bonds.

SECTION 4. Creation of Accounts, Appropriation, Pledge and Segregation of Revenues

4.01. Project Account. An account to be designated as the 2013 Sewer Project Revenue Bond Account (the "Debt Service Account") is established and shall be maintained as a separate and special mandatory asset segregation bookkeeping account on the official books of the Town until the Bonds and any additional bonds (together referred to as the "Bonds") payable from the net income from the Project Revenues, as provided in Sections 4.03 through 4.07 hereof and interest and redemption premiums due thereon have been fully paid, or the Town's obligation with reference to the Bonds has been discharged.

4.02. Project Revenue Segregation and Pledge. Net income derived from the Improvements shall be the excess of revenues or income remaining from time to time after first paying all reasonable and current expenses of maintenance, repairs, replacements, and operation including the interest on any general obligation bonds authorized to construct or acquire or improve such original Utility and including the necessary debt service funds required to be provided for the retirement of said bond issues, and including the interest and debt service funds required annually to be paid or set aside on any refunding bonds issued to refund such general bonds issued for the original construction or acquisition or improvement of said Utility, so extended, added to, or improved (hereafter “Project Revenues”). All Project Revenues shall be segregated and subdivided into separate accounts as designated and described in Sections 4.03 to 4.07 and are irrevocably pledged and appropriated for the payment of principal of and interest on the Bonds. As described in Section 5.05 hereof, the Town shall impose a separate surcharge for the availability, benefit and use of the improvements and shall aggregate the revenues derived from such surcharge for the Improvements, together with the expenses of the operation and maintenance of the Improvements and shall account for them as provided in SDCL Chapter 9-40 and Section XI of the South Dakota Department of Legislative Audit Municipal Accounting Manual.

4.03. Construction Account. An account to be designated as the 2013 Sewer Project Revenue Bond Construction Account ("Construction Account") is established. The Construction Account shall be used only to pay as incurred and allowed costs which under generally accepted accounting principles are capital costs of the Improvements, and of such future acquisitions, reconstructions, improvements, betterments or extensions of the Utility as may be authorized in accordance with law; including but not limited to payments due for work and materials performed and delivered under construction contracts, architectural, engineering, inspection, supervision, fiscal and legal expenses, the cost of lands, easements and utility rights, interest accruing on Bonds during the first year following the date of their delivery, if and to the extent that the Debt Service Account is not sufficient for payment of such interest, reimbursement of advances made from other Town funds, and all other expenses incurred in connection with the construction and financing of any such undertaking. To the Construction Account shall be credited as received all proceeds of Bonds, except amounts appropriated to the Debt Service Account under Section 4.04 and any amount to be deposited to the Reserve Account under Section 4.05, all other funds appropriated by the Town for the improvement of the Utility, and all income received from the claim with respect to the Utility received pursuant to Section 5.03 hereof shall be deposited in the Construction Account and applied to repair, replacement and restoration of the Utility; any proceeds in excess of the amount necessary for that purpose shall be transferred to the Debt Service Account. No amount shall be expended from the construction account unless contracts have been entered into and completion bonds furnished in an amount sufficient to ensure completion of the Improvements at a cost not exceeding the amount then on hand for such purpose.

4.04. Current Debt Service Account. An account to be designated as the 2013 Sewer Project Revenue Bond Current Debt Service Account ("Debt Service Account") is established. Upon each monthly apportionment, there shall be set aside and credited to the Debt Service Account out of the Project Revenues an amount equal to not less than one-twelfth of the total sum of the principal and interest to become due within the then next succeeding twelve months on all Bonds. Moneys from time to time held in the Debt Service Account shall be disbursed only to meet payments of principal and interest on Bonds as such payments become due; provided, that on any date when all outstanding Bonds are due or prepayable by their terms, if the amount then on hand in the Debt Service Account, together with the balance then on hand in the Reserve Account, is sufficient, with other moneys available for the purpose, to pay all Bonds and the interest accrued thereon in full, it may be used for that purpose. If any payment of principal or interest becomes due when moneys in the Debt Service Account are temporarily insufficient therefor, such payment shall be advanced out of any Project Revenues theretofore segregated and then on hand in the Reserve Account, the Replacement and Depreciation Account or the Surplus Account. In the event that sufficient moneys are not available from the aforementioned sources, the Town, to the extent it may at the time legally do so, may, but shall not be required to, temporarily advance moneys to the Debt Service Account from other funds of the Town on hand and legally available for the purpose, but any such advance shall be repaid from Net Revenues of the Utility within 24 months.

4.05. Reserve Account. An account to be designated as the 2013 Sewer Project Revenue Bond Future Debt Service Reserve Account ("Reserve Account") is established. On a monthly basis, the Town shall pay into the Reserve Account an amount equal to 10% of the maximum debt service due in any future calendar year on, the Bonds. Said balance shall be maintained by such additional credits to the Reserve Account as may be necessary. Moneys on hand in the Reserve Account shall be used only to pay maturing principal and interest when other moneys in the Debt Service Account are insufficient therefor.

4.06. Replacement and Depreciation Account. An account to be designated as the 2013 Sewer Project Revenue Bond Contingency (Renewal and Replacement) Account ("Replacement and Depreciation Account") is established. There shall next be set aside and credited, upon each monthly apportionment, to the Replacement and Depreciation Account such portion of the Project Revenues, in excess of the current requirements of the Debt Service Account and the Reserve Account (which portion of the Project Revenues is referred to herein as "Surplus Project Revenues"), as the Town Board of Trustees shall determine to be required for the accumulation of a reasonable reserve for renewal of worn out, obsolete or damaged properties and equipment of the Utility, which reserve shall be accumulated and maintained. Moneys in this account shall be used only for the purposes above stated or, if so directed by the Town Board of Trustees, to redeem Bonds which are prepayable according to their terms, to pay principal or interest when due thereon as required in Section 4.04 hereof, or to pay the cost of improvements to the Utility; provided, that in the event that the Town shall hereafter issue bonds for the purpose of financing the construction and installation of additional improvements or additions to the Utility, but which additional bonds cannot, upon the terms and conditions provided herein, be payable from the Debt Service Account. Surplus Project Revenues from time to time received may be segregated and paid into one or more separate and additional accounts from the payment of such bonds and interest thereon, in advance of payments required to be made into the Replacement and Depreciation Account.

4.07. Surplus Account. An account to be designated as the 2013 Sewer Project Revenue Bond Surplus Account ("Surplus Account") is established. Any amount of the Surplus Net Revenues from time to time remaining after the above required applications thereof shall be credited to the Surplus Account, and the moneys from time to time in that account, when not required to restore a current deficiency in the Debt Service Account as provided in Section 4.04 hereof, may be used for any of the following purposes and not otherwise:

To redeem and prepay Bonds when and as such Bonds become prepayable according to their terms;

To purchase Bonds on the open market, whether or not the Bonds so purchased or other such Bonds may then be prepayable according to their terms; and, if the Reserve Account is then funded to the full amount required to be maintained therein, and the balances in the Debt Service Account and the Replacement and Depreciation Account are sufficient to meet all payments required or reasonably anticipated to be made therefrom prior to the end of the current fiscal year, then;

To pay for repairs of or for the construction and installation of improvements or additions to the Utility; and, if the Reserve Account is then funded to the full amount required to be maintained therein, and the balances in the Debt Service Account and the Replacement and Depreciation Account are sufficient to meet all payments required or reasonably anticipated to be made therefrom prior to the end of the then current fiscal year, then:

To be held as a reserve for redemption and prepayment of the Bonds which are not then but will later be prepayable according to their terms; or

To be used for any other authorized municipal purpose designated by the Town Board of Trustees.

No moneys shall at any time be transferred from the Surplus Account or any other account of the Fund to any other fund of the Town, nor shall such moneys at any time be loaned to other municipal funds or invested in warrants, special improvements bonds or other obligations payable from other funds, except as provided in this Section 4.07.

4.08. Accounting. The Town shall follow the municipal accounting requirements of the South Dakota Legislative Audit. The above named accounts may be designated in accordance with South Dakota municipal accounting standards.

4.09. Deposit and Investment of Funds. The Town Finance Officer shall cause all moneys to be deposited as provided in South Dakota Law.

SECTION 5. Covenants, Remedies and Rates.

5.01. General. The Town covenants and agrees that until all Bonds are fully discharged as provided in this Resolution, it will continue to hold, maintain and operate the Utility as a public utility and convenience, free from all liens thereon or on the income therefrom other than the liens herein granted or provided for, will observe prudent utility practices, and will maintain, expend and account for the Fund and the several accounts therein as provided in Section 4. The Town will cause the Improvement to be constructed in accordance with plans and specifications hereto prepared and will not enter into contracts in excess of the amount provided

5.02. Competing Service. The Town will not establish or authorize the establishment of any other system for the public supply of service or services in competition with any or all of the services supplied by the facilities of the Utility.

5.03. Billings. The charges for sewer utility services will be billed at least monthly, and if the bill is not paid within sixty days of the date of billing, or if the customer fails to comply with all rules and regulations established for the Utility within sixty days after notice of violation thereof (which notice shall be given promptly upon discovery of any such violation), the service to the premises involved shall be discontinued and shall not be resumed until payment of all past-due bills for Sewer Utility service and compliance with all such rules and regulations. The Town may reduce the number of days before the service will be disconnected from sixty to any lesser number of days by Resolution or resolution. The Town shall take all appropriate legal action to collect the unpaid charges. The Town shall follow the procedures, if any, set by South Dakota Codified Laws for disconnection of service during the winter months.

5.04. Remedies. The holder of the Bonds shall have such remedies as are set forth is SDCL 9-40.

5.05. Rates and Charges. There shall be charged a monthly surcharge for the services provided by the improvement financed by the Bonds. The surcharge shall be segregated from other revenues of the utility and shall be used for the payment of principal of and interest on the Bonds. Provided that such surcharge shall create net income, remaining from time to time after first paying all reasonable and current expenses of maintenance, repairs, replacements and operation, sufficient to fund interest, reserve and debt service fund annual requirements. The rate herein specific will be collected as a surcharge for the Improvement. This surcharge shall remain in effect until such time as the Bonds are paid in full or discharged. The initial surcharge shall be set by resolution. All users, current and future, shall be charged the surcharge for it has been found that all users benefit from the improvement. The surcharge is found to be equitable for the services provided by the Improvement. The amount of the surcharge shall be reviewed not less than annually and shall be modified in order to provide such funds as are set forth herein. All modifications may be made by Resolution. No resolutions setting the surcharge shall be subject to referendum for they are necessary for the support of government.

5.06 Statutory Lien. There shall pursuant to SDCL 9-40-25 be a statutory mortgage lien upon the Improvements in favor of and for the equal benefit of the lawful holders of the bonds issued pursuant to SDCL 9-40, except no such lien shall attach to or become a charge upon or against any property or Utility or any part thereof previously owned by the Town. Until all bonds are fully paid with interest, the Town shall not sell or otherwise dispose of the Utility and shall not establish, authorize or grant a franchise for the operation of any other Utility in competition with the Town. The statutory lien shall continue until the bonds are paid in full.

5.07 Additional Bonds. As permitted by SDCL 9-40-8 and SDCL 9-40-9, additional bonds payable from revenues and income of the system may be issued, and no provision of this Resolution shall have the effect of restricting the issuance of, or impairing the lien of, such additional parity bonds with respect to the net revenues or income from the extensions, additions or improvements. The Town shall have the right to issue additional bonds secured by a lien subordinate to the lien from the Bonds.

5.08 Optional Redemption. The bonds are subject to optional redemption on any date at par plus accrued interest to date of redemption.

The above and foregoing Resolution was read by Sell and was moved for adoption by Hardy seconded by Helgeson and upon roll call vote, Sell, Hardy and Helegeson voted aye, none voted nay whereupon the President of the Board of Trustees declared the Resolution to be duly passed and adopted. Signed by Sell; Attested and Sealed by Swearingen; adopted 04/08/13; published 04/17/13; effective 04/17/13.

The Council went into Executive Session at 8:15 p.m. to review applications for seasonal employment; and emerged from Executive Session at 8:35 p.m. Sean Kramer and Mitchell Wieser were hired at a rate of $8.00 per hour.

MARCH DISBURSEMENTS: SD Association of Rural Water Systems $345.00 (dues); Dakota Waste Solutions $4,000.00 (gbg service); BDM Rural Water $1,389.50 (water); Melody Swearingen $70.05 (travel); SD DOR $26.00 (water samples); Town of Langford $1,656.27 (utilities); DaMar Farmer's Elevator $1,200.15 (propane / fuel oil); Western Area Power Assoc $5,911.03 (power); SD DOR $1,605.12 (sales tax); NorthWestern Energy $809.75 (repairs); Langford Bugle $148.50 (publications); Blair Healy $51.20 (travel); Heartland $9,802.61 (power); Jensen Auto Service $40.00 (repairs); Verizon Wireless $53.08 (cell phone); Venture Communications $440.93 (phone / internet / fax); USPS $12.00 (box rentals); Off the Wall Signs $30.00 (golf cart decals); Langford Fire Dept $2,618.80 (funds for bunker gear); East, VanderWoude, Grant & Co $2,910.47 (audit fees); NorthWestern Energy $1,303.97 (transmission fees); SDML Workers Comp $116.00 (2012 payroll audit); EFTPS $1,689.84 (941); First State Bank $578.55 (refund for resident NSF); SD Retirement System $713.04 (contributions); SD Supplemental Retirement $250.00 (employee contribution); Health Pool of SD $542.60 (health ins premium); Petty Cash $33.44 (postage); Salary and wages by department: Board $738.80; Library $606.04; Finance Office $274.06; Streets $933.84; Sanitation $813.75; Water $813.76; Electric $813.76.

CORRESPONDENCE: SD DOT – Transportation Alternatives Program Funding Available; SD DENR Re: South Dakota's abandoned underground tank removal program.

The next regular session is scheduled for Tuesday, May 14, 2013 at 6:00 p.m. at the Finance Office.

The meeting adjourned at 9:05 p.m.

ATTEST: Melody Swearingen, Finance Officer
Todd Sell, Board President