

Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on December 14, 2017 beginning at 1:00 p.m.  
Governor's Conference Room  
State Capitol

Present: Governor Doug Burgum, Chairman  
Attorney General Wayne Stenehjem  
Agriculture Commissioner Doug Goehring

Also

Present: Leslie Oliver, Governor's Office  
Jason Bohrer, Lignite Energy Council  
Mike Holmes, Lignite Research Program  
Other attendees are listed on the attendance sheet available in the Commission files  
Members of the Press

Governor Burgum called the Industrial Commission meeting to order at 1:00 p.m. and the Commission took up Lignite Research, Development and Marketing Program business.

Ms. Karlene Fine, Industrial Commission Executive Director/Secretary, discussed the Lignite Research Fund Financial Report as follows:

**Lignite Research Fund (314)**  
**Financial Statement - Cash Balance**  
**2017-2019 Biennium**  
**Industrial Commission Meeting December 14, 2017**

		<b>Cash Balance</b>
July 1, 2017 Beginning Balance	\$21,425,417.60	
\$.02/ton Revenues through September 30, 2017		\$58,283.08
Coal Trust Fund Revenues through September 30, 2017		\$268,298.62
Coal Conversion Tax Revenues through September 30, 2017		\$176,423.28
Interest Income through September 30, 2017		\$1,894.90
AET - SIIF - One time Appropriation		\$3,000,000.00
AET - 15% of Coal Severance Tax		\$163,916.99
AET - SIIF - Trigger for \$3 million		\$0.00
Repayments & other revenues through September 30, 2017		\$0.00
Total Revenues		\$3,668,816.87
Small Research/Educ. Projects Expenditures through Sept. 30, 2017		\$38,800.00
Demonstration Projects Expenditures through Sept. 30, 2017		\$0.00
AET Projects		\$0.00
Marketing Expenditures through September 30, 2017		\$0.00
Litigation Expenditures through September 30, 2017 (net costs)		\$1,327.50
Non-matching Project Expenditures through Sept. 30, 2017		\$0.00
Administrative Expenditures through Sept. 30, 2017		\$4,403.75
Total Expenditures		\$44,531.25
Cash Balance as of September, 2017		\$25,049,703.22
Outstanding contracted Small Research/Education/Demo Project Commitments	-\$3,860,811.00	

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Outstanding contracted Marketing Project Commitment	-834,000.00	
Estimated Lignite Litigation Costs for 2017-2019 biennium	-1,498,672.50	
Outstanding Non-matching project commitment (EPP)	-2,192,250.00	
Outstanding LV 21 Project Commitment	-1,367,678.00	
Outstanding AET Project Commitments	-3,200,000.00	
Estimated administrative expenses for 2017-2019 biennium	-845,596.25	
		-13,799,007.75
Non-committed Cash Funding		\$11,250,695.47

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Estimated Revenues for 2017-2019 Biennium

\$.02/ton Coal Severance Tax	\$1,200,000.00	
Coal Severance Taxes/Coal Development Trust Fund	\$2,362,500.00	
5% of General Fund Share of Coal Conversion Tax	\$2,500,000.00	
AET - SIIF One-time Appropriation (SB 2014)	\$3,000,000.00	
AET - 15% of Coal Severance Tax	\$3,375,000.00	
AET \$3 million SIIF Trigger (HB 1152)	\$3,000,000.00	
Interest & Other Income	\$200,000.00	
		\$15,637,500.00

Other Designated Revenues

General Fund One-time Appropriation (Originally \$5,000,000)	\$4,672,500.00	
Expenditures through September 30, 2017	-2,313,822.00	
		\$2,358,678.00

\*This entire amount is under contract along with \$307,500 in the demo \$'s

Proposed 2017-2019 Budget	Committed	Balance	
Administration	\$850,000.00	\$850,000.00	\$0.00
Non-matching Studies (EPP)	\$2,192,250.00	\$2,192,250.00	\$0.00
Marketing Project	\$2,634,000.00	\$834,000.00	\$1,800,000.00
LV 21 Demonstration Projects	\$1,367,678.00	\$1,367,678.00	\$0.00
Small Research/Education/Demonstration Projects	\$7,674,844.00	\$3,899,611.00	\$3,775,233.00
Advanced Energy Technology Projects (\$9,375,000 Required)	\$20,844,145.00	\$3,200,000.00	\$17,644,145.00
Litigation Costs (net costs)	\$1,500,000.00	\$1,500,000.00	\$0.00
	\$37,062,917.00	\$13,843,539.00	\$23,219,378.00

\*An additional \$2,000,000 of AET funding has been authorized if federal funding is less than anticipated on Project Carbon

Ms. Fine stated that there is funding available if the Commission approves funding for the proposed project that is being considered today.

Ms. Fine discussed the Lignite Research Council recommendation regarding the funding allocation for the 2017-2019 biennium and the guidelines for Advanced Energy Technology projects as follows:

Proposed Budget  
Lignite Research Program  
2017-2019 Biennium

	2015-2017	Difference	2017-2019	Carried Over Commitment	New Commitment	Available
Administration	\$750,000	\$100,000	\$850,000	\$0	\$850,000	
Non-Matching Studies	\$3,000,000	-\$807,750	\$2,192,250	\$2,192,250	\$0	\$0
Marketing Project	\$1,200,000	\$1,434,000	\$2,634,000	834,000	0	\$1,800,000
LV 21 Demonstration Projects	\$3,572,866	-\$2,205,188	\$1,367,678	1,367,678	0	\$0
Small Research/Education/Non-LV 21 Demonstration Projects	\$6,597,500	\$1,077,344	\$7,674,844	3,674,844	224,767	\$3,775,233
Advanced Energy Technology Projects (\$9,375,000 Required)	\$0	\$20,844,145	\$20,844,145	0	3,200,000	\$17,644,145 *
Litigation Costs	\$1,500,000	\$0	\$1,500,000		1,500,000	\$0
	\$16,620,366	\$20,442,551	\$37,062,917	\$8,068,772	\$5,774,767	\$23,219,378

\*An additional \$2,000,000 of AET funding has been authorized if federal funding is less than anticipated on Project Carbon

Mr. Jason Bohrer and Mr. Holmes reviewed the Advanced Energy Technology (AET) Grant Guidelines. It was indicated this funding is to be used for 1) transformational breakthrough technologies that go beyond the incremental improvements that are pursued for smaller scale projects at North Dakota lignite plants; 2) must be on a pathway to commercialization and 3) research for a plant of at least 25MWe or equivalent scale. In addition to meeting these criteria the project must meet all the other Lignite Research Program guidelines -- cost share, a clear value to North Dakota and North Dakota industry support. It was noted that this is different conceptually from the other large scale project funding mechanism (LV 21 Demonstration Projects) which was to install commercialized technology at North Dakota plants.

Mr. Bohrer stated that when you look at a path of development timeline the AET funding is to be used for research that needs to be done prior to commercialization but on a path to commercialization. (\$50 million range) He indicated that through the small research funding the Program is able to fund projects for work inside the lab to post bench scale. After the technology has been proven at that level then AET funding will be used for the next level of research to get the project to be 100% ready for commercialization.

Mr. Holmes pointed out that it could be used for “greenfield” new technology or technology to retrofit existing plants. He indicated that Project Tundra, Project Allam and projects related to carbon capture utilization and storage all fit under the AET guidelines.

Mr. Bohrer pointed out that the magnitude of the financial challenge for the next step in the path of development timeline is significant. This is where there will need to be considerable help from all parties -- state and federal -- in whatever method that could be utilized (loans, grants, bonding, etc.). This is the incomplete element for the commercialization of these technologies as it pertains to ND partnership. There is still a need for the State of North Dakota to create a pot of R&D money that would be able to partner on a \$500 - \$800 million project. The AET funding gets the Program through the next step on the path of development timeline but doesn’t deal with the following step for commercialization.

In response to a question, Mr. Holmes and Mr. Bohrer indicated that this funding would not be used for 15 small projects but rather used for probably two or three projects -- the projects must be for 25MWe projects. With the funding for this biennium they could fund the next steps for Project Allam and Project Tundra.

In response to a question, Mr. Holmes indicated that there must be a 50% match to any dollars provided under the Lignite Research Program. That could come from the industry or the federal government. There must be industry participation. They would anticipate a much higher leverage than the 50% minimum requirement.

In response to a question, Mr. Holmes and Mr. Bohrer stated that they anticipated funding requests within 12 months and gave a brief report on the status of the ongoing projects.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accept the recommendation of the Lignite Research Council and approve the following allocation of Lignite Research Program funding for the 2017-2019 budget:**

<b>Administration:</b>	<b>\$ 850,000</b>
<b>Non-Matching Studies:</b>	<b>\$ 2,192,250</b>
<b>Marketing Project:</b>	<b>\$ 2,634,000</b>
<b>LV 21 Demonstration Projects</b>	<b>\$ 1,367,678</b>
<b>Small Research/Education/Non-LV 21 Demonstration Projects</b>	<b>\$ 7,674,844</b>
<b>Advanced Energy Technology Projects</b>	<b>\$20,844,145</b>
<b>Litigation Costs</b>	<b><u>\$ 1,500,000</u></b>
	<b>\$37,062,917</b>

**And further to adopt the Advanced Energy Technology Program guidelines as follows:**

**Advanced Energy Technology Grant Guidelines:**

The Advanced Energy Technology Program continues the North Dakota Industry/State Partnership. The intent is to be technology agnostic and solution specific in development of technologies to address the needs of the State's lignite industry. The focus will be on developing large scale demonstrations that show the potential to lead to near-term application in North Dakota, with a focus on technologies that will sustain or grow lignite application. The ultimate goal is to sustain North Dakota's clean, reliable, low-cost energy while maintaining the lignite industry that is critical to the North Dakota economy. The primary focus is to advance energy science in a way or ways that benefits the residents of North Dakota.

Advances need to be transformative in one or more ways while offering the promise of competitive advantages that will ultimately sustain and grow the breakthrough without financial or regulatory support. It is foundational to this effort that advances are clearly transformational and offer breakthrough potential. As such, the lack of either or both makes the subject advance inappropriate for support through this grant program. Priority will be given to projects that show a clear need by North Dakota industry and show a clear path for application in North Dakota upon successful demonstration of technical and economic viability. Additionally, priority will be given to projects that are on a path working toward demonstration on a scale of at least 25 MWe or equivalent. The projects must follow the NDIC Lignite Research Program grant process and meet all of the related guidelines.

**On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Ms. Fine discussed the Lignite Research Council recommendation for Grant Round 85 application -- Annual Lignite Energy Council Education Program; Submitted by Lignite Energy Council; Request for \$100,000; Total Project Costs \$215,000 as follow:

**Purpose:** The applicant is requesting funding for one year to continue the Lignite Education Program which includes the annual four-day Lignite Education Seminar, development of the second of four videos on lignite, and funding for the Energy Education Program for the classrooms. The objective of this program is to educate teachers, students and members of the general public about career opportunities, economic benefits and operations of the lignite industry. The first video of

four is near completion and this funding will be for the second video--North Dakota Lignite Geology, Mining and Reclamation and if sufficient dollars are available begin work on the Electricity Generation and Coal Conversion video.

**Reviewers:** Fund -3; Consider Funding -0; Do not Fund - 0

**LRC:** Fund: Yes - 18; No - 0; Abstain- 0

There was discussion about the first video which is scheduled to be completed in the next 8 weeks. It will be 15 minutes long with the capability of being divided into smaller segments. The plan is to roll it out first to the classrooms and then make it available for other purposes. Copies of the video will be provided to the Commission members.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accepts the Lignite Research Council's recommendation to fund the grant application "Annual Lignite Energy Council Education Program" and authorizes the Industrial Commission Executive Director and Secretary to execute an agreement with the Lignite Energy Council to provide a total of Industrial Commission Lignite Research Program funding in an amount not to exceed \$100,000. On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Bohrer reported on Election of Officers as follows:

RE: Lignite Research Council Executive Committee

At the November 16, 2017 Lignite Research Council meeting the Council elected the following officers and individuals to serve on the Lignite Research Council Executive Committee:

Chairman: Jason Bohrer  
Vice Chairman: Randel Christmann

Members of the Executive Committee in addition to the Chairman and Vice Chairman are:

- Nicole Kivisto, Montana Dakota Utilities
- John Bauer, Great River Energy
- Matt Greek, Basin Electric Power Cooperative
- Jay Kost, The Falkirk Mining Company
- Tim Rogelstad, The Other Tail Power Company

The role of the Executive Committee - as outlined in the Governor's Executive Order - is to act on behalf of the Lignite Research Council between Council meetings. The Executive Committee shall meet at the request of the Chairman.

Governor Burgum reported on a Memorandum of Understanding he recently signed at a Western Governors' Association meeting with Wyoming, Montana and the Province of Saskatchewan for high-level collaboration on Carbon Capture Utilization and Storage research. He provided the Commission members with copies of the MOU. He indicated that no action is required by the Industrial Commission but he wanted the Commission members aware of the MOU. He expressed a hope that these entities could share knowledge and information about what research is being done in their state or province. Each of the entities had identified contacts in their state or province. Mr. Holmes and Mr. Bohrer stated their support for this effort and indicated that some of that work had already been started.

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Being no further Lignite Research, Development and Marketing Program business, Governor Burgum adjourned this portion of the meeting at 1:24 p.m. and the Commission took up State Mill business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

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Present: Governor Doug Burgum, Chairman  
Attorney General Wayne Stenehjem  
Agriculture Commissioner Doug Goehring

Also

Present: Leslie Oliver, Governor's Office  
Vance Taylor, State Mill (by phone)  
Other attendees are listed on the attendance sheet available in the Commission files  
Members of the Press

Governor Burgum called the State Mill portion of the Industrial Commission meeting to order at 1:24 p.m. following completion of Lignite Research, Development and Marketing Program business.

Mr. Vance Taylor, North Dakota Mill President and General Manager, presented the North Dakota Mill First Quarter Report for FY 2018. (A copy of the report is available in the Commission files.)

### North Dakota Mill

Review of Operations  
1<sup>st</sup> Qtr. Ended  
September 30, 2017

### Summary

The mill experienced a profit of \$3,410,950 in the first quarter compared to a profit of \$2,502,426 last year.

	<u>9/17</u>	<u>9/16</u>
Profits	\$ 3,410,950	\$ 2,502,426
Sales	80,693,514	64,552,712
Cwt Shipped:		
Spring	3,459,396	2,962,979
% to Total	92.8%	91.3%
Durum	<u>267,255</u>	<u>282,102</u>
Total	<u>3,726,651</u>	<u>3,245,081</u>
Bulk Shipments	3,047,121	2,503,060
% to Total	81.8%	77.1%
Bag Shipments	645,464	703,576
% to Total	17.3%	21.7%
Tote Shipments	34,066	38,446
% to Total	0.9%	1.2%
Family Flour	105,801	76,271
% to Total	2.8%	2.4%
Organic Flour	36,986	40,292
% to Total	1.0%	1.2%
Wheat/Durum Bought:		
Spring /Winter	8,102,797	5,537,524
Durum	<u>701,311</u>	<u>597,415</u>
Total	<u>8,804,108</u>	<u>6,134,939</u>

### **Sales**

Sales for the first quarter were \$80,693,514 compared to \$64,552,712 last year, an increase of 25.0%. The price of grain settled with suppliers at the mill for the first quarter of the year is \$0.54 per bushel lower than last year. Shipments of 3,726,651 cwts. in the first quarter are 481,570 cwts. above last year. Bag shipments of 645,464 cwts. are 8.3% below last year. Family flour shipments reached 105,801 cwts., an increase from last year's first quarter shipments of 76,271 cwts. Organic flour shipments were 36,986 cwts., a decrease of 3,306 cwts.

### **Operating Costs**

Operating costs for the first quarter were \$8,163,545 compared to \$7,083,294 last year, an increase of 15.3%. Total flour production for the first quarter was 21.6% above last year's first quarter. Operating cost per cwt. of production was \$2.18 per cwt., compared to \$2.30 last year, a decrease of 5.2%.

### **Profits**

The mill had profits of \$3,410,950 in the first quarter compared to \$2,502,426 last year. This is an increase of 36.3%. Gross margins as a percent of gross sales for the quarter was 14.6% compared to 15.0% last year.

### **Risk Management Position**

The table below shows our hedge ratio by futures month going forward. As the table shows each futures month listed indicates that the mill continues to be closely matched in each period.

**Position Report**  
**30-Sep-17**

<b>Period</b>	<b>Hedge Ratio</b>
Dec-17	0.9
Mar-18	0.9
May-18	1.0
Jul-18	1.0
Sep-18	0.9
Dec-18	1.1
Net Position	0.9

Mr. Taylor stated that the spring wheat crop is working well for their customers. It has good milling characteristics. There was discussion regarding impact from the drought and the record yields by producers in the northeastern part of the State.

The Commission and Mr. Taylor discussed what factors had resulted in the decrease in operating costs, and how the investments in improvements to the grain unloading operations are working to reduce wait times (have been able to cut the waiting time on average by approximately 50% and recently set a record of unloading 199 trucks in an 8 hour period).

The Commission commended Mill management on the reduction in wait times. They encouraged Mill management to continue to study how they could further reduce wait times and to study the processes and technologies that are used by other industries that deal with these types of logistics in line management.



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Mr. Taylor provided an update on the progress being made on the capital projects. It looks like they will be able to put the various parts of the projects out for bid next spring and start construction shortly after the bids are awarded.

The Commission asked that Mr. Taylor convey their congratulations to the Mill employees on a great quarter.

Being no further State Mill business, Governor Burgum adjourned the meeting at 1:38 p.m. and took up Outdoor Heritage Fund business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA

A handwritten signature in blue ink, appearing to read "Karlene Fine".

Karlene Fine, Executive Director and Secretary

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Present: Governor Doug Burgum, Chairman  
Attorney General Wayne Stenehjem  
Commissioner of Agriculture Doug Goehring

Also

Present: Leslie Oliver, Governor's Office  
Jim Melchior, Outdoor Heritage Fund Advisory Board Chairman  
Other attendees are listed on the attendance sheet available in the Commission files  
Members of the Press

Governor Burgum called the Outdoor Heritage Fund portion of the Industrial Commission meeting to order at 1:38 p.m. following completion of State Mill business.

Ms. Karlene Fine, Industrial Commission Executive Director/Secretary, discussed the Outdoor Heritage Fund Financial Report as follows:

Outdoor Heritage Fund (294)  
Financial Report - Cash Balance  
**2017-2019 Biennium**  
November 30, 2017 OHF Advisory Board Meeting

	<u>Cash Balance</u>
July 1, 2017 Balance	\$26,787,635.95
Interest Revenue through September 30, 2017	\$ 2,307.64
Revenues through September 30, 2017	\$ 1,655,926.63
Grant Expenditures through September 30, 2017	\$ (282,205.02)
Administrative Expenditures through September 30, 2017	\$ (0.00)
	<b>\$28,163,665.20</b>
Outstanding Administrative Expenses	\$ (150,000.00)
Outstanding Project Commitments as of September 30, 2017	<u>\$(17,941,559.25)</u>
Balance	<b>\$ 10,072,105.95</b>

**54-17.8-02 North Dakota Outdoor Heritage Fund – Continuing appropriation**

*There is created a North Dakota Outdoor Heritage Fund that is governed by the Commission. Any money deposited in the Fund is appropriated on a continuing basis to the Commission for the purposes of this chapter. Interest earned by the Fund must be credited to the Fund. The Commission shall keep accurate records of all financial transactions performed under this chapter.*

**57-51-15. Outdoor Heritage Fund - Deposits.**

*The tax revenue collected under this chapter equal to one percent of the gross value at the well of the oil and one-fifth of the tax on gas must be deposited with the State Treasurer. The State Treasurer shall allocate the funding in the following order:...*

(e) (1) *For the period beginning September 1, 2017, and ending August 31, 2019, the state treasurer shall allocate eight percent of the amount available under this subsection to the North Dakota outdoor heritage fund, but not in an amount exceeding ten million dollars per biennium. For purposes of this paragraph, "biennium" means the period beginning September first of each odd-numbered calendar year and ending August thirty-first of the following odd-numbered calendar year.*

(2) *After August 31, 2019, the state treasurer shall allocate eight percent of the amount available under this subsection to the North Dakota outdoor heritage fund, but not in an amount exceeding twenty million dollars per fiscal year.*

Mr. Jim Melchior discussed the Outdoor Heritage Fund Advisory Board Grant Round 10 funding recommendations and provided details on each of the projects: (Copies of the applications are available in the Commission files.) He indicated that six applications were received and five are being recommended for funding.

1. GR10-01 - **Tree Wildlife Cover Restoration** - Velva Wildlife Club - Request/Recommended Funding of **\$3,186**; Total Project Cost \$4,726.00 - Tree planting project
2. GR10-02 - **Hi-Line Prairie Gardens and Orchard** - Valley City State University - Request/Recommended Funding of **\$10,000**; Total Project Cost \$30,636.00 - Phase 3 construction and plantings of the Hi-Line Gardens and Orchard - plantings and site preparation for pathways
3. GR10-03 - **Working Grassland Partnership (Phase II)** - ND Natural Resources Trust, ND Association of Soil Conservation Districts, Ducks Unlimited and Pheasants Forever - Requested Funding of \$933,750; Recommended Funding **\$903,750**; Total Project Costs \$1,773,750 - Providing livestock water and fencing cost-share assistance to landowners to retain CRP acres in grasslands and develop technical rotational grazing plans to utilize livestock as the primary management tool. This phase includes Barnes, Ransom, Richland and Sargent Counties.
4. GR10-04 - **Planting for the Future: Tree Habitat Program** - ND Petroleum Council - Requested/Recommended Funding of **\$108,125**; Total Project Cost \$196,375 - 30 tree planting projects (55,000 trees)
5. GR10-05 - **Mayville Nature Trail** - Mayville Park Board - Requested/Recommended Funding of **\$48,445.95 with contingency**; Total Project Cost \$97,305.51 - Development of >75 mile nature trail - unpaved walking and hiking trail and dock/bridges

There was discussion regarding the types of water projects and the miles of fencing that would be installed with the proposed funding,

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accepts the recommendations of the Outdoor Heritage Fund Advisory Board and approves funding of the following five projects in the total amount of \$1,073,506.95 and authorizes the Industrial Commission Executive Director/Secretary to enter into contracts with the applications as noted below:**

1. **“Trees & Wildlife Cover Restoration” - Velva Wildlife Club - \$3,186**
2. **“Hi-Line Prairie Gardens and Orchard” - Valley City State University - \$10,000**
3. **“Working Grassland Partnership” - ND Natural Resources Trust, ND Association of Soil Conservation Districts, Ducks Unlimited, Pheasants Forever - \$903,750 - no Outdoor Heritage Fund dollars to be used for salaries.**
4. **“Planting for the Future: Tree Habitat Program” - ND Petroleum Council - \$108,125**
5. **“Mayville Nature Trail” - Mayville Park Board - \$48,445.95 with the condition that the applicant seek funding for the dock from Game and Fish Department and if successful in receiving Game and Fish Department funding will reduce their funding request by that amount.**

**On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Melchior discussed an amendment to the Outdoor Heritage Fund Application form as follows:

RE: Outdoor Heritage Fund Application Amendment

During the Outdoor Heritage Fund Advisory Board meeting held on November 30, 2017, the Board discussed a revision to the OHF Application Form. Board members expressed an interest in knowing the anticipated drawdown schedule of awarded funds.

It is my recommendation that the Application Form be amended as follows: (The new language is highlighted in yellow.)

**Project Duration:\***

**(Please include information regarding the intended time schedule for drawing down funds, if any, awarded by the Industrial Commission.)**

Although the Board did not vote on this specific wording, I believe it reflects the discussion on the issue of when funding will be spent.

**It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission accepts the recommendation of the Outdoor Heritage Fund Advisory Board Chairman and include the following language in the OHF Application Form:**

**Project Duration:\***

**(Please include information regarding the intended time schedule for drawing down funds if your application is approved by the Industrial Commission.)**

**On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Being no further Outdoor Heritage Fund business, Governor Burgum adjourned this portion of the meeting at 2:00 p.m. and the Commission took up Housing Finance Agency business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA

A handwritten signature in blue ink, appearing to read "Karlene Fine".

Karlene Fine, Executive Director and Secretary

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Attorney General Wayne Stenehjem  
Agriculture Commissioner Doug Goehring

Also

Present: Leslie Oliver, Governor's Office  
Jolene Kline, Housing Finance Agency  
Pat Nagel, Housing Finance Agency  
Max Wetz, Housing Finance Agency  
Jennifer Henderson, Housing Finance Agency  
Mindy Piatz, Brady Martz  
Other attendees are listed on the attendance sheet available in the Commission files  
Members of the Press

Governor Burgum called the Housing Finance Agency portion of the Industrial Commission meeting to order at 2:00 p.m. following completion of Outdoor Heritage Fund business.

Ms. Jolene Kline, Housing Finance Agency Executive Director, and Pat Nagel, Housing Finance Agency CFO, discussed the 2017 Series F, G & H Supplemental General Authorization Resolution in the total amount of \$95,450,000. Ms. Kline indicated that legislation had been introduced in Congress that would eliminate the ability for the Agency to issue private activity bonds. The bonds that are issued under that authority are what fund the Agency's homeownership programs. Nationwide state housing finance agencies were challenged with what to do if that bill makes it through Congress. The Agency fast tracked a bond issue that they normally would have done in the spring and sold bonds on November 30 in the amount of \$95,450,000. If the Commission approves the resolution the Agency will close on those bonds next week. Within that \$95 million there is \$80,000,000 in new money and \$15,450,000 in refunding bonds.

There was discussion about why the House had passed the elimination of the issuance of private activity bonds. It is part of the tax bill (Jobs Act and Tax Reform bill). It passed the House but the Senate did not agree with the elimination of the private activity bond authority and the bill is in conference committee. If the House would prevail the Agency would in the future have to issue taxable bonds which would result in higher interest rates to the homebuyers. Ms. Kline indicated that nearly every state housing agency has rushed to market. With that kind of market Mr. Nagel indicated that he was very pleased with how well the \$95 million bond issuance was received by investors.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem to approve the following resolution:**

STATE OF NORTH DAKOTA  
NORTH DAKOTA HOUSING FINANCE AGENCY  
HOUSING FINANCE PROGRAM BONDS  
HOME MORTGAGE FINANCE PROGRAM  
2017 SERIES F - \$51,750,000  
2017 SERIES G - \$15,450,000  
2017 SERIES H - \$28,250,000

**SUPPLEMENTAL  
GENERAL AUTHORIZATION RESOLUTION**

WHEREAS, the Industrial Commission of North Dakota (the "Commission"), acting in its capacity as a state housing finance agency, i.e., the North Dakota Housing Finance Agency (the "Agency"), is empowered by the provisions of the North Dakota Century Code Chapter 54-17 (the "Act") to establish and has established a home mortgage finance program to contract to purchase from lenders mortgage loans made to persons or families

of low or moderate income to finance the purchase or substantial rehabilitation of owner occupied, residential dwelling units; and

WHEREAS, the Commission adopted the Housing Finance Program General Bond Resolution of 1994, on July 21, 1994, as amended (the "General Resolution") under which Wilmington Trust, National Association, Minneapolis, Minnesota, was appointed successor trustee (the "Trustee"), which General Resolution was accepted by the Trustee, and which General Resolution is hereby ratified and confirmed; and

WHEREAS, the General Resolution authorizes the issuance and sale of the captioned 2017 Series F Bonds (the "2017 Series F Bonds"), 2017 Series G Bonds (the "2017 Series G Bonds" and, together with the 2017 Series F Bonds, the "Fixed Rate Bonds") and 2017 Series H Bonds, (the "2017 Series H Bonds" and, together with the 2017 Series F Bonds and the 2017 Series G Bonds, the "Bonds") pursuant to the Act, the application of the proceeds of which will provide funding for the captioned Home Mortgage Finance Program (the "Program"), contemplated by the Act in furtherance of the Program for the providing of decent, safe, and sanitary housing for persons and families of low or moderate income; and

WHEREAS, the Commission acting as the Agency, pursuant to that 2017 General Authorization Resolution adopted by the Commission on February 20, 2017 (the "General Authorization Resolution"), regarding the authorization of and the negotiation and sale of the Bonds, appointed as its agents the Executive Director, the Director of Homeownership Programs, and the Chief Financial Officer of the Agency (the "Authorized Officers") for the purpose of negotiation of the terms of sale of the Bonds, subject to the limitations set out in the General Authorization Resolution, and to sign such agreements as are required for the issuance of the Bonds on behalf of the Commission after such terms of sale had been negotiated and to sign such certificates and other documents as are necessary and customary to complete the sale of the Bonds and to enter into agreements for their sale by the Agency and purchase by the Underwriters (as hereinafter defined, and which are so designated by an Authorized Officer); and

WHEREAS, the Authorized Officers did negotiate the sale of the Fixed Rate Bonds on November 30, 2017, within the limitations set out in the General Authorization Resolution as to maximum principal amount, final maturity and maximum interest rate; and

WHEREAS, the Authorized Officers intend to formally negotiate the initial interest rate on, and sale of, the 2017 Series H Bonds on or about December 20, 2017 within the limitations set out in the General Authorization Resolution (as hereby supplemented and amended) as to, final maturity and maximum interest rate, with a variable interest rate, subject to tender by bondholders; and

WHEREAS, the Agency expects to enter into a Standby Bond Purchase Agreement (the "Standby Bond Purchase Agreement") with the Federal Home Loan Bank of Des Moines to provide liquidity for any 2017 Series H Bond tenders; and

WHEREAS, the Agency negotiated and executed an ISDA Master Agreement dated as of July 30, 2009, between Royal Bank of Canada and the Agency (the "ISDA Master Agreement"), and pursuant thereto entered into a Confirmation in conjunction with the sale of the 2017 Series H Bonds to effectively result in a fixed interest rate on the 2017 Series H Bonds; and

WHEREAS, in furtherance of the above stated objectives, the Commission, the Agency and RBC Capital Markets, LLC, Morgan Stanley & Co. LLC, Piper Jaffray & Co. and J.P. Morgan Securities LLC. as the purchasers of the Fixed Rate Bonds (the "Underwriters") have caused to be prepared and presented to the Commission for adoption after the sale of the Fixed Rate Bonds pursuant to the terms of the 2017 Series F/G Purchase Contract described below, but prior to delivery of the Fixed Rate Bonds, the following documents in final form (unless otherwise indicated) (collectively, the "Fixed Rate Closing Financing Documents"):

- A. 2017 Series F/G Bond Resolution, in substantially final form, attached hereto as Attachment A;
- B. 2017 Series F/G Purchase Contract, dated November 30, 2017 by and between the Commission and the Underwriters, attached hereto as Attachment B;
- C. Preliminary Official Statement with respect to the Bonds, dated November 21, 2017, attached hereto as Attachment C; and
- D. Official Statement, with respect to the Bonds, dated November 30, 2017, attached hereto as Attachment D; and

WHEREAS, in furtherance of the above stated objectives, the Commission, the Agency and RBC Capital Markets, LLC, as the purchaser of all of the 2017 Series H Bonds (“RBCCM”), have caused to be prepared and presented to the Commission for adoption in connection with the sale and delivery of the 2017 Series H Bonds, the following documents in substantially final form (collectively, the “2017 Series H Closing Financing Documents” and, together with the Fixed Rate Closing Financing Documents, the “Closing Financing Documents”):

- A. 2017 Series H Bond Resolution, attached hereto as Attachment E;
- B. 2017 Series H Purchase Contract, attached hereto as Attachment F, by and between the Commission and RBCCM;
- C. Remarketing Agreement, attached hereto as Attachment G, by and among the Commission, RBCCM and Wilmington Trust, National Association, as tender agent;
- D. Confirmation to ISDA Master Agreement, attached hereto as Attachment H; and
- F. Standby Bond Purchase Agreement, attached hereto as Attachment I; and

WHEREAS, it appears that each of the Closing Financing Documents is in the appropriate and final form (or substantially final form, subject to determination of the final terms of the Bonds in accordance with this Supplemental General Authorization Resolution) and is an appropriate document to be approved or executed and delivered by the Commission or the Agency, as may be necessary for the purpose intended; and

WHEREAS, in the judgment of the Commission, it is advisable that the Agency by its Executive Director, its Director of Homeownership Programs, or its Chief Financial Officer, jointly or severally, be authorized, and are hereby so authorized, to do all things necessary to complete the transaction described herein, and in the Closing Financing Documents.

NOW BE IT HEREWITH RESOLVED:

1. The execution and delivery of the Closing Financing Documents and the sale of the Bonds to the Underwriters and RBCCM, as specified in and in accordance with the terms set out in each of the 2017 Series F/G Purchase Contract and the 2017 Series H Purchase Contract, is hereby authorized and the officers, agents and employees of the Commission and the Agency are hereby authorized, empowered and directed to take any actions required to effect the transactions contemplated therein and to finalize the terms of and execute any instruments (including any continuing disclosure agreement and tax certificates or forms) and take any actions required to effect the issuance of the Bonds, and to apply the monies received by the Commission from the bond proceeds in such manner as is necessary to give effect to the Program.

2. All prior acts of the officers, agents and employees of the Commission and the Agency which are in conformity with the purpose and intent of the General Resolution, the General Authorization Resolution and this Supplemental General Authorization Resolution in furtherance of the sale of the Bonds shall be and the same hereby are in all respects approved, ratified and confirmed.

**On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Ms. Kline and Mr. Nagel discussed the 2017 Supplemental General Authorization Resolution for the issuance of bonds to remain in full force and effect through January 31, 2019 and Supplemental General Authorization Resolution for the issuance of the 2017 Series I Bonds in the amount of \$450,000,000. This transaction is being done to be proactive in regards to the legislation that is being considered by Congress and to preserve that bond cap so the Agency can use it within the required 42 month period going forward should the legislation pass. The plan is not to close on that transaction until as late as possible in case the legislation does not pass.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem to approve the following resolutions:**

NORTH DAKOTA HOUSING FINANCE AGENCY  
HOUSING FINANCE PROGRAM BONDS  
HOME MORTGAGE FINANCE PROGRAM

**2017 SUPPLEMENTAL GENERAL AUTHORIZATION RESOLUTION**

WHEREAS, the Industrial Commission of North Dakota (the "Commission") acting in its capacity as a state housing finance agency, i.e., the North Dakota Housing Finance Agency (the "Agency"), is empowered by the provisions of the North Dakota Century Code Chapter 54-17 (the "Act") to establish, and has established, a home mortgage finance program to contract to purchase from lenders mortgage loans made to persons or families of low or moderate income to finance the purchase or substantial rehabilitation of owner-occupied, residential dwelling units; and

WHEREAS, the Commission adopted the Housing Finance Program General Bond Resolution of 1994, on July 21, 1994, as amended (the "**General Resolution**"), wherein Wilmington Trust, National Association, Minneapolis, Minnesota, was appointed successor trustee (the "**Trustee**"), which General Resolution was accepted by the Trustee, and which General Resolution is hereby ratified and confirmed; and

WHEREAS, the Agency has previously issued certain bonds pursuant to the General Resolution (the "1994 Bonds") and the General Bond Resolution of 2009 adopted by the Commission on November 25, 2009 (the "2009 General Bond Resolution"), both of which allow for the issuance of additional bonds thereunder and the refunding of certain bonds currently outstanding thereunder; and

WHEREAS, with respect to the proceeds of the bonds issued pursuant to the General Resolution and the 2009 General Bond Resolution (collectively, the "Bonds"), such proceeds will be applied in accordance with the Act to provide funding for the programs of the Agency to finance decent, safe and sanitary housing for persons and families of low and moderate income (the "Program"); and

WHEREAS, the Commission has previously adopted its 2017 General Authorization Resolution dated February 20, 2017 (the "General Authorization Resolution") authorizing the issuance and sale of Bonds of the Agency in accordance with the terms thereof. The General Authorization Resolution is hereby ratified and confirmed. It is the intent of the Commission that this 2017 Supplemental General Authorization Resolution



supplement the General Authorization Resolution and the Bonds authorized herein are in addition to the authorization of Bonds in the General Authorization Resolution; and

WHEREAS, it is in the best interests of the Commission acting as the Agency to appoint as its agents the Executive Director, the Director of Homeownership Programs and the Chief Financial Officer of the Agency (the "Authorized Officers") for the negotiation of the terms of sale of the Bonds, and to sign such agreements on behalf of the Commission after such terms of sale have been negotiated, and such certificates and other documents as are necessary and customary to complete the sale of the Bonds, and to enter into agreements for their sale by the Agency and purchase by the Underwriters described below, private entities or the U.S. Treasury and/or instrumentalities thereof, subject to the limitations herein established with regard to the Bonds:

- (a) a maximum principal amount of long-term bonds of \$450,000,000;
- (b) a maximum principal amount of short-term bonds of \$100,000,000;
- (c) a final maturity of not later than forty-four years from the date of issuance;
- (d) a maximum average annual interest rate of 7.00% for fixed rate bonds and for variable rate bonds an initial rate of 7.00%, determined at the time of Bond pricing; and

WHEREAS, in furtherance of the above-stated objectives, the Commission, the Agency, and RBC Capital Markets, LLC, Isaak Bond Investments, Piper Jaffray, Morgan Stanley & Co. LLC, or successors thereto, affiliates thereof, or other investment banking institutions (the "Underwriters") or purchasers approved by an Authorized Officer, will cause to be prepared and executed, such bond issuance documents as are necessary for issuance of the Bonds herein authorized; and

WHEREAS, Section 1.150-2 of the Internal Revenue Code regulations (the "Tax Regulations") provides, if the Agency intends to finance mortgage loans with its own funds or warehouse funds, and then reimburse itself with Bond proceeds, that the Agency declare its intention to do so prior to so financing such mortgage loans.

**NOW BE IT HEREWITH RESOLVED:**

1. The sale of the Bonds to the Underwriters, private entities or governmental entities in accordance with the limitations herein established is hereby authorized and the officers, agents and employees of the Commission and the Agency are hereby authorized, empowered and directed to take any actions required to effect such transactions and to execute any instruments and take any actions required to effect the issuance of the Bonds and to apply the monies received by the Commission from the bond proceeds in such manner as is necessary to give effect to the Program.

2. Any acts of the officers, agents and employees of the Commission and the Agency which are in conformity with the purpose and intent of this General Authorization Resolution and in furtherance of the sale of the Bonds, except to the extent authorized by a Series Resolution, shall be submitted for approval, ratification and confirmation prior to delivery of the Bonds.

3. The appointment of the Agency's Executive Director, the Director of Homeownership Programs and the Chief Financial Officer of the Agency as Authorized Officers with the authority to accept and execute Mortgage Purchase Agreements with Lenders and Servicing Agreements with Servicers, and the prior execution thereof by any such Authorized Officer, shall be and are in all respects ratified, approved, and confirmed.

4. The use and distribution by the Underwriters of initial offering documents in the form of Official Statement(s) as contemplated and in conformity with the provisions of sale of the Bonds is hereby authorized and the use thereof prior to the date of ratification and confirmation as of the date first circulated is also authorized.

5. The Bonds shall be executed by the manual or facsimile signatures of the Governor, the Attorney General, the Agriculture Commissioner and an Authorized Officer, and with the manual or a facsimile of the Official Seal of the Commission impressed, imprinted or otherwise reproduced thereon.

6. The Authorized Officers are authorized and empowered to enter into interest rate hedging agreements with respect to any Bonds with a variable interest rate, including replacement of expiring hedging agreements, but only for the purposes and in accordance with the Commission's Swap Management and Execution Policy as then in effect, and in no case may the notional amount of any such agreement exceed the principal amount of variable interest rate Bonds whose interest rate is being hedged.

7. Program Directive No. 59, adopted by the Commission on September 23, 1998, authorizing the changing of Mortgage Loan purchase price, fees and points and interest rate is still in effect and is hereby ratified and confirmed.

8. The Master Reimbursement Resolution, adopted October 3, 1997, is hereby ratified and confirmed, and proceeds from the sale of the Bonds may be used to reimburse the Agency for its purchase of any Mortgage Loans in anticipation of the availability of the proceeds from the sale of the Bonds; in particular, the Agency hereby declares its intention, within the meaning of the Tax Code Regulations, to facilitate continuous funding of its home mortgage finance program (as described above) by, from time to time, financing Mortgage Loans and then issuing Bonds in one or more series within 18 months thereof to reimburse itself for such financing, all in an amount presently expected to not exceed the amount of long-term Bonds authorized by Section 1 hereof, and hereby confirms that any Authorized Officer is authorized to also so declare the intention of the Agency within the meaning of said Tax Regulations, provided that any such declaration does not authorize or obligate the Agency to issue any such Bonds.

IN WITNESS WHEREOF, this 2017 Supplemental General Authorization Resolution has been adopted and signed on December 14, 2017, and shall remain in full force and effect through January 31, 2019.

**and**

STATE OF NORTH DAKOTA  
NORTH DAKOTA HOUSING FINANCE AGENCY  
HOUSING FINANCE PROGRAM BONDS  
HOME MORTGAGE FINANCE PROGRAM  
2017 SERIES I - \$450,000,000

**SUPPLEMENTAL  
GENERAL AUTHORIZATION RESOLUTION**

WHEREAS, the Industrial Commission of North Dakota (the "Commission"), acting in its capacity as a state housing finance agency, i.e., the North Dakota Housing Finance Agency (the "Agency"), is empowered by the provisions of the North Dakota Century Code Chapter 54-17 (the "Act") to establish and has established a home mortgage finance program to contract to purchase from lenders mortgage loans made to persons or families of low or moderate income to finance the purchase or substantial rehabilitation of owner occupied, residential dwelling units; and

WHEREAS, the Commission adopted the Housing Finance Program General Bond Resolution of 1994, on July 21, 1994, as amended (the "General Resolution") under which Wilmington Trust, National Association,

Minneapolis, Minnesota, was appointed successor trustee (the "Trustee"), which General Resolution was accepted by the Trustee, and which General Resolution is hereby ratified and confirmed; and

WHEREAS, the General Resolution authorizes the issuance and sale of the captioned 2017 Series I Bonds (the "Bonds") pursuant to the Act, the application of the proceeds of which will provide funding for the captioned Home Mortgage Finance Program, (the "Program"), contemplated by the Act in furtherance of the Program for the providing of decent, safe, and sanitary housing for persons and families of low or moderate income; and

WHEREAS, the Commission acting as the Agency, pursuant to that 2017 Supplemental General Authorization Resolution adopted by the Commission on December 14, 2017 (the "2017 Supplemental General Authorization Resolution"), regarding the authorization of and the negotiation and sale of the Bonds, appointed as its agents the Executive Director, the Director of Homeownership Programs, and the Chief Financial Officer of the Agency (the "Authorized Officers") for the purpose of negotiation of the terms of sale of the Bonds, subject to the limitations set out in the 2017 Supplemental General Authorization Resolution, and to sign such agreements as are required for the issuance of the Bonds on behalf of the Commission after such terms of sale had been negotiated and to sign such certificates and other documents as are necessary and customary to complete the sale of the Bonds and to enter into agreements for their sale by the Agency and purchase by the Underwriters (as hereinafter defined, and which are so designated by an Authorized Officer); and

WHEREAS, the Authorized Officers intend to formally negotiate the initial interest rate on, and sale of, the Bonds on or about December 20, 2017 within the limitations set out in the 2017 Supplemental General Authorization Resolution (as hereby supplemented and amended) as to, final maturity and maximum interest rate, with an index interest rate, subject to tender by the Agency; and

WHEREAS, in furtherance of the above stated objectives, the Commission, the Agency and RBC Capital Markets, LLC, as the underwriter of all of the Bonds ("RBCCM"), have caused to be prepared and presented to the Commission for adoption in connection with the sale and delivery of the Bonds, the following documents in substantially final form (the "Closing Financing Documents"):

- A. 2017 Series I Bond Resolution, attached hereto as Attachment A;
- B. 2017 Series I Purchase Contract, attached hereto as Attachment B, by and between RBC Capital Markets, LLC and the Commission;
- C. 2017 Series I Bondholder Agreement, attached hereto as Attachment C, by and between RBC Municipal Products, LLC as purchaser of the Bonds and the Agency; and
- D. 2017 Series I Calculation Agent Agreement, attached hereto as Attachment D, by and among Wilmington Trust, National Association, as Calculation Agent, the Agency and Wilmington Trust, National Association, as Trustee.

WHEREAS, it appears that each of the Closing Financing Documents is in substantially final form, subject to determination of the final terms of the Bonds in accordance with this Supplemental General Authorization Resolution and is an appropriate document to be approved or executed and delivered by the Commission or the Agency, as may be necessary for the purpose intended; and

WHEREAS, in the judgment of the Commission, it is advisable that the Agency by its Executive Director, its Director of Homeownership Programs, or its Chief Financial Officer, jointly or severally, be authorized, and are hereby so authorized, to do all things necessary to complete the transaction described herein, and in the Closing Financing Documents.

NOW BE IT HEREWITH RESOLVED:

1. The execution and delivery of the Closing Financing Documents and the sale of the Bonds to RBCCM, as specified in and in accordance with the terms set out in the 2017 Series I Purchase Contract, is hereby authorized and the officers, agents and employees of the Commission and the Agency are hereby authorized, empowered and directed to take any actions required to effect the transactions contemplated therein and to finalize the terms of and execute any instruments (including any continuing disclosure agreement and tax certificates or forms) and take any actions required to effect the issuance of the Bonds, and to apply the monies received by the Commission from the bond proceeds in such manner as is necessary to give effect to the Program.
2. All prior acts of the officers, agents and employees of the Commission and the Agency which are in conformity with the purpose and intent of the General Resolution, the 2017 Supplemental General Authorization Resolution and this Supplemental General Authorization Resolution in furtherance of the sale of the Bonds shall be and the same hereby are in all respects approved, ratified and confirmed.

**On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Ms. Mindy Piatz with Brady Martz presented the following audits: (Copies of the audits are available in the Commission files.)

1. Housing Finance Agency - FY 2017
2. Housing Incentive Fund - FY 2017

Ms. Piatz stated that they had given the financial statements an unmodified or clean opinion - the highest that the agency can receive. She reviewed each of the letters within the audit and the responses to the Legislative Audit and Fiscal Review Committee questions. She stated there was one item that was noted in the audit regarding a material journal entry. A \$7.2 million journal entry was not posted regarding an interagency activity which resulted in investments and loan receivables being overstated. Mr. Nagel explained that within the indenture the Agency has a debt service reserve fund so while those funds are sitting there the Agency is using those funds and buying loans until the next transaction closes. When the Agency purchases those loans from a legal aspect the Agency is purchasing them as a non-purpose investment so they are deemed an investment rather than a mortgage loan. The way it went through the accounting system and the way it was reported, the elimination entry on the Agency's books and the indenture's books were inadvertently not eliminated so one side had an investment and the other side had mortgages and they should have been cancelled out in the audit.

In response to a question, Ms. Piatz stated the activity was all there, it was just the need to eliminate that intercompany activity. Mr. Nagel said that they have put in place a process so this doesn't happen again.

Ms. Piatz stated they had issued an opinion on internal controls--there were no material weaknesses in regards to internal controls. Because the Agency also handles federal funds they selected three programs to audit this year (Mortgage Insurance - Homes; Rent Supplements - Rental Housing for Lower Income Families and Veteran's Housing - Guaranteed and Insured Loans) and issued an unmodified opinion on compliance with federal regulations. Overall it was a clean audit

Ms. Piatz also presented the Housing Incentive Fund FY 2017 audit. It also had an unmodified/clean opinion. There were no issues during the audit and they found no materials weaknesses over the Housing Incentive Fund.

In response to a question, Ms. Piatz stated that Brady Martz has been doing the audits for 5 years. She stated that the State Auditor generally rotates auditors after the sixth year between firms.

Ms. Kline presented the following memorandum and discussed the Low Income Housing Tax Credit, Housing Trust Fund, and Housing Incentive Fund project awards:

The scoring, ranking and funding selections for the federal Low Income Housing Tax Credit, National Housing Trust Fund, Neighborhood Stabilization 3 Program and the state Housing Incentive Fund were completed in November. The Agency received twenty-seven applications for assistance from fourteen projects, of which seven were funded. Attachments summarizing the application rounds for each funding source are provided separately and detailed summaries of the successful projects are provided below.

### **Program Background**

The Low-Income Housing Tax Credit (LIHTC) program is governed by Section 42 of the Internal Revenue Code. LIHTC offers a reduction of federal income tax liability to owners of affordable rental units. Developers syndicate or form partnerships with investors willing to provide equity for the development of the project in exchange for the use of the tax credits over a ten year period. Very simply, for every dollar of tax credits allocated, a project receives roughly nine times that amount in the form of equity. Annually, the Agency is required to develop a Qualified Allocation Plan (QAP) through a public comment and hearing process to develop the priorities for awarding credits. Applications must meet minimum threshold requirements in order to be evaluated on the competitive scoring criteria. Threshold items include: demonstrated site control; zoning availability; evidence that appropriate infrastructure and utilities are available, including road, curbs, gutter, water, sewer, electricity, and natural gas; and a market study. Applications that meet minimum threshold requirements are then scored and ranked. The point categories are objective and award points to applications based on their commitments to serve the lowest income for the longest period of time, provide permanent supportive housing, add units designed for accessibility, leverage with other resources and other priorities identified in the QAP. Applicants try to maximize the points earned while balancing long-term feasibility. A total of eleven applications were received requesting \$7,836,202 in credits, more than twice the amount available.

National Housing Trust (NHTF) is a federal program, established as part of the Housing and Economic Recovery Act of 2008 and is codified under CFR 24 part 91 and 93. Annually the Agency establishes an action plan through a public comment and hearing process. The action plan is developed to compliment the LIHTC QAP and is required by federal regulation to create units targeted for extremely low income households (30 % area median income). Similar to LIHTC, applications must meet minimum thresholds to be considered for scoring and ranking. Seven of the LIHTC applications also submitted applications for NHTF funds, three were selected.

The Housing Incentive Fund 3 (HIF3) was legislatively authorized during the 2015 session allowing the Agency to issue \$30 million in state tax credits and utilize \$5 million transfer from the Bank of North Dakota. An additional \$5 million was received from BND profits in January, 2016. Priority is given to projects that demonstrate a need for affordable housing units, have support from the community in which it is located, and commitments to serving low to moderate income households. A total of \$3.75 million was available because prior funded projects unable to move forward returned their awards. Eight applications were received requesting over \$4.7 million in funding; four received funding.

The Neighborhood Stabilization Program 3 (NSP 3) is a federal program created under the Housing and Economic Recovery Act of 2008 and refunded as NSP 3 under the Dodd-Frank Reform and Consumer Protection Act of 2010. The program was designed to revitalize neighborhoods by redeveloping abandoned or vacant properties. Until 2017, the primary target areas for funding were located in western energy impacted areas, however in September 2017 additional HUD defined needs areas were identified and the program was opened statewide. An application round for the remaining \$460,000 funds was held in October and one application was received.

### **Successful Applications**

**Edwinton Place - 1115 S 11<sup>th</sup> Street, Bismarck.** The project is an infill development of a vacant lot, located within walking distance from amenities including grocery, medical, dental, transit lines, and parks. The project is spearheaded by Burleigh County Housing Authority with Beyond Shelter Inc. as developers and uses a “housing first” model. The application was awarded \$813,000 of LIHTC, \$1,026,147 from the NHTF, \$500,000 from HIF and \$460,000 from NSP3. The building is comprised of 40 one-bedroom units and common space which will provide offices for local service providers, an exam room, and a commercial kitchen. The \$9.6 million project will provide permanent supportive housing for 40 individuals experiencing chronic homelessness. Tenants will be referred to the facility through service providers based on a needs assessment. Tenants will have access to case management, counseling, addiction services, skills training, medication delivery, and emergency evaluations on site. Local support included a PILOT as well as NSP1 funding from the City of Bismarck for land acquisition.

**The Edge Artist Flats - 1321 5<sup>th</sup> Ave North, Fargo.** The project is a 45-unit family complex on the edge of downtown Fargo by developer and owner, Commonwealth Development Corp. The \$9.1 million project will provide supported housing for families at risk of homelessness. Services will be provided by the Southeast ND Community Action Agency (SENDCAA) and Cass County Social Services. Residents will have access to career assistance, goal planning, financial management and budgeting, community resource referrals, and self-sustainability. The project received \$740,000 in LIHTCs and \$1,369,263 from NHTF. The City of Fargo supported the change in zoning and a PILOT. Local match was provided from Fargo Moorhead Economic Development Group to obtain FlexPace from BND.

**HomeField 2 Apartments - 4245 28<sup>th</sup> Ave South, Fargo.** The project is the second phase of a Beyond Shelter Inc. development located on vacant land surrounded by development. The application was awarded \$504,437 in LIHTCs for the \$6.4 million project to create 39 senior apartments including eight accessible units. Residents of the complex will have access to long term supportive services include congregate dining, transportation, case management, homemaker, and personal care services. Local support was provided by the city including waived building permit fees, a HOME fund grant, and a 15 year PILOT. Phase 1 is fully occupied and has a waiting list for occupancy.

**Dakota Heights - 301 1<sup>st</sup> Ave East, West Fargo.** Redevelopment of underutilized land in close proximity to public transit, retail, and services. Southhill Properties LLC is proposing the new construction of a 30 unit complex designed to provide supported housing for senior and disabled individuals. Services will be provided by CHI Friendship, Fargo Cass Public Health, and Cass County Social Services. Residents will have access to services such as case management, in-home services; housekeeping, shopping, cooking, financial and benefits management; work and volunteer placement, home health-aid, nursing, and transportation. The application proposed to have a vacancy preference for elderly veterans with Veterans Affairs Supportive Housing Vouchers. The \$4.9 million project received \$425,100 in LIHTCs.

**Grace Garden - Crossway Drive, West Fargo.** (Grace Garden will be built on Lutheran Church of the Cross property at the southeast corner of 16<sup>th</sup> St E and Crossway Drive, about 2 blocks south of 13<sup>th</sup> Avenue which is the main arterial through this part of West Fargo. In terms of landmarks, it is a couple blocks south of the Menards, Lowes, Marshalls that are on 13<sup>th</sup> Avenue S. ) . This project is a \$7 million new construction of a 30-unit permanent supportive housing project for individuals and families at risk of homelessness, particularly those transitioning from situations of domestic violence. The application is a joint venture of the YWCA of Cass Clay and developer Beyond Shelter Inc, located in close proximity to public transportation, medical, shopping and retail. The complex will be staffed 7-days a week by service providers. Residents will have access to a personal advocate, employment supports, basic needs (food, clothing, transportation, school supplies) and the YWCA programs such as education opportunities, child care, tutoring and faith services. The application was awarded \$672,500 in LIHTC, \$325,549 from the NHTF and \$500,000 from HIF.

**Ellendale Apartments - 523 5<sup>th</sup> Ave North, Ellendale.** This project is an acquisition and rehabilitation of a 32 unit apartment complex. The applicant, Affordable Housing Developers Incorporated (AHDI) is proposing substantial rehabilitation of the property which was built in 1976. Renovations include adding handicap accessibility to the property as well as converting 4 units to fully accessible ADA units. Currently a general occupancy complex, AHDI intends to market the renovated units to low income senior populations and workforce individuals. The project currently has a Section 8 project based voucher contract administered by NDHFA's contract administration, which AHDI intends to assume. The \$2.2 million project was conditionally awarded \$755,000 from HIF to support the redevelopment.

**Pure Downtown - 516 Demers Ave, Grand Forks.** Located on the West end of Grand Forks' downtown core, the project is a transformation of an entire block of underdeveloped property. The developer, Dakota Commercial, proposed a mixed-use commercial/residential project which includes 50 mixed income residential units of which 25 will be income restricted. The proposed commercial component includes grocery and banking. The commercial portion is not financed with funds from the Agency. The total construction cost of the residential portion is \$7.6 million and the application received a \$1.1 million conditional commitment of HIF.

Ms. Kline indicated that there were not sufficient monies to deal with the Lashkowitz High Rise (\$1,350,000) in downtown Fargo or the Patterson Place (\$850,000) in downtown Bismarck. The cycles were so competitive that those projects lost out for funding by basically one point. There was discussion about these two projects, the entities that submitted the applications for funding, the need for these projects to be rehabilitated and future plans.

In response to a question, Ms. Kline listed the amount of funding that the State has available, what the formula is for the allocation from the federal government -- small state minimum for both the Low Income Housing Tax Credits and the Housing Trust Fund.

Ms. Karlene Fine discussed appointments/reappointments to the Housing Finance Agency Advisory Board and the appointment of the chairman and vice chairman as follows:

RE: Housing Finance Agency Advisory Board appointments

The North Dakota Century Code 54-17-07.1 states:

**54-17-07.1. Advisory board - Rules.**

The Industrial Commission shall appoint a six-member advisory board consisting of representatives of lenders, the residential real estate industry, the mobile home and manufactured housing industry, and homeowners and buyers, and in consultation with such board may adopt rules and regulations for the conduct of its housing finance program which may, among other matters, establish requirements for the type and purchase price of dwelling units and multifamily facilities eligible to be financed, the income limits for eligible low or moderate income persons or families, the interest rates and other terms of mortgage loans to be financed, requirements relating to federal or private mortgage insurance or guarantees, and the general terms and conditions for the issuance and security of housing revenue bonds to be issued.

There have been some vacancies on the Advisory Board for a period of time and I finally reached out to the North Dakota Bankers Association, Independent Community Bankers of North Dakota and the North Dakota Association of Builders to submit nominations to fill the vacancies (lenders) and upcoming vacancy (homeowners/buyers - builder).

Attached is a listing of the nominations received along with copies of their resumes. I was pleased with the willingness of these individuals to step up and serve on the HFA Advisory Board. In reviewing the resumes I took into consideration geography as it is important to have all areas of the state represented and also their level of involvement in both single family and multi-family housing.

It is my recommendation that Joan Mainwaring from American State Bank & Trust (two year term) and Kevin Hanson from Gate City Bank (three-year term) be appointed as the lender representatives and Larry Nygard with Roers Companies (three-year term) be appointed as the homeowners/buyers - builder representative. I am also recommending that Jim Farnsworth, representing Manufactured Housing and Ninetta Wandler representing Realtors be reappointed for 1 year terms and Lisa Rotvold be reappointed for a two-year term.

I would further recommend that Ninetta Wandler serve as Chairman and Lisa Rotvold serve as Vice-Chairman for one-year terms. Both of these individuals have been active members of the Advisory Board and have a commitment to the mission of the Housing Finance Agency.

**It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission accepts the recommendation of the Industrial Commission Executive Director/Secretary and make the following appointments to the Housing Finance Agency Advisory Board:**

<b>Kevin Hanson (Lender representative)</b>	<b>3-year term</b>
<b>Larry Nygard (Homeowner/buyers - builder representative)</b>	<b>3-year term</b>
<b>Joan Mainwaring (Lender representative)</b>	<b>2-year term</b>
<b>Lisa Rotvold (Homeowner/buyers - multi-family affordable housing)</b>	<b>2-year term</b>
<b>Ninetta Wandler (Residential real estate industry)</b>	<b>1-year term</b>
<b>Jim Farnsworth (Manufactured housing)</b>	<b>1-year term</b>

**And further that Ninetta Wandler be named as Chairman and Lisa Rotvold as Vice-Chairman for one-year terms.**

**On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Being no further Housing Finance Agency business, Governor Burgum adjourned the meeting at 2:30 p.m. and took up Western Area Water Supply Authority business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary



Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on December 14, 2017 beginning at 1:00 p.m.  
Governor's Conference Room  
State Capitol

Present: Governor Doug Burgum, Chairman  
Attorney General Wayne Stenehjem  
Agriculture Commissioner Doug Goehring

Also

Present: Leslie Oliver, Governor's Office  
Jaret Wirtz, WAWSA  
Cory Chorne, AE2S  
Other attendees are listed on the attendance sheet available in the Commission files  
Members of the Press

Governor Burgum called the Western Area Water Supply portion of the Industrial Commission meeting to order at 2:30 p.m. following completion of Housing Finance Agency business.

Ms. Karlene Fine, Industrial Commission Executive Director/Secretary, presented the October and November numbers as follows:

RE: Western Area Water Supply Authority-Industrial Sales-October & November, 2017 & Debt Repayment Reports

Attached is the Western Area Water Supply Authority (WAWS) financial information including the months of October and November, 2017.

Pages 1 & 2 prepared by the Bank of North Dakota reflect debt service payments for the months of October and November, 2017. With the restructuring of the loans the principal and interest was paid these two months only on the \$87.75 million BND loan.

The next 3 pages (pages 3, 4 & 5) I prepared based on the information provided by WAWS staff reflecting October and November revenues and expenses and net income. Net income for the month of October was \$818,433.13 and in November the net income was \$580,814.83 before making the principal payments.

As you will recall from the overall Debt Service spread sheet the breakeven sales monthly number is \$994,920. With WAWS sales for the month of October being \$1,980,596.30 WAWS was over that number by \$985,676.30. In November the sales were \$1,437,677.57 which is higher than the breakeven sales monthly number by \$442,757.57. This is good news. However, there are some accounts payable that still need to be paid.

Page 6 is the balance sheet prepared by WAWS staff as of November 30, 2017. As noted on the Balance Sheet the Accounts Receivables are \$3,796,162.04. The liabilities include, within the accounts payable line item, both the 2016 and 2017 baseline sales payments which total \$9,199,582.99. Pages 7 & 8 are the consolidated balance sheet for the WAWS General Account which includes the Industrial Account balance sheet.

You have requested that the average sale price for water be provided each month. For the months of July through November the numbers are:

July	\$0.01362 per gallon or \$0.57 per barrel
August	\$0.01542 per gallon or \$0.65 per barrel
September	\$0.01285 per gallon or \$0.54 per barrel
October	\$0.01305 per gallon or \$0.55 per barrel
November	\$0.01346 per gallon or \$0.57 per barrel

In response to a question, Mr. Jaret Wirtz, WAWS Executive Director, indicated that the Accounts Receivables are up because of the increased sales that had taken place and it generally takes 60 days for the payments to be

received. Ms. Fine indicated that she had included that information in the report because the Commission had previously asked that it be noted in the financial summary. It wasn't included because of the staff being concerned about the level of receivables.

Mr. Wirtz updated the Commission on current activities and sales. He distributed and reviewed with the Commission the following four charts: (Copies of the handout are available in the Commission files.)

- 2017 WAWSA Daily Water Demands: YTD through November, 2017 (domestic demand includes commercial sales, agriculture sales, sales to the Basin Electric Power Plant; industrial demand is only for oil and gas sales)
- WAWSA Industrial Demand Summary through November, 2017 (showing maintenance and frack demand)
- 2017 WAWSA Industrial Water Sales YTD & Year End Projection
- WAWSA Cumulative 2017 Actual, Budgeted, and Forecasted Industrial Revenue - November 2017

In response to a question, Mr. Wirtz stated that the domestic sales were a little higher in 2014. The current level is higher than in 2015 and 2016. He noted that some of the domestic sales are for farmers and ranchers for pasture taps especially in McKenzie County. It isn't clear yet if the drought impacted the domestic sales. He noted that they hit the highest level of usage in 2017.

Mr. Wirtz discussed what he is seeing for demand--some of the pipelines are not large enough to meet the demand so above ground storage is being built by companies especially in McKenzie County. He stated that they anticipate finishing strong in 2017 and are making commitments for 2018.

Ms. Fine discussed the proposed Fourth Amendment to Western Area Water Supply Authority Member Agreements. She noted that the amendment would do the following:

- Member entities will voluntarily suspend all of its 2010 Revenue Payments (Baseline Payments) effective between January 1, 2016 and December 31, 2018.
- After 12/31/2018 baseline payments may again be made unless the WAWS Board determines there is insufficient industrial sales revenue. That determination will be made annually by the Board considering things such as: foreseeable expenses, the extent cash is available at the end of the year, satisfying all operations and maintenance payments, satisfying all contractual and statutory obligations and after reserves are adequately funded. (Allows for pro rata payments.)

Ms. Fine stated that the amendment was drafted by WAWSA counsel, approved by the WAWSA Board, reviewed by the auditors and the Bank of North Dakota staff and it comes to the Commission for your approval. She recommended approval. Mr. Wirtz stated that he believes they will be successful in getting the approval by the WAWSA members/submembers. Some of the communities are going through tougher times so it will take some work to convince them to give up the potential for the baseline payments.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission approves the Fourth Amendment to the Member Agreements as presented. (A copy of the Amendment is available in the Commission files.) On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Wirtz presented the 2018 Forecasted Industrial Sales showing annual sales of \$13,448,096. He indicated it is a conservative estimate based on historical data. It is a tool that is used by management. The breakeven number for debt payments is \$12.5 million. (A copy of the forecast by location is available in the Commission files.)

Ms. Fine distributed the following memorandum and Mr. Wirtz discussed the 2018 Reimbursement Rates and explained the information on the map:

RE: WAWS 2018 Industrial Reimbursement Rate

North Dakota Century Code §61-40-10 states in part:

**61-40-10. Industrial water depot and lateral sales.**

.....

b. Reimburse the authority for industrial water depot capital improvements and the cost for delivery of potable or nonpotable water sold at industrial water depots and lateral lines, at a cost no greater than the participating member, or submember, if applicable, entity rate at the location of the depot or lateral line.

Attached is a proposed rate schedule along with a map showing the location of the different rates. The rates that are attached reflect an increase of 2% in portions of McKenzie County. All the other reimbursement rates remain the same as CY 2017. Because of timing of meetings, the Western Area Water Supply Authority (WAWS) Board has not acted on these rates. It is my recommendation that the Commission approve the reimbursement rates as presented contingent upon the WAWS Board approving the rates.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission, in accordance with §61-40-10(1)(b) and contingent upon the Western Area Water Supply Authority Board approving the reimbursement rates, directs the Western Area Water Supply Authority (Authority) to reimburse the Authority and its member entities from the Industrial Account for the cost of delivery of potable or nonpotable water sold from the industrial water depots and laterals for the year 2018 as depicted on the 2018 Industrial Water Rates Chart. (A copy of the chart is available in the Commission files.) On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Ms. Fine presented the following memorandum on the sale of industrial hot water from a depot. Mr. Wirtz indicated that WAWSA has been approached by an entity to sell hot water from a couple of the WAWSA depots. The WAWSA Board would like to enter into a water purchase agreement--the entity would buy the water and then heat the water and use a lane or two during the cold months of the year. The water purchase agreement doesn't need to be approved by the Commission but since they are considering giving them a temporary easement to place heaters on the WAWSA properties approval is needed by the Commission.

RE: Hot water industrial sales

Mr. Jaret Wirtz will be discussing with the Industrial Commission the potential sale of hot water for industrial uses at one of the WAWS depots by a third party. North Dakota law (61-40-10) states in part:

*If the state-guaranteed loans have not been repaid, without the written consent of the industrial commission the authority may not sell, lease, abandon, encumber, or otherwise dispose of any part of the property used in a water system of the authority if the property is used to provide revenue.*

Any agreement with a company to utilize a portion of a depot for hot water sales may include an easement which would be an encumbrance. Therefore, Industrial Commission action is needed and execution of an easement may need to take place prior to the Commission's January 24, 2018 meeting. It is my recommendation that the Commission delegate authority to the Industrial Commission Executive Director to

approve Western Area Water Supply Authority (WAWSA) entering into an easement for allowing the sale of hot water from a WAWSA depot.

*It was moved by \_\_\_\_ and seconded by \_\_\_\_\_ that the Industrial Commission authorizes the Western Area Water Supply Authority to enter into a temporary easement to provide hot water industrial water sales contingent upon review and approval by the Industrial Commission Executive Director in consultation with the Attorney General's Office and approval by the State Water Commission of the related water contract.*

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission authorizes the Western Area Water Supply Authority to enter into a temporary easement to provide hot water industrial water sales contingent upon review and approval by the Industrial Commission Executive Director/Secretary in consultation with the Attorney General's Office and approval by the State Water Commission of the related water contract. On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Being no further Western Area Water Supply Authority business, Governor Burgum adjourned the meeting at 2:57 p.m. and took up Department of Mineral Resources business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on December 14, 2017 beginning at 1:00 p.m.  
Governor's Conference Room  
State Capitol

Present: Governor Doug Burgum, Chairman  
Attorney General Wayne Stenehjem  
Agriculture Commissioner Doug Goehring

Also

Present: Leslie Oliver, Governor's Office  
Lynn Helms, Department of Mineral Resources  
Other attendees are listed on the attendance sheet available in the Commission files  
Members of the Press

Governor Burgum called the Department of Mineral Resources portion of the Industrial Commission meeting to order at 3:03 p.m. following completion of Western Area Water Supply Authority business and a short break.

Mr. Lynn Helms, Department of Mineral Resources Director, presented proposed orders for the following cases heard on October 18 & 19, 2017: (Copies of the orders are available in the Commission files.)

Mr. Helms stated that Case 26018 is an application to implement an enhanced hydrocarbon recovery project in the Little Missouri-Pierre Unit, Bowman County. He distributed a handout of certain exhibits from the hearing. (A copy of the handout is available in the Commission files.) This is a very interesting project. This operator, Remuda, is the fifth operator of this unit. This is North Dakota's oldest oil and gas field. It was discovered in 1938 so it predates oil production--this is a natural gas field. He provided some history of the discovery and development of this unit. The proposed order allows the water to be injected only into the Eagle Sand formation. With the provisions stipulated in the order the ground water and surface water should be well protected. The operator hopes to see a 20% to 80% increase in remaining recoverable reserves. He reviewed how the Division staff will be monitoring the well and the waterflood. He stated, that to the best of his knowledge, if this is approved and the operator moves forward with the project, it will be the only waterflood of a gas reservoir in the Rocky Mountains.

**Case 26018: It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that Order 28742 issued in Case 26018 authorizing the implementation of an enhanced hydrocarbon recovery project in the Little Missouri-Pierre Unit, Bowman County, through the injection of water or other fluids into one or more wellbores within the unit be approved this 14<sup>th</sup> day of December, 2017. On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Helms stated that Case 26142 is an application to establish spacing units in the Eagle Nest, Lost Bridge, Bear Creek and/or Corral Creek-Bakken Pools, Dunn County. He distributed a map showing the surface ownership in this case and outlined the issues for development in this area with topography being extremely rough. (a copy of the map is available in the Commission files.) The federal minerals have not been leased. Marathon and Slate submitted the application to set up two 1920-acre spacing units on the far eastern edge of this area so that the State, Indian and private leases that the companies have taken can be maintained by drilling some wells. PetroShale came in and proposed establishment of one 1280-acre spacing unit at the far south end of the area. He indicated the record shows that this area is not developable on 1280 acre spacing. The plan proposed by Marathon and Slate will allow drilling from private land on the far northern end and from private land south of the Little Missouri River. The operators will be able to develop the area without endangering the Little Missouri River and without creating any kind of disturbance for the big horn sheep. Once a few wells are drilled the federal minerals will go into a drainage situation and once they are in a drainage situation, then the BLM rules require them to go back and redo the Resource Management Plan and start offering minerals for lease. Staff is recommending approval of Order 28554 in Case 26142.

**Case 26142: It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that Order 28554 issued in Case 26142 approving the Marathon/Slate proposal of establishing two 1920-acre spacing units and denying the PetroShale proposal of a 1280-acre spacing unit, be approved this 14<sup>th</sup> day of December, 2017. On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Helms stated that Case 26147 is a request to terminate, reduce or take other appropriate action regarding the Glass Bluff-Madison Unit, McKenzie and Williams Counties. He stated that mineral and surface owners have been exceedingly unhappy with this unit. They have approached the Commission a number of times to ask that the unit be terminated. The statute provides that there are four things that are required to be able to terminate a unit -- more than 10 years old; you have to have the same or more mineral interest owners sign on to terminate that you had when you ratified the unit (70% for this unit); can't cause any waste; and cannot harm the correlative rights of any owner in the unit. He stated these statutory requirements are very difficult to meet. In this case the applicants were only able to meet the first test--the unit is more than 10 years old. He pointed out that Liberty Resources has purchased the unit and they have a plan to expand the water flood next year and really try to operate this unit as an active, functioning water flood unit. He indicated that is very promising.

Mr. Helms noted that the Division had shut down the produced water gathering system in the unit because the operator had four significant saltwater leaks on their produced water gathering system during the month of October. The operator is trucking the produced water right now. The operator will not be allowed to restart that gathering system until they meet all the Commission's underground water gathering pipeline rules. The company is currently digging up all the pipeline connections that leaked; installing a significant number of automatic shutdown devices and installing a data sharing system. They are going to have to pressure test and integrity test the whole system and then they will be allowed to bring it back on in stages. The reason for the leaks is that in order to get more water and really move this water flood forward Liberty contracted with another operator to take Bakken water and they overstressed the 30 year old gathering system. He assured the Commission that the system is shut down right now and it won't come back on until they are in compliance with the underground gathering pipeline rules.

**Case 26147: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 28559 issued in Case 26147 denying the application to terminate the unit and allowing Liberty Resources to implement their Phase II and Phase III waterflood expansion be approved this 14<sup>th</sup> day of December, 2017. On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Helms presented Case 26167 regarding the confiscation of all injection related equipment and salable oil at the Halek 5-22 #1 well in Stark County. This is the saltwater disposal well west of Dickinson that Mr. Halek illegally operated. He reviewed the history on this well and the investigation of the crime. He stated the Commission still has a \$1.5 million judgment against Mr. Halek so he is not coming back to North Dakota to operate. He noted that the equipment is quite new and has significant value. The staff believes the value of the equipment is between \$100,000 and \$150,000 plus a bond that can be confiscated and the EPA is going to request in the reparations hearing \$115,000 for the Commission. He stated the Commission should break even on plugging and reclaiming this well. He indicated that the State wants to be overseeing this plugging because the well has endangered ground water resources. When this well is plugged and the cement is being pumped the staff will be monitoring all the casings, tubing, etc. to make sure there isn't something coming up through this well that could be a future danger to drinking water.

**Case 26167: It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that Order 28581 issued in Case 26167 authorizing the confiscation of all injection related equipment and salable oil at the Halek 5-22 #1 well in Stark County, be approved this 14<sup>th</sup> day of December, 2017. On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Helms indicated that the Bureau of Land Management on December 7 published their rule extending the compliance dates of the Venting and Flaring Rule one year. So instead of those compliance requirements kicking in next month, they will kick in in January of 2019. In the meantime BLM has indicated that they are writing a rule to take away all the bad parts of that rule. North Dakota is still involved in litigation on trying to get a permanent injunction against this existing rule and to get the federal courts to rule that BLM, in writing air pollution rules, went way beyond the federal Land Management Practices Act and the Mineral Leasing Act. They wrote this rule as a reduced greenhouse gas rule which is the EPA's realm. There are a lot of moving pieces but the immediate pressure has been taken off.

Mr. Helms stated that those rules don't solve the problem with flaring on the Fort Berthold Reservation in North Dakota. The Division will continue to work with the tribe and the BLM to resolve this situation. He stated that at tomorrow's webinar he will report that industry made the 85% gas capture goal in October but there is a problem with 69% gas capture on Fort Berthold. In response to a question he indicated that if Fort Berthold was taken out of the calculations, the State's capture level would be at 88%. He said he is working specifically on the issue of the lengthy and difficult right-of-ways approval process on Fort Berthold. He noted that the Commission has the option of placing production limits but the Commission doesn't have direct authority to do something like that on Fort Berthold on Trust lands/trust wells. He provided maps that showed the level of capture in each county. (The maps are available in the Commission files.)

There was discussion about the right of ways - the root causes for the delays, the role of the BIA, limited staffing at the BIA office, etc. Governor Burgum indicated he would be meeting with Chairman Fox and would bring this topic up for discussion. An effort should also be made for the State and the Tribe to contact Secretary Zinke to get his help with resolving the delays in getting rights of ways.

The Commission and Mr. Helms also discussed the gas processing limitations that the State will be facing in the near future. He reported that he and Mr. Kringstad have been invited by the Petroleum Council to their board meeting in January to present information on this rapidly approaching infrastructure problem and to talk about how they are going to capitalize the needed infrastructure; it could be an investment opportunity for them.

In response to a question, Mr. Helms suggested that there may be a need to update the Bentek Study done in 2012 especially if it would help attract capital to make investments in the infrastructure that the industry will need in the upcoming years as gas production continues to exceed forecasts.

Being no further Department of Mineral Resources business, Governor Burgum adjourned the meeting at 3:53 p.m. and took up Public Finance Agency business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on December 14, 2017 beginning at 1:00 p.m.  
Governor's Conference Room  
State Capitol

Present: Governor Doug Burgum, Chairman  
Attorney General Wayne Stenehjem  
Agriculture Commissioner Doug Goehring

Also

Present: Leslie Oliver, Governor's Office  
DeAnn Ament, Public Finance Authority  
Other attendees are listed on the attendance sheet available in the Commission files  
Members of the Press

Governor Burgum called the Public Finance Authority portion of the Industrial Commission meeting to order at 3:53 p.m. following completion of Department of Mineral Resources business.

Ms. DeAnn Ament, Public Finance Authority Executive Director, presented a Clean Water State Revolving loan request for the City of Mayville in the amount of \$1,630,000 to refinance their Rural Development loan from 2009. She noted that they have requested a 25 year term loan which would result in an average annual payment of \$78,543. The city has raised their sewer rates and this refinancing will reduce their average annual payments by approximately \$36,784. Based on that information the Advisory Committee is recommending approval of the loan.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the following resolution be approved:**

RESOLUTION APPROVING  
LOAN FROM CLEAN WATER STATE REVOLVING FUND

WHEREAS, the Industrial Commission has heretofore authorized the creation of a Clean Water State Revolving Fund Program (the "Program") pursuant to N.D.C.C. chs. 6-09.4 and 61-28.2; and

WHEREAS, the Clean Water State Revolving Fund is governed in part by the Master Trust Indenture dated as of July 1, 2011 (the "Indenture"), between the North Dakota Public Finance Authority (NDPFA) and the Bank of North Dakota (the Trustee); and

WHEREAS, the City of Mayville (the "Political Subdivision") has requested a loan in the amount of \$1,630,000 from the Program to refinance USDA-Rural Development #24 2009 revenue bonds for sewer system improvements; and

WHEREAS, the NDPFA's Advisory Committee is recommending approval of the Loan; and

WHEREAS, there has been presented to this Commission a form of Loan Agreement proposed to be adopted by the Political Subdivision and entered into with the NDPFA;

NOW, THEREFORE, BE IT RESOLVED by the Industrial Commission of North Dakota as follows:

1. The Loan is hereby approved, as recommended by the Advisory Committee.



2. The form of Loan Agreement to be entered into with the Political Subdivision is hereby approved in substantially the form on file and the Executive Director is hereby authorized to execute the same with all such changes and revisions therein as the Executive Director shall approve.

3. The Executive Director is authorized to fund the Loan from funds on hand in the Clean Water Loan Fund established under the Indenture upon receipt of the Municipal Securities described in the Political Subdivisions bond resolution, to submit to the Trustee a NDPFA Request pursuant to the Indenture, and to make such other determinations as are required under the Indenture.

4. The Commission declares its intent pursuant to Treasury Regulations '1.150-2 that any Loan funds advanced from the Federally Capitalized Loan Account shall be reimbursed from the proceeds of bonds issued by the NDPFA under the Indenture.

**On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Ms. Ament presented a Drinking Water State Revolving Fund loan request for the City of Fargo to increase a previously approved loan in the amount of \$66,352,000 by \$31,648,000 bringing the total loan request to \$98,000,000. She indicated that when the original loan was approved in 2012 we knew they would need an increase and we asked that they wait until they knew for sure what that amount would be. This would be for the new membrane water treatment plant. The total cost of the project is \$127,400,000 with \$29.4 million being provided by the State Water Commission. They expect to complete this project next year. They have proposed a loan term of thirty years to be repaid with revenue bonds backed by sales tax revenues and water user fee revenues. She provided information on what their sales tax revenues provide and what their debt service payments have been and will be with the new debt service payment. The sales tax revenues significantly exceed what the debt service requirements will be. Based on that information the Public Finance Authority Advisory Committee is recommending approval of the loan increase.

In response to a question, Ms. Ament indicated that the new membrane water treatment will be at the existing water treatment plant location. She indicated some of the loan proceeds will be used to do some work on the existing water plant.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the following resolution be approved:**

RESOLUTION APPROVING  
LOAN FROM DRINKING WATER STATE REVOLVING FUND

WHEREAS, the Industrial Commission has heretofore authorized the creation of a Drinking Water State Revolving Fund Program (the "Program") pursuant to N.D.C.C. chs. 6-09.4, 61-28.1, and 61-28.2; and

WHEREAS, the State Revolving Fund is governed in part by the Master Trust Indenture dated as of July 1, 2011 (the "Indenture"), between the North Dakota Public Finance Authority (the "NDPFA") and the Bank of North Dakota (the "Trustee"); and

WHEREAS, the City of Fargo (the "Political Subdivision") has requested a \$31,648,000 increase to the previously approved \$66,352,000 loan (total \$98,000,000) from the Program to finance a new membrane water treatment plant; and

WHEREAS, NDPFA's Advisory Committee is recommending approval of the Loan; and

WHEREAS, there has been presented to this Commission a form of Loan Agreement proposed to be adopted by the Political Subdivision and entered into with the NDPFA;

NOW, THEREFORE, BE IT RESOLVED by the Industrial Commission of North Dakota as follows:

1. The Loan is hereby approved, as recommended by the Advisory Committee.
2. The form of Loan Agreement to be entered into with the Political Subdivision is hereby approved in substantially the form on file and the Executive Director is hereby authorized to execute the same with all such changes and revisions therein as the Executive Director shall approve.
3. The Executive Director is authorized to fund the Loan from funds on hand in the Drinking Water Loan Fund established under the Indenture upon receipt of the Municipal Securities described in the Political Subdivisions bond resolution, to submit to the Trustee a NDPFA Request pursuant to the Indenture, and to make such other determinations as are required under the Indenture.
4. The Commission declares its intent pursuant to Treasury Regulations '1.150-2 that any Loan funds advanced from the Federally Capitalized Loan Account shall be reimbursed from the proceeds of bonds issued by the NDPFA under the Indenture.

**On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

In response to a question, Ms. Ament indicated that she maintains a master list of all the water projects that the Public Finance Authority has provided funding for under all their programs. She has provided that information for the past 10 years to Department of Commerce staff that is working on the Main Street Initiative.

In response to a question, Ms. Ament indicated that she did not have a list of any water project funding that the Legislature had directly appropriated that was outside the Water Commission, Public Finance Authority or the Bank of North Dakota. Ms. Fine stated that she was not aware of any direct funding but would work with Ms. Ament in checking to see if there had been any direct appropriations. She noted that the funding generally is through the State Water Commission budget.

Governor Burgum noted that water funding is being provided from a number of different sources and he is hopeful that a big picture of water funding can be put together for the Industrial Commission and the State Water Commission of how water projects are funded.

In response to a question, Ms. Ament indicated that the Public Finance Authority does not get any 319 funds. Although the 319 funds are administered by the Health Department they are not a part of the State Revolving Loan Fund programs.

Ms. Ament presented a Drinking Water State Revolving Fund loan request for the Southeast Water Users District to increase a previously approved loan in the amount of \$4,709,000 by \$1,251,000 bringing the total loan request to \$5,960,000. The project cost \$20.5 million with \$14.5 million being provided by the State Water Commission. They have requested a loan term of 30 years and will issue revenue bonds payable with user fees. They have raised their rates which have provided \$110,000 annually and they also expect an increase of users by about 371 so this rate increase with the increase in users should meet the 120% coverage requirement. The Advisory Committee recommended approval of this loan.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the following resolution be approved:**

RESOLUTION APPROVING  
LOAN FROM DRINKING WATER STATE REVOLVING FUND

WHEREAS, the Industrial Commission has heretofore authorized the creation of a Drinking Water State Revolving Fund Program (the "Program") pursuant to N.D.C.C. chs. 6-09.4, 61-28.1, and 61-28.2; and

WHEREAS, the State Revolving Fund is governed in part by the Master Trust Indenture dated as of July 1, 2011 (the "Indenture"), between the North Dakota Public Finance Authority (the "NDPFA") and the Bank of North Dakota (the "Trustee"); and

WHEREAS, the Southeast Water Users District (the "Political Subdivision") has requested a \$1,251,000 increase to the previously approved \$4,709,000 loan (total \$5,960,000) from the Program to finance the extension of rural water distribution to users who don't have access to a reliable and safe drinking water supply as well as a redundant raw water pipeline to serve the west system when necessary maintenance and cleaning occurs; and

WHEREAS, NDPFA's Advisory Committee is recommending approval of the Loan; and

WHEREAS, there has been presented to this Commission a form of Loan Agreement proposed to be adopted by the Political Subdivision and entered into with the NDPFA;

NOW, THEREFORE, BE IT RESOLVED by the Industrial Commission of North Dakota as follows:

1. The Loan is hereby approved, as recommended by the Advisory Committee.
2. The form of Loan Agreement to be entered into with the Political Subdivision is hereby approved in substantially the form on file and the Executive Director is hereby authorized to execute the same with all such changes and revisions therein as the Executive Director shall approve.
3. The Executive Director is authorized to fund the Loan from funds on hand in the Drinking Water Loan Fund established under the Indenture upon receipt of the Municipal Securities described in the Political Subdivisions bond resolution, to submit to the Trustee a NDPFA Request pursuant to the Indenture, and to make such other determinations as are required under the Indenture.
4. The Commission declares its intent pursuant to Treasury Regulations '1.150-2 that any Loan funds advanced from the Federally Capitalized Loan Account shall be reimbursed from the proceeds of bonds issued by the NDPFA under the Indenture.

**On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Ms. Ament presented the following memorandum regarding loans approved by the Public Finance Authority Advisory Committee. She reviewed the purposes for each of the State Revolving Fund loans -- a landfill which is an eligible project under the Clean Water program because it is protecting water; refinancing of a Rural Development loan; and replacement of a sanitary sewer system. She pointed out that the financing for the Wing water tower was being done through the Capital Financing Program because that project was not an eligible project under the State Revolving Loan Fund program -- their borrowing costs will be at market rates.

### Memorandum

**To:** Industrial Commission: Governor Doug Burgum, Attorney General Wayne Stenehjem, Agriculture Commissioner Doug Goehring  
**From:** DeAnn Ament, Executive Director  
**Date:** December 6, 2017  
**Re:** Carrington, Clean Water State Revolving Fund  
Petersburg, Clean Water State Revolving Fund  
Mayville, Drinking Water State Revolving Fund  
Wing, Capital Financing Program

Under current policy, the Public Finance Authority can make loans under the State Revolving Fund Program in an amount not to exceed \$1,000,000 and under the Capital Financing Program in an amount not to exceed \$500,000 without seeking the final approval of the Industrial Commission. Within this policy, once the loan has been approved, the Public Finance Authority is required to provide the details of the loan to the Industrial Commission. Accordingly, the Public Finance Authority and its Advisory Committee used this policy to approve the following loans.

The committee reviewed an application from the City of Carrington requesting a \$339,000 loan under the Clean Water State Revolving Fund (CWSRF) Program to construct a 5-acre inert landfill. Construction of this project began in September 2017 with completion anticipated in August of 2018. Total construction costs are estimated at \$399,000 with \$60,000 locally provided. The requested term for the DWSRF loan is 30 years. The City of Carrington will issue sales tax revenue payable from local sales tax collections.

The committee reviewed an application from the City of Petersburg requesting a \$905,000 loan under the CWSRF Program to finance the replacement of the aging, deteriorated sanitary sewer collection system as well as construction of drain tile. Construction of this project will begin in 2018 and with completion scheduled for 2019. The total project cost is \$3,620,000 with the US Army Corps providing funding of \$2,715,000 from the 594 program. This project may be eligible for loan forgiveness upon completion of the 2018 project priority ranking. The requested term for the CWSRF loan is 30 years. Accordingly, the average annual payment will be approximately \$37,084. The City will issue improvement bonds payable with special assessments. The improvement bonds will be a contingent general obligation of the City, backed by the statutory requirement that the City will levy a general deficiency tax in the event that the revenues from the collection of special assessments are not sufficient to pay the debt service on the improvement bonds. In addition, the City will pledge oil and gas gross production tax (GPT) should special assessments and deficiency levies be insufficient to meet the debt service requirements.

The committee reviewed an application from the City of Mayville requesting a \$880,000 loan under the Drinking Water State Revolving Fund Program to refinance their USDA-Rural Development 2010 revenue bonds for water system improvements. The requested loan term is 30 years. The City will issue revenue bonds payable with water revenues.

The committee reviewed an application from the City of Wing requesting a \$120,000 loan under the Capital Financing Program to finance a new roof, interior coating and repairs to their elevated water storage tank. Construction took place in September of 2017. Projects costs are \$120,000. The requested loan term is 5 years. The City will issue revenue bonds payable with water fees to repay the debt.

The Public Finance Authority's Advisory Committee approved these loans at their December 6, 2017.

Being no further Public Finance Authority business, Governor Burgum adjourned the meeting at 4:06 p.m. and took up North Dakota Building Authority business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on December 14, 2017 beginning at 1:00 p.m.  
Governor's Conference Room  
State Capitol

Present: Governor Doug Burgum, Chairman  
Attorney General Wayne Stenehjem  
Agriculture Commissioner Doug Goehring

Also

Present: Leslie Oliver, Governor's Office  
DeAnn Ament, Public Finance Authority  
Other attendees are listed on the attendance sheet available in the Commission files  
Members of the Press

Governor Burgum called the North Dakota Building Authority portion of the Industrial Commission meeting to order at 4:07 p.m. following completion of Public Finance Authority business.

Ms. Karlene Fine, Industrial Commission Executive Director/Secretary and NDBA Authorized Officer reported on the recent sale of the \$18,430,000 Facilities Improvement Refunding Bonds - 2017 Series A as follows:

RE: ND Building Authority Series 2017A Bond Sale

On November 7, 2017 the North Dakota Building Authority went to market and through a competitive sale sold \$18,430,000 of Facilities Improvement Refunding Bonds, 2017 Series A. This was a refunding of the 2005 Series A, 2006 Series A and 2006 Series B bonds. The bonds were purchased by Fifth Third Securities, Inc. out of Cincinnati, Ohio. There were 7 bidders on the bonds with bids ranging from 1.5294% to 1.6329%. With this refunding we were able to achieve Net Present Value Savings of \$2,877,483.61 over the remaining life of the bonds. Maturity date of the 2017 Series A Bonds is 12/1/2024.

A special thanks to the financing team - Public Financial Management--Jessica Cameron Mitchell and Miles Silbert (Financial Advisor), Bond Counsel Scott Wegner, Special Assistant Attorney General John Fox, Bank of North Dakota Trustee Cindy Doll, DeAnn Ament, PFA Executive Director (DeAnn stepped in to serve as my backup), and Pam Sharp, co-NDBA Authorized Officer.

This is for your information; no action is required by the Commission.

Being no further North Dakota Building Authority business, Governor Burgum adjourned this portion of the meeting at 4:07 p.m. and the Commission took up Student Loan Trust business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on December 14, 2017 beginning at 1:00 p.m.  
Governor's Conference Room  
State Capitol

Present: Governor Doug Burgum, Chairman  
Attorney General Wayne Stenehjem  
Agriculture Commissioner Doug Goehring

Also

Present: Leslie Oliver, Governor's Office  
Katie Williams, Eide Bailly  
DeAnn Ament, Public Finance Authority  
Other attendees are listed on the attendance sheet available in the Commission files  
Members of the Press

Governor Burgum called the Student Loan Trust portion of the Industrial Commission meeting to order at 4:07 p.m. following completion of North Dakota Building Authority business.

Ms. Karlene Fine, Industrial Commission Executive Director/Secretary and Student Loan Trust Authorized Officer, introduced Ms. Katie Williams, Eide Bailly, to present the Student Loan Trust June 30, 2017 audit. (A copy of the audit is available in the Commission files.)

Ms. Williams reviewed the audit and stated they had an unmodified clean opinion on the financial statement. She noted that they did not have any internal control deficiencies or non-compliance that was identified. She stated that this audit included a federal audit of the Federal Family Education Loan Program (FFELP) and had an unmodified opinion on compliance over that federal program. They did not identify any internal control deficiencies in regards to the federal audit. She stated that there is nothing of significance to go over in the financial statements as of June 30, 2017. The most significant transaction occurred after year-end with the Bank of North Dakota purchasing the FFELP loans from this portfolio.

Being no further Student Loan Trust business, Governor Burgum adjourned this portion of the meeting at 4:09 p.m. and the Commission took up Bank of North Dakota business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota  
Held on December 14, 2017 beginning at 1:00 p.m.  
Governor's Conference Room  
State Capitol

Present: Governor Doug Burgum, Chairman  
Attorney General Wayne Stenehjem  
Agriculture Commissioner Doug Goehring

Also

Present: Leslie Oliver, Governor's Office  
Eric Hardmeyer, Bank of North Dakota  
Todd Steinwand, Bank of North Dakota  
Lori Leingang, Bank of North Dakota  
Katie Williams, Eide Bailly  
Other attendees are listed on the attendance sheet available in the Commission files  
Members of the Press

Governor Burgum called the Bank of North Dakota portion of the Industrial Commission meeting to order at 4:10 p.m. following completion of Student Loan Trust business.

Mr. Eric Hardmeyer, Bank of North Dakota President, introduced Katie Williams, Eide Bailly, to present for the first time the School Construction Assistance Revolving Loan Fund June 30, 2017 audit. (A copy of the audit is available in the Commission files.)

Ms. Williams indicated this is the first year that Eide Bailly had audited this Fund. In the prior year this Fund was reported as a special revenue fund within the Department of Trust Lands financial statements and then as of January, 2017 it was transferred over to the Bank of North Dakota to administer. The financial statements in this audit are for the 6 months ending June 30, 2017. This is also the first time the Fund has stand-alone financial statements as an enterprise fund which is consistent with all the other loan funds administered by the Bank of North Dakota. She stated that Eide Bailly has issued an unmodified or clean opinion on these financial statements and did not report any internal control deficiencies or non-compliance issues.

In response to a question, Ms. Williams stated that in conducting their audit they are testing the accounting of the loans and whether the loan loss allowance is adequate -- they are not testing the ability of each school district to pay their debt. She noted that since this is the first time they are auditing this Fund as a stand-alone Fund they did not have any historical information on loan loss. The Bank's determination of loan loss reserve has been developed based on factors such as comparable loans in the Bank's portfolio and historical loan losses and it has been set at approximately 1% of the portfolio.

There was discussion about the number of different school districts that have loans under this Fund (19 loans although there may be more than one loan to a school district); what the enrollment numbers are of each of these school districts and if those numbers are increasing or decreasing--what are the number of students in kindergarten compared to the number of seniors; how long the loans have been in place; security for the loans is general obligation debt so there is limited risk; and the percentage of the school district's funding that is committed to debt service and how that may limit the school district's ability to transform itself. It was indicated that each of the loans in this portfolio is screened by the Department of Public Instruction and a vote for bonding by the local jurisdiction before it is sent to the Bank of North Dakota for financing.

There was a general discussion about the number of school districts in the state (184) with 100,000



students--a very distributed system, efforts to get school districts to collaborate, the size of those school districts and the involvement and commitment of the local community especially in the rural communities to their school districts.

Mr. Hardmeyer presented the Bank of North Dakota 2018 - 2020 Strategic Plan. (A copy of the plan is available in the Commission files.) He introduced Lori Leingang who helped coordinate the activities in developing the Strategic Plan. He reviewed the process (has taken over 6 months) that the Bank had followed in developing the Plan and who had participated in that process (educators, economic developers, financial institutions, employees, Bank Advisory Board, Commission members). He reviewed the following five strategies that the Bank will follow over the next three years:

1. Drive Economic Growth and diversity - BND will build on its role in driving economic diversification by innovatively enhancing BND's financing solutions.
2. Expand Access to Postsecondary Education - BND will strive to be the preferred and trusted resource North Dakotans choose for planning and preparing for and financing postsecondary education.
3. Utilize BND's Unique Competitive Advantage - BND will utilize our unique competitive advantage as a statewide resource to provide relevant correspondent banking services that meet the current and emerging needs of our financial institution partners.
4. Enhance Innovation and Agility to be a Model of Effective Government - BND will effectively use innovation and collaboration to be more agile in partnering with other agencies and stakeholders to create solutions leading to more effective government.
5. Optimize technology and Use of Data. - BND will extract maximum value from technology and leverage available data to serve customers and internal users.

Mr. Hardmeyer noted that there are initiatives outlined in the Strategic Plan that go with each of these five strategies. Each initiative has an "owner" -- generally a member of the Bank's executive team -- and it is a part of that executive team member's MBO. He stated that the Bank President also has ownership of some of the initiatives.

Mr. Hardmeyer noted that this is a forward looking document and these strategies and initiatives are an opportunity to partner with other agencies to drive efficiencies, reduce costs, collaborate more with and help financial institutions, and optimize technology and data especially where there will be significant technological changes in the future. He indicated this Plan calls for the Bank to have a bigger role in the State's future by using its resources and human capital in a smarter manner. He stated that this has to be done in a careful, collaborative manner if it is going to make a difference. He pointed out that this Plan is to cover at least a three-year horizon and it will be looked at formally every year. On a quarterly basis Bank management will report to the Bank's Executive Committee and the Bank Advisory Board on their progress and whether benchmarks and work plans have been implemented and met. It is an ongoing, living document that is subject to change. It is important for the Bank management to know where the Bank is going.

The Commission members complimented Bank management on the good job they had done on the Plan and indicated that they appreciated the fact that it isn't going to be just another document that gets put on the shelf.

Governor Burgum noted the important role that the Bank has in the economic vitality of North Dakota communities as they assist with the financing of infrastructure in a smart and prudent manner. He expressed his thanks for the Bank's involvement in the Main Street Initiative Community meetings.

Governor Burgum also noted the importance of the Bank financing secondary education with the goal of lowering student debt--the goal should be not how much student loan debt the Bank is issuing and how

profitable the Bank is at doing that but what is the debt per student. Mr. Hardmeyer stated that is why these strategies include working with higher education leaders -- building stronger relationships and partnerships.

There was discussion about how important it is to communicate and work with legislators, state and local agencies and the higher education institutions. Mr. Hardmeyer indicated that one of the initiatives is to meet with legislators and communicate more with them.

**It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission accepts the recommendation of the Bank of North Dakota Advisory Board and approves the Bank of North Dakota 2018 - 2020 Strategic Plan as presented. (A copy of the 2018 - 2020 Strategic Plan is available in the Commission files.) On a roll call vote, Governor Burgum, Attorney General Stenehjem and Agriculture Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Hardmeyer presented an amendment to the General Expenditure and Purchasing Controls Policy.

**It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission approve the amendments to the General Expenditure and Purchasing Controls Policy and approves the Policy as follows:**

**POLICY TITLE: GENERAL EXPENDITURE AND PURCHASING CONTROLS**

**PURPOSE:**

**Provide cost center managers with guidance regarding expenditure of funds and purchasing activities for Bank of North Dakota.**

**1. Policy**

- a. Bank of North Dakota will operate within the following guidelines and policies established by the State of North Dakota:**
  - i. OMB's Fiscal and Administrative Policy that act as a guide for agencies and institutions of the State of North Dakota in order to achieve basic uniformity in the application of appropriation expenditures.**
  - ii. OMB's State Procurement Guidelines that establish uniform procedures for the procurement of goods and services.**
  - iii. OMB's Purchasing Card Manual that establish procedures and controls for employees use of purchasing cards for making low dollar purchases for official agency business needs.**
  - iv. OMB's Guidelines to Managing Contractual Risk that provide indemnification and insurance clauses that are required in all state contracts.**
  - v. ITD's Information Technology Procurement Standard that provide agencies with the process for the acquisition of information technology hardware, software, and services.**
  - vi. ITD's Information Technology Contract Guidelines that identify specific issues which should be addressed in the development of an information technology contractual agreement.**
- b. Bank of North Dakota will allow business expenditures incurred for business development, public relations, employee recognition, training materials, and promotion of Bank of North Dakota's programs.**

**2. Authorities**

**a. Authority to Expend Funds:**

- i. Portions of Bank of North Dakota's authorized appropriation and/or annual budget have been assigned to the Bank's various cost centers. Cost center managers have been granted the authority to expend funds within the limitations of their respective center's budget and the policies of Bank of North Dakota and state government.**
- ii. Unappropriated expenses \$25,000 or less that will exceed the cost center's approved budget must be approved by the Service Area Manager prior to expending the funds.**
- iii. Unappropriated expenses over \$25,000 that will exceed the cost center's approved budget must be approved by the President and/or Executive Committee prior to expending the fund.**

**b. Authority to Make Purchases:**

- i. The Business Services Coordinator is designated as the lead procurement officer and acts as the liaison to the State Procurement Office. The lead procurement officer is the only agent authorized to delegate purchasing signature authorization and to ensure all individuals given purchasing authorities obtain the necessary training and certifications as required by the State Procurement Office.**
- ii. The Controller is designated as the Purchasing Card Coordinator. The Purchasing Card Coordinator is responsible for training purchasing card users on the requirements of OMB's Purchasing Card Manual and for monitoring purchasing card activity for compliance with these procedures.**

**3. Exceptions and Violations**

- a. Monitoring for compliance with this policy is the joint responsibility of cost center managers and Accounting.**
- b. Violation of this policy may be grounds for disciplinary action, up to and including termination and prosecution.**

**On a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Mr. Hardmeyer provided the Commission with copies of the non-confidential Bank of North Dakota Advisory Board October 19-20, 2017 meeting minutes.

Governor Burgum closed the meeting at 4:32 p.m. pursuant to North Dakota Century Code 6-09-35 to discuss the following items listed on the agenda under Bank of North Dakota confidential business:

- Consideration of Bank of North Dakota Loan Application
- Presentation of BND Advisory Board confidential October 19-20, 2017 minutes.

Individuals present during the confidential session in addition to the Industrial Commission members were:

Leslie Oliver, Governor's Office  
Eric Hardmeyer, Bank of North Dakota  
Todd Steinwand, Bank of North Dakota  
Lori Leingang, Bank of North Dakota  
Karlene Fine, Industrial Commission

Following the confidential portion of the meeting, the Commission reconvened in non-confidential session at 4:39 p.m. and the public was invited to return. Governor Burgum stated that during its

executive session the Commission considered a Bank of North Dakota loan application and **it had been moved and seconded that the Bank of North Dakota be authorized to participate in a loan identified as Attachment 37. In non-confidential session, on a roll call vote, Governor Burgum, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

The Commission wished the Bank employees a Merry Christmas and thanked them for the gifts.

Being no further Bank of North Dakota business, Governor Burgum adjourned the meeting at 4:40 p.m.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary