

Minutes of a Meeting of the Industrial Commission of North Dakota

Held on June 26th, 2024 beginning at 12:00 p.m.

Governor's Conference Room – State Capitol

Present: Governor Doug Burgum, Chairman
Attorney General Drew H. Wrigley
Agriculture Commissioner Doug Goehring (via Teams)

Also Present: This meeting was open through Microsoft Teams so not all attendees are known.
Agency representatives joined various portions of the meeting.

Governor Burgum called the meeting of the Industrial Commission to order at approximately 12:05 p.m.

Ms. Karen Tyler took roll call, and Governor Burgum, Commissioner Goehring, and Attorney General Wrigley were present.

Governor Burgum invited the room to stand and join the Commission in saying the Pledge of Allegiance.

OFFICE OF THE INDUSTRIAL COMMISSION

Ms. Karen Tyler presented for consideration of approval the May 28, 2024 Industrial Commission meeting minutes.

It was moved by Attorney General Wrigley and seconded by Commissioner Goehring that the Industrial Commission approve the May 28, 2024 meeting minutes.

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

Mr. Reice Haase presented for consideration of approval a contract for administrative management and technical support for Lignite Research, Development and Marketing Program.

It was moved by Attorney General Wrigley and seconded by Commissioner Goehring that the Industrial Commission approves the updated contract with the Lignite Energy Foundation for Lignite Research, Development and Marketing Program consulting services and authorizes the Office of the Industrial Commission to execute the contract for consulting services.

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

Under other business, Ms. Tyler presented for consideration of approval the legislatively directed 4% salary increase for the Office of the Industrial Commission employees.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approve the legislatively directed 4% salary increase for the Office of the Industrial Commission employees.

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

Under other business, Attorney General Wrigley presented for consideration of approval to remove “Interim” from Ms. Karen Tyler’s title and name her the new Executive Director of the Industrial Commission.

It was moved by Attorney General Wrigley and seconded by Commissioner Goehring that the Industrial Commission appoint Ms. Karen Tyler as the Executive Director of the Industrial Commission.

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

NORTH DAKOTA MILL AND ELEVATOR

Ms. Karen Tyler presented for consideration of approval the North Dakota Mill and Elevator Profit Transfers.

The memo reads as follows:

“North Dakota Century Code § 54-18-19 and 54-18-21 state the following:

54-18-19. Transfer of North Dakota mill and elevator profits to general fund. The industrial commission shall transfer to the state general fund fifty percent of the annual earnings and undivided profits of the North Dakota mill and elevator association after any transfers to other state agricultural-related programs. The moneys must be transferred on an annual basis in the amounts and at the times requested by the director of the office of management and budget.

54-18-21. Annual transfer. Within thirty days after the conclusion of each fiscal year, the industrial commission shall transfer five percent of the net income earned by the state mill and elevator association during that fiscal year to the agricultural products utilization fund.

Mill management is planning to close their books on July 22, 2024, and is proposing to make the transfers no later than July 24, 2024. Therefore, we are requesting that the Industrial Commission authorize the transfer of 50% of the Mill FY 2024 profits to the General Fund and the 5% of net income to the Agricultural Products Utilization Fund utilizing unaudited numbers by no later than July 24, 2024, with Mill management reporting the amount of the transfers to the Commission at their July 30, 2024, meeting.

We would propose the following action by the Commission:

Approval of the authorization to transfer 5% of the net income earned by the Mill for fiscal year 2024 to the Agricultural Products Utilization Fund (APUF) and transfer to the General Fund 50% of the annual earnings and undivided profits of the Mill after any transfers to other state agricultural-related programs per the request of the Office of Management and Budget Director noting that the transfers will be based on unaudited year-end results and reserving the right to adjust the transfer numbers once the year-end results have been audited. Further approval that Mill management report the amount of the transfers to the Commission at the July 30, 2024 meeting.”

Governor Burgum noted that Cash Management should look at this process as there may be a smarter and more efficient way of doing this in the future.

It was moved by Attorney General Wrigley and seconded by Commissioner Goehring that the Industrial Commission authorize the transfer of 5% of the net income earned by the Mill for fiscal year 2024 to the Agricultural Products Utilization Fund (APUF) and transfer to the General Fund 50% of the annual earnings and undivided profits of the Mill after any transfers to other state agricultural-related programs per the request of the Office of Management and Budget Director noting that the transfers will be based on unaudited year-end results and reserving the right to adjust the transfer numbers once the year-end results have been audited. Further approval that Mill management report the amount of the transfers to the Commission at the July 30, 2024 meeting.

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

NORTH DAKOTA PIPELINE AUTHORITY

Mr. Justin Kringstad gave a presentation of the Pipeline Authority Report on Midstream and Project Updates. Some projects that were highlighted were the Dakota Natural Gas: Existing LDC Service, the Wahpeton Expansion Project, the Viking Fargo Expansion, and the TC Energy / Kinder Morgan: Bakken xPress project. The full report and project highlights can be found on the website.

Mr. Kringstad gave a presentation of an overview of Pipeline Authority's Pipeline Project Capacity Acquisition Authority. The three driving forces for new gas pipelines are supply push, demand pull, and system reliability/security. Mr. Kringstad gave a project example case that gave best case/worst case, most desirable/least desirable scenarios on Capacity release. The full report and project example case can be found on the website.

BANK OF NORTH DAKOTA

Mr. Todd Steinwand presented for consideration of approval his Letter of Resignation and Appointment of Interim Bank President/CEO.

It was moved by Attorney General Wrigley and seconded by Commissioner Goehring that the Industrial Commission accept the retirement resignation letter of Todd Steinwand, Bank of North Dakota President and CEO effective July 2, 2024, and further moved that the Industrial Commission appoint BND Chief Financial Officer Rob Pfennig as interim President and CEO, acting in such capacity, with such authority, and with the requisite compensation until such time as the position is permanently filled.

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

Mr. Kelvin Hullet and Ms. Kaylen Hausauer presented for consideration of approval a Pilot Program on Rural Workforce Initiative to Support Housing.

The memo reads as follows:

“Bank of North Dakota (BND) is proposing to create a pilot program to address workforce housing needs in rural North Dakota communities. The program is designed to support projects that are challenged because of the disproportionate costs comparable to attainable market rents. BND is requesting the authority to contribute up to \$10 million of capital to the program.

While evaluating the issues and concerns work force housing projects are running into, it became apparent that an interest buydown program, which would allow for a reduced debt service obligation, did not fully meet the need. Various financial situations were analyzed to determine the projects need an alternative form of financial assistance to bring projects to fruition.

BND has met with various other state entities including HFA, HHA, and the DOC to determine the proposed program is not duplicating other available resources. Through these meetings, it has been determined the proposed program fulfills an unmet need.

BND shall develop program guidelines and administer the program. BND will work with the ND Housing Initiative Advisory Committee to jointly address workforce housing issues.”

Rural Workforce Initiative to Support Housing (R-WISH)

Purpose: To support rural communities with construction of market rate housing for workforce when a company is locating or expanding in a community of 20,000 and under in population. The program is designed to enable projects that are challenged because of the disproportionate costs comparable to attainable market rents to move forward; project must demonstrate that traditional financing terms are unfeasible. BND shall have the ability to utilize up to \$10MM of its capital for the program. BND shall develop and administer the program. Program guideline changes are approved by the BND Investment Committee.

Program Parameters

1. The project must show evidence of supporting local financial institution market rate financing with market rental rates. BND must be a participant in the local financial institution financing.
2. In order to qualify for this program, the project must access other available funding options first.
3. The community must be experiencing a period of rapid growth due to a new company locating in the community or a local company expanding by more than 10 FTE's. Funding may be utilized for:
 - a. New multi-family and 1-4 family housing projects
 - b. Rehab of existing multi-family and 1-4 family housing if more cost effective than new construction
4. The community must support the project through one or more of the following:
 - a. A local development corporation providing direct funding
 - b. In-kind contributions such as land, property, or infrastructure
 - c. Future dedicated tax programs

- d. The community share of the interest buydown may be included as a part of the community's support
5. The company that is expanding in the community must contribute to the project costs and may include:
 - a. Providing direct equity to the project
 - b. An in-kind contribution of product or labor
 - c. Other support that helps to lower the overall project cost or provide financial assurance during the term of the loan
6. The maximum amount the R-WISH program may contribute to a project is the lesser of:
 - a. 20% of the project costs
 - b. The matching contribution from the company
 - c. With a maximum of \$3,500,000

*Funds from the program may be provided in the form of various financial instruments including but not limited to convertible debt, subordinated debt, loan, etc.

**Funds from the program may be further limited so the resulting debt service coverage ratio is acceptable.

***In the event profitability exceeds original projections and excess cash flow is present, an agreement may be implemented amongst the program provider and other parties as to how to how earnings may be split. Any earnings distributed to the program provider will be received and applied as a reduction to the program's original contribution.

****If the project is sold, the R-WISH funds may be required to be returned to the fund.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission authorize the Bank of North Dakota to utilize up to \$10 million of bank capital for a lending program (Rural Workforce Initiative to Support Housing, R-WISH) developed and administered by the bank to be utilized to support rural communities with construction of market rate housing for workforce when a company is locating or expanding in a community of 20,000 and under in population, in circumstances when housing projects are challenged because of the disproportionate costs of construction compared to attainable market rents, and when the project can demonstrate it meets the parameter set forth under the program, including the demonstration that traditional financing terms are unfeasible.

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

Mr. Todd Steinwand presented for consideration of approval of Amendments to the General Loan Policy.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission accept the recommendation of the BND Advisory Board and approve General Loan Policy changes related to loan approval authority for the Financial Institutions Market Manager, requirements of borrowers related to environmental questionnaires, BND Rural Workforce Initiative to Support Housing (R-WISH) program, and loan amount for the Bulk Propane Storage Tank Revolving Loan Fund.

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

Mr. Steinwand presented the following non-confidential meeting minutes for the Commission members review:

- i. April 17 and 18, 2024 Nonconfidential Committee and Advisory Board Minutes

It was moved by Attorney General Wrigley and seconded by Commissioner Goehring that under the authority of North Dakota Century Code Sections 6-09-35, 44-04-18.4, 44-04-19.1, 44-04-19.2, the Industrial Commission enter into executive session for the purposes Bank of North Dakota confidential business and attorney consultation.

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

The Commission is meeting in executive session regarding Bank of North Dakota confidential business pursuant to N.D.C.C. 6-09-35 to consider those items listed on the agenda under Bank of North Dakota confidential business. Only Commission members, their staff, Commission staff, and BND staff will participate in that executive session.

After the Bank of North Dakota executive session, the Commission will meet in executive session for attorney consultation regarding those items listed on the agenda. Only Commission members, their staff, Commission staff, and Commission attorneys will participate in that executive session.

Any formal action taken by the Commission will occur after it reconvenes in open session.

Governor Burgum reminded the Commission members and those present in the executive session that the discussions must be limited to the announced purposes which is anticipated to last approximately 1 hour.

The executive session began at approximately 1:35 p.m.

The Meeting Closed to the Public for Executive Session Pursuant to NDCC 6-09-35, 44-04-18.4, 44-04-19.1, 44-04-19.2.

BANK OF NORTH DAKOTA EXECUTIVE SESSION

Industrial Commission Members Present

Governor Doug Burgum
Attorney General Drew H. Wrigley
Agriculture Commissioner Doug Goehring

BND Members Present

Todd Steinwand, BND
Kelvin Hullet, BND
Kirby Evanger, BND
Rob Pfennig, BND
Craig Hanson, BND

Kaylen Hausauer, BND

Others in attendance

Nathan Svihovec	Governor's Office
Jace Beehler	Governor's Office
Karen Tyler	Industrial Commission Office
Reice Haase	Industrial Commission Office
Brenna Jessen	Industrial Commission Office
Erin Stieg	Industrial Commission Office

ATTORNEY CONSULTATION EXECUTIVE SESSION

Industrial Commission Members Present

Governor Doug Burgum
Attorney General Drew H. Wrigley
Agriculture Commissioner Doug Goehring

BND Members Present

Brent Lawrence, Winthrop & Weinstine
Tom Boyd, Winthrop & Weinstine
Tom Walker, Winthrop & Weinstine

Others in attendance

Nathan Svihovec	Governor's Office
Jace Beehler	Governor's Office
Claire Ness	Attorney General's Office
Karen Tyler	Industrial Commission Office
Reice Haase	Industrial Commission Office
Brenna Jessen	Industrial Commission Office
Erin Stieg	Industrial Commission Office

The executive session ended at approximately 3:23 p.m. and the Commission reconvened in open session.

During the Bank of North Dakota executive session, the Commission made a motion related to approval of two loan applications.

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

During the Attorney Consultation executive session, the Commission consulted with its attorneys regarding the Minnesota Renewable Energy Standard and the Newly Created Carbon Free Standard under Minnesota Statute Chapter 216B.

It was moved by Attorney General Wrigley and seconded by Commissioner Goehring that the Commission approve its comment letter regarding the Minnesota Renewable Energy Standard and authorizes the Office of the Industrial Commission to submit its comment letter to the Minnesota Public Utilities Commission.

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

During the Attorney Consultation executive session, the Commission also consulted with its attorney regarding an NDPERS matter related to contribution limits under IRC 401(a)(17)

NORTH DAKOTA PUBLIC FINANCE AUTHORITY

Ms. Karen Tyler presented for consideration of approval the Reappointment of Advisory Committee Member Linda Svihovec for term ending July 1, 2027.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission accept the recommendation of the PFA Executive Director and reappoint Linda Svihovec to the PFA Advisory Committee for a term ending July 1, 2027.

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

NORTH DAKOTA HOUSING FINANCE AGENCY

Ms. Tyler presented for consideration of approval the Reappointment of Advisory Board Members Lisa Rotvold and Larry Nygaard for terms ending July 1, 2027.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission accept the recommendation Interim Executive Director and approve the reappointment of Lisa Rotvold and Larry Nygaard for three-year terms on the Housing Finance Agency Advisory Board ending July 1, 2027, and also reappoint Lisa Rotvold as Vice-Chair of the Advisory Board.

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

Ms. Jennifer Hendrson presented for consideration of approval of Issuance not to exceed \$16,500,000 Multifamily Tax-Exempt Revenue Bonds for Lashkowitz Riverfront 4 LLLP.

The memo reads as follows:

“Fargo Housing and Redevelopment Authority, a North Dakota Housing Authority, demolished the existing 248-unit public housing complex known as the Lashkowitz Highrise and will replace it with the new construction of 110 units to be developed as a twin 4 percent/9 percent transaction. The 4 percent transaction, for which tax-exempt bonds will be issued, will consist of 83 units and comprise floors 2-4. The remaining 27 units will be financed as a separate asset using 9 percent competitive credits and a taxable bond issuance. This transaction will remove units from public housing and replace with traditional affordable housing as part of a repositioning strategy.

Total development costs for the entire deal is nearly \$38.5 million with about a 25/75 percent split between the 9% and 4% cost allocations. The total tax credit equity investment is projected to be over \$16 million. Co Developers BlueLine Development and Fargo Housing And Redevelopment Authority, lender is LUMENT/ORIX Real Estate Capital, LLC, and Equity Investor WNC.

The 4% issuance will have two series, a short term and long term. The total aggregate amount not to exceed a total principal amount of \$16,500,000. Series 2024A (18-yr maturity) and Series 2024B (paid off at conversion - earlier of 90% occupancy or 36 months)

The transaction is structured as a tax-exempt privately placed bond issuance, proceeds from which will be used for construction financing. The Agency has conditionally committed \$1,202,021 in 4% Low-Income Housing Tax Credits. A final determination of allocation will be based on total costs and allowable credit basis.

The operative documents for the tax-exempt transaction are:

- a. A resolution authorizing the issuance of tax-exempt multifamily revenue bonds Series 2024 A and Series 2024B, in an aggregate principal amount not to exceed \$16,500,000
- b. Trust Indenture
- c. Financing Agreement
- d. Regulatory Agreement

The Commission, by executing the authorizing resolution, is approving the operative documents in their respective current forms and authorizing the Executive Director and Chief Financial Officer (Authorized Officers) to execute the documents in their respective current forms with such changes as are consistent with the parameters set forth in the authorizing resolution and approved by the Authorized Officers, such approval being evidenced by an Authorized Officer's execution of the documents."

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approve the issuance of multifamily tax-exempt revenue bonds Lashkowitz Riverfront 4 Series 2024A and 2024 B, in an aggregate amount not to exceed \$16,500,000.

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

A RESOLUTION WAS MADE

STATE OF NORTH DAKOTA
NORTH DAKOTA HOUSING FINANCE AGENCY
MULTIFAMILY REVENUE BONDS
(LASHKOWITZ RIVERFRONT 4)
SERIES 2024A

STATE OF NORTH DAKOTA
NORTH DAKOTA HOUSING FINANCE AGENCY
MULTIFAMILY REVENUE BONDS
(LASHKOWITZ RIVERFRONT 4)
SERIES 2024B

A RESOLUTION AUTHORIZING THE ABOVE CAPTIONED INDEBTEDNESS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$16,500,000; APPROVING THE FORM OF CERTAIN FINANCING DOCUMENTS AND OTHER RELATED DOCUMENTS; AUTHORIZING THE EXECUTION OF SUCH DOCUMENTS; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

WHEREAS, the Industrial Commission of North Dakota (the “Commission”) acting in its capacity as 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 provide financing, directly or indirectly, of construction, permanent and combined construction and permanent loans for the acquisition, construction, refurbishing, reconstruction, construction or improvement of multifamily residential housing in which at least twenty percent of the units are held for occupancy by persons or families of low and moderate income; and

WHEREAS, the Agency intends to issue its Multifamily Revenue Bonds (Lashkowitz Riverfront 4), Series 2024A, and its Multifamily Revenue Bonds (Lashkowitz Riverfront 4), Series 2024B (the “Bonds”), in an aggregate principal amount not to exceed \$16,500,000, the proceeds of which will be used to finance a loan for the acquisition, construction and equipping of Lashkowitz Riverfront 4, an 83unit multifamily residential rental project (the “Project”); and

WHEREAS, the Bonds will be issued pursuant to a Trust Indenture (the “Indenture”), between the Agency and Wilmington Trust, National Association, in its capacity as trustee (the “Trustee”), which will be in substantially the form attached hereto as Attachment A, whereby the Agency would be authorized to issue the Bonds subject to the terms, conditions and limitations established herein and in the Indenture; and

WHEREAS, the Bonds will be sold and delivered to ORIX Public Finance, LLC (the “Purchaser”) in the manner, at the purchase price and on the terms and conditions set forth in the Indenture; and

WHEREAS, the proceeds of the Bonds will be used to finance a loan (the “Bond Loan”) to Lashkowitz Riverfront Four, LLLP, a North Dakota limited liability limited partnership, or another affiliate thereof (the “Borrower”), pursuant to a Financing Agreement, by and among the Agency, the Trustee, and the Borrower (the “Financing Agreement”), which will be in substantially the form attached hereto as Attachment B; and

WHEREAS, the interest on the Tax-Exempt Bonds is intended to qualify for a federal tax exemption under Section 142 of the Internal Revenue Code of 1986 (the “Code”), and to ensure that the Tax-Exempt Bonds maintain their tax exempt status, the Borrower will enter into a Regulatory Agreement and Declaration of Restrictive Covenants (the “Regulatory Agreement”), which will be in substantially the form attached hereto as Attachment C; and

NOW, THEREFORE, BE IT RESOLVED:

1. **Findings.** The Commission hereby finds and determines that:
 - a. the Project financed through the issuance of the Bonds constitutes a “multifamily housing facility” within the meaning of Sections 54-17-07.2 and 54-17-07.3(3) of the Act; and
 - b. the Bond Loan will provide the Borrower with financing for the acquisition, construction, refurbishing, reconstruction, construction or improvement of the Project; and

- (c) that the Project will be of public use and will provide a public benefit.
2. **Approval of Indenture.** The Indenture is hereby approved in the form hereinabove described, and the Executive Director, the Director of Planning and Housing Development or the Chief Financial Officer of the Agency (each, including any individual authorized to act on his or her behalf, an "Authorized Officer") is hereby authorized and directed to execute and deliver the Indenture, with such changes, insertions or omissions therein as may be approved by such person, such approval to be evidenced conclusively by such execution of the Indenture, and any other Authorized Officer is hereby authorized and directed to attest thereto.
 3. **Authorization and Sale of Bonds.** The issuance, sale and delivery of the Bonds to ORIX Public Finance, LLC (the "Purchaser") are hereby authorized and approved. The final principal amount and terms of the Bonds shall be determined by any Authorized Officer, subject to the following conditions:
 - a. The Bonds shall not be general obligations of the Commission or the Agency but shall be limited obligations payable solely and only from moneys pledged under the Indenture as required by the Financing Agreement.
 - b. The Bonds shall mature no later than July 1, 2054, bear interest at a fixed rate or rates not to exceed 12% per annum, be in an aggregate principal amount not to exceed \$16,500,000, be sold to the Purchaser at not less than 100% of the principal amount thereof and have the other terms and provisions (including provisions with respect to the redemption of the Bonds prior to maturity, if any) as described to the Commission and definitively set forth in the Indenture upon execution and delivery as aforesaid in Section 2 hereof.
 - c. The Bonds shall be executed and delivered substantially in the forms set forth in the Indenture, with such additions, omissions and changes as are required or permitted by the Indenture.
 - d. The Bonds shall be executed in the name of the Commission by the manual or facsimile signature of each of the members of the Commission, with the official seal of the Commission (or a facsimile thereof) impressed, imprinted or otherwise reproduced thereon, and attested by the manual or facsimile signature of any Authorized Officer, and their execution shall evidence their approval of the final terms thereof. Such Bonds shall not be valid or obligatory for any purpose until authenticated by the manual signature of an authorized officer of the Trustee.
 4. **Approval of Financing Agreement.** The Financing Agreement is hereby approved in the form hereinabove described, and any Authorized Officer is hereby authorized to execute and deliver the Financing Agreement, with such changes, insertions or omissions therein as may be approved by such person, such approval to be evidenced conclusively by such execution of the Financing Agreement.
 5. **Approval of Regulatory Agreement.** The Regulatory Agreement is hereby approved in the form hereinabove described, and any Authorized Officer is hereby authorized to execute and deliver the Regulatory Agreement, with such changes, insertions or omissions therein as may be approved by such person, such approval to be evidenced conclusively by such execution of the Regulatory Agreement.

6. **Ratification of Prior Actions.** All action previously taken by the officers, members or staff of the Agency within the authority granted herein, with respect to the Indenture, the Financing Agreement, the Bonds, and the Regulatory Agreement is approved, and a public hearing with respect to the issuance of the Tax-Exempt Bonds is hereby approved, confirmed and ratified.
7. **Execution of Tax Documents.** Any Authorized Officer is hereby authorized to execute certifications as to the Agency's reasonable expectations regarding the amount and use of the proceeds of the Tax-Exempt Bonds, to file related forms with the Internal Revenue Service and to execute appropriate land use restriction agreements to comply with the Internal Revenue Code of 1986, as amended, particularly Sections 142 and 148 thereof.
8. **Additional Actions Authorized.** Any Authorized Officer and any other officer, employee, agent, members or staff of the Agency, acting alone or acting with others, are each hereby authorized and directed to execute and deliver any or all other documents which may be required under the terms of the Indenture, the Financing Agreement, or the Regulatory Agreement, and to take such other action as may be required or appropriate for the performance of the duties imposed thereby or to carry out the purposes thereof.
9. **Authorization of Authorized Officers.** Any Authorized Officer is hereby authorized to deliver an Agency Certificate, or such other document as may be necessary or appropriate, at the time of issuance of the Bonds which cures ambiguities, defects or omissions herein, corrects or supplements any provision herein, lessens the obligations of the Agency hereunder, or adds to the rights or options of the Agency, all in furtherance of the purposes and programs of the Agency.
10. **Effective Date.** This Resolution shall become effective immediately.

Ms. Henderson presented for consideration of approval of Issuance not to exceed \$6,000,000 Multifamily Taxable Revenue Bonds for Lashkowitz Riverfront 9, LLLP.

The memo reads as follows:

"Fargo Housing and Redevelopment Authority, a North Dakota Housing Authority, demolished the existing 248-unit public housing complex known as the Lashkowitz Highrise and will replace it with the new construction of 110 units to be developed as a twin 4 percent/9 percent transaction. The 9 percent transaction includes 27 units financed using the 9 percent competitive credits and a taxable bond issuance. The 4 percent transaction, for which tax-exempt bonds will be issued, will consist of 83 units and comprise floors 2-4. This transaction will remove units from public housing and replace with traditional affordable housing as part of a repositioning strategy.

Total development costs for the entire deal is nearly \$38.5 million with about a 25/75 percent split between the 9% and 4% cost allocations. The total tax credit equity investment is projected to be over \$16 million. Co Developers BlueLine Development and Fargo Housing And Redevelopment Authority, lender is LUMENT/ORIX Real Estate Capital, LLC, and Equity Investor WNC.

The 9% issuance will have two series, a short term and long term. The total aggregate amount not to exceed a total principal amount of \$6,000,000 Series 2024A (18-yr maturity) and Series 2024B (paid off at conversion - earlier of 90% occupancy or 36 months)

The transaction is structured as a taxable privately placed bond issuance, proceeds from which will be used for construction financing. The Agency has conditionally committed \$724,000 in 9% Low-Income Housing Tax Credits which will bring in around \$6.1 million credit equity.

The operative documents for the taxable bond transaction are:

- a. A resolution authorizing the issuance of tax-exempt multifamily revenue bonds Series 2024 A and Series 2024B, in an aggregate principal amount not to exceed \$6,000,000
- b. Trust Indenture
- c. Financing Agreement

The Commission, by executing the authorizing resolution, is approving the operative documents in their respective current forms and authorizing the Executive Director and Chief Financial Officer (Authorized Officers) to execute the documents in their respective current forms with such changes as are consistent with the parameters set forth in the authorizing resolution and approved by the Authorized Officers, such approval being evidenced by an Authorized Officer's execution of the documents.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approve the issuance of multifamily revenue bonds Lashkowitz Riverfront 9 Series 2024A and 2024 B, in an aggregate amount not to exceed \$6,000,000.

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

A RESOLUTION WAS MADE

STATE OF NORTH DAKOTA
NORTH DAKOTA HOUSING FINANCE AGENCY
MULTIFAMILY REVENUE BONDS
(LASHKOWITZ RIVERFRONT 9)
SERIES 2024A

STATE OF NORTH DAKOTA
NORTH DAKOTA HOUSING FINANCE AGENCY
MULTIFAMILY REVENUE BONDS
(LASHKOWITZ RIVERFRONT 9)
SERIES 2024B

A RESOLUTION AUTHORIZING THE ABOVE CAPTIONED INDEBTEDNESS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$6,000,000; APPROVING THE FORM OF CERTAIN FINANCING DOCUMENTS AND OTHER RELATED DOCUMENTS; AUTHORIZING THE EXECUTION OF SUCH DOCUMENTS; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

WHEREAS, the Industrial Commission of North Dakota (the "Commission") acting in its capacity as 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 provide financing, directly or indirectly, of construction, permanent and combined construction and permanent loans for the acquisition,

construction, refurbishing, reconstruction, construction or improvement of multifamily residential housing in which at least twenty percent of the units are held for occupancy by persons or families of low and moderate income; and

WHEREAS, the Agency intends to issue its Multifamily Revenue Bonds (Lashkowitz Riverfront 9), Series 2024A, and its Multifamily Revenue Bonds (Lashkowitz Riverfront 9), Series 2024B (the “Bonds”), in an aggregate principal amount not to exceed \$6,000,000, the proceeds of which will be used to finance a loan for the acquisition, construction and equipping of Lashkowitz Riverfront 9, a 27unit multifamily residential rental project (the “Project”); and

WHEREAS, the Bonds will be issued pursuant to a Trust Indenture (the “Indenture”), between the Agency and Wilmington Trust, National Association, in its capacity as trustee (the “Trustee”), which will be in substantially the form attached hereto as Attachment A, whereby the Agency would be authorized to issue the Bonds subject to the terms, conditions and limitations established herein and in the Indenture; and

WHEREAS, the Bonds will be sold and delivered to ORIX Public Finance, LLC (the “Purchaser”) in the manner, at the purchase price and on the terms and conditions set forth in the Indenture; and

WHEREAS, the proceeds of the Bonds will be used to finance a loan (the “Bond Loan”) to Lashkowitz Riverfront Nine, LLLP, a North Dakota limited liability limited partnership, or another affiliate thereof (the “Borrower”), pursuant to a Financing Agreement, by and among the Agency, the Trustee, and the Borrower (the “Financing Agreement”), which will be in substantially the form attached hereto as Attachment B.

NOW, THEREFORE, BE IT RESOLVED:

1. **Findings.** The Commission hereby finds and determines that:
 - a. the Project financed through the issuance of the Bonds constitutes a “multifamily housing facility” within the meaning of Sections 54-17-07.2 and 54-17-07.3(3) of the Act; and
 - b. the Bond Loan will provide the Borrower with financing for the acquisition, construction, refurbishing, reconstruction, construction or improvement of the Project; and(c) that the Project will be of public use and will provide a public benefit.
2. **Approval of Indenture.** The Indenture is hereby approved in the form hereinabove described, and the Executive Director, the Director of Planning and Housing Development or the Chief Financial Officer of the Agency (each, including any individual authorized to act on his or her behalf, an “Authorized Officer”) is hereby authorized and directed to execute and deliver the Indenture, with such changes, insertions or omissions therein as may be approved by such person, such approval to be evidenced conclusively by such execution of the Indenture, and any other Authorized Officer is hereby authorized and directed to attest thereto.
3. **Authorization and Sale of Bonds.** The issuance, sale and delivery of the Bonds to ORIX Public Finance, LLC (the “Purchaser”) are hereby authorized and approved. The final principal amount and terms of the Bonds shall be determined by any Authorized Officer, subject to the following conditions:

- a. The Bonds shall not be general obligations of the Commission or the Agency but shall be limited obligations payable solely and only from moneys pledged under the Indenture as required by the Financing Agreement.
- b. The Bonds shall mature no later than July 1, 2054, bear interest at a fixed rate or rates not to exceed 12% per annum, be in an aggregate principal amount not to exceed \$6,000,000, be sold to the Purchaser at not less than 100% of the principal amount thereof and have the other terms and provisions (including provisions with respect to the redemption of the Bonds prior to maturity, if any) as described to the Commission and definitively set forth in the Indenture upon execution and delivery as aforesaid in Section 2 hereof.
- c. The Bonds shall be executed and delivered substantially in the forms set forth in the Indenture, with such additions, omissions and changes as are required or permitted by the Indenture.
- d. The Bonds shall be executed in the name of the Commission by the manual or facsimile signature of each of the members of the Commission, with the official seal of the Commission (or a facsimile thereof) impressed, imprinted or otherwise reproduced thereon, and attested by the manual or facsimile signature of any Authorized Officer, and their execution shall evidence their approval of the final terms thereof. Such Bonds shall not be valid or obligatory for any purpose until authenticated by the manual signature of an authorized officer of the Trustee.
4. **Approval of Financing Agreement.** The Financing Agreement is hereby approved in the form hereinabove described, and any Authorized Officer is hereby authorized to execute and deliver the Financing Agreement, with such changes, insertions or omissions therein as may be approved by such person, such approval to be evidenced conclusively by such execution of the Financing Agreement.
5. **Approval of Regulatory Agreement.** The Regulatory Agreement is hereby approved in the form hereinabove described, and any Authorized Officer is hereby authorized to execute and deliver the Regulatory Agreement, with such changes, insertions or omissions therein as may be approved by such person, such approval to be evidenced conclusively by such execution of the Regulatory Agreement.
6. **Ratification of Prior Actions.** All action previously taken by the officers, members or staff of the Agency within the authority granted herein, with respect to the Indenture, the Financing Agreement, and the Bonds is approved.
7. **Additional Actions Authorized.** Any Authorized Officer and any other officer, employee, agent, members or staff of the Agency, acting alone or acting with others, are each hereby authorized and directed to execute and deliver any or all other documents which may be required under the terms of the Indenture, the Financing Agreement, or the Regulatory Agreement, and to take such other action as may be required or appropriate for the performance of the duties imposed thereby or to carry out the purposes thereof.
8. **Authorization of Authorized Officers.** Any Authorized Officer is hereby authorized to deliver an Agency Certificate, or such other document as may be necessary or appropriate, at the time of issuance of the Bonds which cures ambiguities, defects or omissions herein, corrects or supplements any provision herein, lessens the obligations of the Agency hereunder, or adds to

the rights or options of the Agency, all in furtherance of the purposes and programs of the Agency.

9. **Effective Date.** This Resolution shall become effective immediately.

Commissioner Goehring left the meeting at this time.

OUTDOOR HERITAGE FUND

Mr. Reice Haase gave a presentation of the Outdoor Heritage Fund Project Management and Financial Report. The Outdoor Heritage Fund currently has 67 active projects. There has been a total of 232 cumulative projects since the inception of the program, with a cumulative value of \$85.5 million granted and \$222.4 million in project value. The Outdoor Heritage Fund currently has \$4,887,500 available to fund new projects.

Mr. Bob Kuylen presented for consideration of approval the Grant Round 24 Recommended Awards:

- i. 24 (A) North Dakota Forest Service: ND Statewide Windbreak Renovation Initiative 4.0, \$900,000
- ii. 24-5 (C) City of Belfield: Belfield Dam Improvement, \$145,125
- iii. 24-10 (A) North Dakota Natural Resources Trust: Bakken Development and Working Lands Program III, \$1,625,000
- iv. 24-12 (B) North Dakota Natural Resources Trust: Badlands Restoration Project, \$77,000
- v. 24-13 (C) North Dakota Wildlife Federation: North Dakota Prescribed Fire Program for Ranchland Enhancement, \$200,000
- vi. 24-15 (D) Sunset Park District 1: PreK Park Enhancement, \$10,000
- vii. 24-16 (A) McLean County Water Resource District: Painted Woods Lake Flood Protection & Recreation Project, \$1,000,000

It was moved by Attorney General Wrigley and seconded by Governor Burgum that the Industrial Commission accepts the recommendations of the Outdoor Heritage Fund Advisory Board, approves the following projects, and authorizes the Office of the Industrial Commission to enter into contracts for the following projects:

24-2 (A) North Dakota Forest Service: ND Statewide Windbreak Renovation Initiative 4.0, \$900,000

24-5 (C) City of Belfield: Belfield Dam Improvement, \$145,125

24-10 (A) North Dakota Natural Resources Trust: Bakken Development and Working Lands Program III, \$1,625,000

24-12 (B) North Dakota Natural Resources Trust: Badlands Restoration Project, \$77,000

24-13 (C) North Dakota Wildlife Federation: North Dakota Prescribed Fire Program for Ranchland Enhancement, \$200,000

24-15 (D) Sunset Park District 1: PreK Park Enhancement, \$10,000

24-16 (A) McLean County Water Resource District: Painted Woods Lake Flood Protection & Recreation Project, \$1,000,000

On a roll call vote, Governor Burgum and Attorney General Wrigley voted aye. The motion carried.

Mr. Kuylen presented for consideration of approval a project amendment to 022-222 scope of work adjustment.

It was moved by Attorney General Wrigley and seconded by Governor Burgum that the Industrial Commission accepts the recommendations of the Outdoor Heritage Fund Advisory Board and authorizes the Office of the Industrial Commission to enter into a contract amendment for Contract 022-222, authorizing the replacement of the earthen fishing pier task with the addition of hard substrate material for the boat ramp and parking area.

On a roll call vote, Governor Burgum and Attorney General Wrigley voted aye. The motion carried.

Governor Burgum presented a Resolution of Appreciation for Mr. Bob Kuylen.

A RESOLUTION WAS MADE

Resolution of Appreciation

- Whereas,** Robert “Bob” Kuylen has admirably served the State of North Dakota since his appointment to the Outdoor Heritage Fund Advisory Board on September 12th, 2013; and
- Whereas,** Bob has been dedicated to the Outdoor Heritage Fund’s mission to enhance conservation practices in this State by providing access for sportsmen and women, supporting agricultural stewardship, enhancing wildlife habitat, and creating outdoor recreation opportunities; and
- Whereas,** During Bob’s tenure with the Board, over \$85.5 million of Outdoor Heritage Fund dollars was invested in North Dakota, yielding private sector matches of over \$222.4 million toward this purpose; and
- Whereas,** Since his election as Chairman of the Outdoor Heritage Fund Advisory Board on June 7th, 2019, Bob has skillfully led the Board with a courteous and respectful spirit, leading to the resourceful investment of Outdoor Heritage Fund dollars in projects which benefit every county and numerous communities in the State; and
- Whereas,** Bob’s dedication to the Outdoor Heritage Fund Advisory Board and to the State of North Dakota will leave a lasting legacy for all citizens of our state and is deserving of recognition.

Now, therefore, the North Dakota Outdoor Heritage Fund Advisory Board hereby expresses deep gratitude to Bob Kuylen for his 11 years of service to the citizens of North Dakota.

Adopted this 26th day of June, 2024.

Under other business, Mr. Bob Kuylen introduced Mr. Tyler Dokken to the Commission. Mr. Dokken was voted in by the Members of the Outdoor Heritage Fund Advisory Board as the new Chairman.

DEPARTMENT OF MINERAL RESOURCES

Mr. Mark Bohrer presented for consideration the following case:

- i. Order No. 33618 issued in Case No. 30958 regarding an application of Continental Resources, Inc. for an authorization to drill a saltwater disposal well in Williams County, ND.

It was moved by Attorney General Wrigley and seconded by Governor Burgum that the Industrial Commission approves Order No. 33618 issued in Case No. 30958 granting the application of Continental Resources, Inc. pursuant to NDAC §43-02-03-88.1 and authorizing the drilling of the Sleipnir SWD salt water disposal from a surface hole location in the NENW Section 3, T.155N., R.97W., to a bottom hole location in the NENW Section 3, T.155N., R.97W., Dollar Joe Field, Williams County, ND, in the Dakota group pursuant to NDAC Chapter 43-02-05, and providing such other and further relief.

On a roll call vote, Governor Burgum and Attorney General Wrigley voted aye. The motion carried.

Mr. Ed Murphy gave a presentation of the Geological Survey Quarterly Report.

Wilson M. Laird Core and Sample Library

During the first quarter of 2024, one oil company geologist, geologists from the Geological Survey, EERC, professors from NDSU and Moorhead State, and graduate students from UND and Colorado School of Mines studied 8,350 feet of core. A total of 4,359 feet of core was photographed generating 6,103 standard photographs and 3,932 feet of core was photographed with a tripod generating 311 photographs for the subscription site.

Core Photographs as Sampling Guides

Since we began posting core photographs 20 years ago, companies have been using them to identify cores that they wanted to study and sample in the core library. Occasionally, companies that do not have the opportunity to travel to the core library have used those photographs to identify where they want rock samples taken for testing or for creating thin sections. That information is sent to one of our core library technicians who pulls the core, identifies the part of the core to sample, obtains the rock

sample, and then send it to the company. In exchange, the company provides us with a copy of the test results.

Brenna Formation Maps

The Geological Survey has recently published a series of drill hole location, depth, and thickness maps on the Brenna Formation, the lower of the two glacial lake clays, in the Red River Valley.

The full report can be found on the website.

LEGAL UPDATE

A. Litigation Update

- i. Northwest Landowners v. NDIC – summary judgement on Friday
- ii. NDIC v. DOI Quarterly Federal Lease Sales – next scheduled update in August
- iii. BLM Conservation and Landscape Rule – Filed lawsuit on Friday
- iv. BLM Venting and Flaring – Prelim injunction had in front of Judge Trainor.
- v. EPA Greenhouse Gas Rule – 22 States challenging the rule
- vi. EPA MATS Rule – ND Leading 23 state coalition – EPA pushing back to July

B. Federal Regulatory Update

- i. There were no Federal Regulatory Updates presented.

Being no further business, Governor Burgum adjourned the meeting of the Industrial Commission at 4:25 p.m.

North Dakota Industrial Commission



Brenna Jessen, Recording Secretary



Reice Haase, Deputy Executive Director



Karen Tyler, Interim Executive Director