

HERMOSA TOWN BOARD
SPECIAL MEETING
THURSDAY, APRIL 2, 2026
2:00 p.m.



- 1) **ROLL CALL:**
 - A. BOT Roll Call: Kramer, Ferguson, Koontz, Serviss, Matheny
 - B. Acknowledgement of other Attendees
 - C. Pledge of Allegiance

- 2) **CALL FOR CHANGES:**
 - A. Review of current agenda items
 - B. Motion to accept the agenda as presented/amended

- 3) **CONFLICT OF INTEREST DECLARATION**
(Roll call voting for any agenda item that may have a conflict of interest)

- 4) **ITEMS OF BUSINESS:**
 - A. Municipal Referendum Petition (SDCL 9-20-4) Motion to Approve Special election (including date) or Motion to Add to June 2nd election

- 5) **ITEMS FROM CONSTITUENTS:** No action can be taken by the board on any issue related without being first placed on a future agenda, to allow for proper notice.
 1. Reserved time for public comment is **15 minutes**.
 2. This is a time for citizens of the town of Hermosa or owners of property within town Limits to express concerns or discuss issues having relevance to the town.
 3. Anyone wishing to address the Town Board during this time shall be asked to stand and Identify themselves after being recognized the Board President.
 4. Each person will be allotted **3 minutes** to speak.
 5. After these time limits are reached, all further commentary shall be made only with the Chair's approval.

- 6) **TRUSTEE INPUT:**

- 7) **EXECUTIVE SESSION:**
 - A. Motion to enter Executive Session allowable by SDCL 1-25-2 – Legal/Personnel/Contract
 - B. Motion to exit out of Executive Session
 - C. Motions resulting from Executive Session

- 7) **ADJOURN:** Motion by _____; Second by _____ to adjourn the meeting at _____ PM.

**MUNICIPAL REFERENDUM PETITION
IN THE MUNICIPALITY OF HERMOSA, SD**

WE, THE UNDERSIGNED qualified voters of the municipality of Hermosa, the state of South Dakota, petition that the following resolution, as passed by the governing board of the municipality, be submitted to the voters for their approval or rejection pursuant to law.

HERMOSA BOARD OF TRUSTEES RESOLUTION NO. 2026-05

RESOLUTION GIVING APPROVAL TO CERTAIN DRINKING WATER FACILITIES IMPROVEMENTS; GIVING APPROVAL TO THE ISSUANCE AND SALE OF A REVENUE BOND TO FINANCE, DIRECTLY OR INDIRECTLY, THE IMPROVEMENTS TO THE FACILITIES; APPROVING THE FORM OF THE LOAN AGREEMENT AND THE REVENUE BOND AND PLEDGING PROJECT REVENUES AND COLLATERAL TO SECURE THE PAYMENT OF THE REVENUE BOND; AND CREATING SPECIAL FUNDS AND ACCOUNTS FOR THE ADMINISTRATION OF FUNDS FOR OPERATION OF THE SYSTEM AND RETIREMENT OF THE REVENUE BOND AND PROVIDING FOR A SEGREGATED SPECIAL CHARGE OR SURCHARGE FOR THE PAYMENT OF THE BONDS.

Passed on March 20, 2026

INSTRUCTIONS TO SIGNERS:

1. Signers of this petition must individually sign their names in the form in which they are registered to vote or as they usually sign their names.
2. Before the petition is filed, each signer or the circulator must add the voter registration address of the signer and the date of signing. If the signer is a resident of a second or third class municipality, a post office box may be used for the voter registration address.
3. Before the petition is filed, each signer or the circulator must print the name of the signer in the space provided and add the county of voter registration.
4. Abbreviations of common usage may be used. Ditto marks may not be used.
5. Failure to provide all information requested may invalidate the signature.

	NAME	VOTER REGISTRATION ADDRESS	DATE/COUNTY
SIGN		STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER	DATE OF SIGNING

CHAPTER 9-20
INITIATIVE AND REFERENDUM

- 9-20-1 Percentage of voters required to propose ordinance or resolution.
 - 9-20-2 Petition proposing ordinance or resolution--Contents.
 - 9-20-3 Ordinance may not be initiated to nullify bond purposes.
 - 9-20-4 Presentation of initiative petition to governing body--Submission to voters.
 - 9-20-5 Majority vote to approve initiated measure--Effective date.
 - 9-20-5.1 Year's waiting period required before amendment or repeal.
 - 9-20-6 Time for filing referendum petition.
 - 9-20-7 Description in referendum petition of matter covered.
 - 9-20-8 Percentage of voters required to sign referendum petition--Data concerning signers.
 - 9-20-9 Requirements for persons circulating petition--Board of elections to promulgate rules--Scope of rules.
 - 9-20-10 Liberal construction of referendum petition.
 - 9-20-11 Date of election on referendum petition--No action taken pending election.
 - 9-20-11.1 9-20-11.1. Repealed by SL 2003, ch 41, § 2.
 - 9-20-11.2 Date to certify ballot language to county auditor.
 - 9-20-11.3 Additional election costs paid by municipality.
 - 9-20-12 Publication of referred ordinance or resolution--Notice of election.
 - 9-20-13 Ballots used in referendum election--Form and contents.
 - 9-20-14 General municipal election law applicable to referendum elections.
 - 9-20-15 Majority vote to approve referred measure--Effective date.
 - 9-20-16 Preservation of referendum petitions--Open to public inspection.
 - 9-20-17 Waiting period for new action after referendum election.
 - 9-20-18 Legislative finding--Actions of municipal governing boards subject to referendum.
 - 9-20-19 Legislative decision of governing body subject to referendum--Administrative decision not subject to referendum.
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9-20-1. Percentage of voters required to propose ordinance or resolution.

The registered voters of any municipality may propose ordinances and resolutions for the government of the municipality if the petition is signed by at least five percent of the registered voters in the municipality. The percentage shall be based on the number of registered voters of the municipality as recorded by the county auditor on the second Tuesday in January in the year the petition is filed. If the petition is filed before the second Tuesday in January, the prior year's calculation of registered voters shall be used.

Source: SDC 1939, § 45.1018; SL 1947, ch 199, § 1; SL 1968, ch 183, § 2; SL 2002, ch 40, § 2; SL 2017, ch 57, § 2; SL 2019, ch 53, § 1.

9-20-2. Petition proposing ordinance or resolution--Contents.

A petition to propose an ordinance or resolution shall be filed with the finance officer, containing in proper form the proposed ordinance or resolution. It shall be signed by the required number of the resident registered voters of the municipality. The signer or circulator shall add the signer's residence address, county of voter registration, and date of signing. The signer's post office box number may be given in lieu of a street address if the signer lives within a municipality of the second or third class. No signature on a petition is valid if signed more than six months prior to the filing of the petitions.

Source: SDC 1939, § 45.1019; SL 1947, ch 199, § 2; SL 1957, ch 245, § 2; SL 1980, ch 64, § 3; SL 1983, ch 52, § 7; SL 1990, ch 104, § 4; SL 1992, ch 110, § 5; SL 1999, ch 41, § 1.

9-20-3. Ordinance may not be initiated to nullify bond purposes.

The right to initiate an ordinance shall not be applicable to ordinances proposed to nullify the purpose for which bonds have been sold by a municipality pursuant to statutory authority.

Source: SL 1961, ch 247; SL 1980, ch 66, § 1.

9-20-4. Presentation of initiative petition to governing body--Submission to voters.

When a petition to initiate is filed with the finance officer, the finance officer shall present the petition to the governing body at its first ensuing regular or special meeting. The governing body shall submit the petition to a vote of the voters in the manner prescribed for a referendum.

Source: SDC 1939, § 45.1020; SL 1947, ch 199, § 3; SL 1980, ch 67, § 1; SL 2003, ch 41, § 1.

9-20-5. Majority vote to approve initiated measure--Effective date.

No initiated ordinance or resolution is effective unless approved by a majority of the votes cast for and against the ordinance or resolution. If approved, the ordinance or resolution is effective the day following the completion of the canvass of the election returns.

Source: SL 1899, ch 94, § 13; RPolC 1903, § 1226; SL 1913, ch 119, § 50; RC 1919, § 6264; SDC 1939, § 45.1021; SL 1947, ch 199, § 4; SL 2025, ch 37, § 4.

9-20-5.1. Year's waiting period required before amendment or repeal.

No initiated ordinance or resolution may be amended or repealed by the governing body of a municipality until at least one year has passed from its effective date.

Source: SL 1977, ch 72.

9-20-6. Time for filing referendum petition.

The required number of voters residing in any municipality may file within twenty days after the publication of any ordinance or resolution subject to referendum a petition with the auditor or clerk, requiring the submission of any such ordinance or resolution to a vote of the voters of the municipality for its rejection or approval. If filed on the twentieth day after publication, such petitions shall be filed no later than normal closing hours of the city hall or city auditor's office on said twentieth day.

Source: SL 1899, ch 94, § 2; RPolC 1903, § 1215; SL 1913, ch 119, § 39; RC 1919, § 6254; SDC 1939, § 45.1011; SL 1947, ch 198; SL 1975, ch 119, § 20.

9-20-7. Description in referendum petition of matter covered.

If the matter intended to be covered by the referendum petition is the whole of any ordinance or resolution, the petition shall contain the title of such ordinance or the subject of such resolution, and the date of its passage, but if only a portion of such ordinance or resolution is intended to be covered by the petition, such portion shall be set out at length.

Source: SL 1899, ch 94, § 3; RPolC 1903, § 1216; SL 1913, ch 119, § 40; RC 1919, § 6255; SL 1921, ch 300, § 1; SDC 1939, § 45.1012; SL 1957, ch 245, § 1.

9-20-8. Percentage of voters required to sign referendum petition--Data concerning signers.

The referendum petition shall be signed by at least five percent of the registered voters in the municipality. The percentage shall be based on the number of registered voters of the municipality as recorded by the county auditor on the second Tuesday in January in the year the petition is filed. If the petition is filed before the second Tuesday in January, the prior year's calculation of registered voters shall be used. The signer or circulator shall add the signer's residence address, county of voter registration, and date of signing. The signer's post office box number may be given in lieu of a street address if the signer lives within a municipality of the second or third class.

Source: SDC 1939, § 45.1012; SL 1957, ch 245, § 1; SL 1968, ch 183, § 1; SL 1979, ch 50, § 7; SL 1980, ch 64, § 4; SL 1987, ch 78; SL 1990, ch 104, § 5; SL 1992, ch 110, § 6; SL 1999, ch 41, § 2; SL 2002, ch 40, § 3; SL 2017, ch 57, § 3; SL 2019, ch 53, § 2.

9-20-9. Requirements for persons circulating petition--Board of elections to promulgate rules--Scope of rules.

Any person circulating an initiative or referendum petition shall verify that each person signing the petition is a resident and qualified voter of the municipality. The State Board of Elections shall promulgate rules pursuant to chapter 1-26 prescribing the format for an initiative and referendum petition and its verification.

Source: SDC 1939, § 45.1013; SL 1999, ch 41, § 3; SL 2000, ch 19, § 3.

9-20-10. Liberal construction of referendum petition.

Such petition may be made up and signed and shall be liberally construed as provided by the statute governing an initiated law.

Source: SDC 1939, § 45.1012; SL 1957, ch 245, § 1.

9-20-11. Date of election on referendum petition--No action taken pending election.

The governing body shall, upon the presentation of a petition pursuant to § 9-20-6, submit the question to the electors at the next annual municipal election or the next general election, whichever is earlier. Pending the election, the governing body may take no action with respect to the subject matter of the petition that would alter or preempt the effect of the proposed petition. However, the governing body may expedite the date of the election by ordering, within ten days of receiving the petition, a special election to be held on a Tuesday not less than thirty days from the date of the order of the governing body.

Source: SL 1899, ch 94, § 2; RPolC 1903, § 1215; SL 1913, ch 119, § 39; RC 1919, § 6254; SDC 1939, § 45.1011; SL 1947, ch 198; SL 1977, ch 68, § 8; SL 1980, ch 67, § 2; SL 1983, ch 53, § 6; SL 1995, ch 47, § 1.

9-20-11.1. Repealed by SL 2003, ch 41, § 2.

9-20-11.2. Date to certify ballot language to county auditor.

If a municipality submits a question to the electors at the next general election pursuant to § 9-20-11, the municipality shall certify the ballot language to the county auditor by the first Tuesday in August of the year of

the general election. However, the county auditor may extend the certification deadline for the municipality, if the county auditor determines that the extension will not prevent absentee ballots from being available by the date to begin absentee voting.

Source: SL 1995, ch 47, § 3; SL 2003, ch 41, § 3; SL 2007, ch 81, § 3; SL 2009, ch 69, § 10; SL 2018, ch 51, § 1.

9-20-11.3. Additional election costs paid by municipality.

If a municipality submits a question to the electors at the next general election pursuant to § 9-20-11, the municipality shall pay the additional election cost related to the municipal question. The cost shall be agreed upon by the county auditor and the municipal finance officer.

Source: SL 1995, ch 47, § 4.

9-20-12. Publication of referred ordinance or resolution--Notice of election.

The auditor or clerk shall cause the entire referred ordinance or resolution to be published once a week for two successive weeks immediately preceding the election.

Such publication shall include a notice that on the day of election therein stated such ordinance or resolution will be submitted to the voters or, if only a portion thereof is covered by the petition, then notice as to what portion will be submitted.

Source: SL 1899, ch 94, § 5; RPolC 1903, § 1218; SL 1913, ch 119, § 42; RC 1919, § 6257; SDC 1939, § 45.1014.

9-20-13. Ballots used in referendum election--Form and contents.

The auditor or clerk shall have ballots printed for the vote upon such referred ordinance or resolution and cause the same to be distributed as other official ballots are distributed.

Such ballots shall conform as near as may be to the law governing the submission of questions by the Legislature, except that the statement required to be printed on the ballots shall be prepared by the city attorney, or if there be no city attorney, by an attorney at law employed by the governing body for that purpose.

All questions to be voted upon at the same election may be submitted upon the same ballot.

Source: SL 1899, ch 94, § 6; RPolC 1903, § 1219; SL 1913, ch 119, § 43; RC 1919, § 6258; SDC 1939, § 45.1015.

9-20-14. General municipal election law applicable to referendum elections.

The elections provided for in this chapter shall be governed by the provisions of chapter 9-13 except as to the form of the ballots otherwise specifically provided.

Source: SL 1899, ch 94, § 9; RPolC 1903, §§ 1222, 1227; SL 1913, ch 119, §§ 46, 51; RC 1919, § 6265; SDC 1939, § 45.1022.

9-20-15. Majority vote to approve referred measure--Effective date.

No referred ordinance or resolution is effective unless approved by a majority of the votes cast for and against the ordinance or resolution. If approved, the ordinance or resolution is effective the day following the completion of the canvass of the election returns.

Source: SL 1899, ch 94, § 8; RPolC 1903, § 1221; SL 1913, ch 119, § 45; RC 1919, § 6260; SDC 1939, § 45.1017; SL 2025, ch 37, § 5.

9-20-16. Preservation of referendum petitions--Open to public inspection.

The auditor or clerk shall preserve all petitions invoking the referendum filed in his office for a period of at least two years, during which time such petitions shall be open to public inspection upon reasonable request.

Source: SL 1899, ch 94, § 7; RPolC 1903, § 1220; SL 1913, ch 119, § 44; RC 1919, § 6259; SDC 1939, § 45.1016.

9-20-17. Waiting period for new action after referendum election.

No referred ordinance or resolution may be again voted upon by the government of any municipality within one year from the date of the election thereon.

Source: SDC Supp 1960, § 45.1022 as enacted by SL 1961, ch 246.

9-20-18. Legislative finding--Actions of municipal governing boards subject to referendum.

The Legislature finds that in making past grants of decision-making authority to municipal governing authorities, its intent was to grant that authority to the governing bodies of municipalities and that such actions, unless otherwise excluded from the referendum and initiative process by other state law, are subject to the initiative and referendum process. Therefore, the contrary holding in *Baker v. Jackson*, 372 NW2d 142 (SD, July 31, 1985) is hereby abrogated.

Source: SL 1986, ch 73, § 1.

9-20-19. Legislative decision of governing body subject to referendum--Administrative decision not subject to referendum.

Any legislative decision of a governing body is subject to the referendum process. A legislative decision is one that enacts a permanent law or lays down a rule of conduct or course of policy for the guidance of citizens or their officers. Any matter of a permanent or general character is a legislative decision.

No administrative decision of a governing body is subject to the referendum process, unless specifically authorized by this code. An administrative decision is one that merely puts into execution a plan already adopted by the governing body itself or by the Legislature. Supervision of a program is an administrative decision. Hiring, disciplining, and setting the salaries of employees are administrative decisions.

Source: SL 1986, ch 73, § 2.

MEMORANDUM

To: File

From: Todd Meierhenry

Re: Referendum Applicability – Resolution Approving Drinking Water Facilities Improvements and Revenue Bond

Date: 3/30/2026

Issue

Whether the municipal resolution approving drinking water system improvements, issuance of a revenue bond, and related rate and surcharge provisions is subject to referendum under South Dakota law, including where the loan has been approved by the South Dakota Conservancy District.

Short Answer

Yes. The resolution is subject to referendum under SDCL chapter 9-19 because it constitutes a legislative act of a municipality. Although SDCL chapter 9-40 permits issuance of revenue bonds without a bond election, that authority does not eliminate the electorate's referendum rights. Further, approval of the loan by the South Dakota Conservancy District does not convert the municipality's action from legislative to administrative.

Analysis

1. Referendum Authority Under SDCL Chapter 9-19

SDCL chapter 9-19 reserves to municipal voters the power to refer legislative enactments of a governing body to a public vote. This authority is broadly construed and applies not only to ordinances but also to resolutions that are legislative in character.

The controlling distinction is between:

- **Legislative acts**, which establish policy or impose general obligations and are subject to referendum; and
- **Administrative or ministerial acts**, which implement existing policy and are not subject to referendum.

Where a municipal action creates new policy, imposes financial obligations, or affects the public generally, it is legislative and therefore referable.

2. Legislative Nature of the Resolution

The attached resolution :

- Approves significant public infrastructure improvements to the municipal water system;

- Authorizes issuance of up to \$1,980,000 in revenue bonds;
- Establishes and pledges revenue streams, including special charges or surcharges;
- Creates financial accounts and administrative structures for bond repayment; and
- Imposes ongoing financial obligations on users of the system.

These provisions reflect core policy decisions concerning public improvements, municipal financing, and allocation of costs to residents and system users. The resolution therefore operates prospectively and generally, affecting a broad class of persons.

Accordingly, the resolution is legislative in nature and falls within the scope of SDCL chapter 9-19.

3. Interaction with SDCL Chapter 9-40

The resolution provides that no election is required to issue the revenue bond, consistent with SDCL chapter 9-40. That statutory framework permits municipalities to issue revenue bonds payable from system revenues without submitting the question of issuance to a bond election.

However, the absence of a required bond election does not eliminate referendum rights. South Dakota law treats these as distinct mechanisms:

- **Bond election statutes** govern whether voter approval is required before a municipality may issue debt;
- **Referendum statutes** preserve the electorate's ability to challenge legislative acts of the governing body.

Nothing in SDCL chapter 9-40 expressly removes or limits the referendum authority granted under SDCL chapter 9-19. Therefore, even where a bond may be issued without an election, the resolution authorizing the project and financing remains subject to referendum.

4. Effect of Approval by the South Dakota Conservancy District

The fact that the municipality has applied for and received approval of the loan from the South Dakota Conservancy District does not alter the legal character of the municipal action.

Approval by the District is a prerequisite to participation in the Drinking Water State Revolving Fund program and reflects compliance with statutory and administrative requirements for funding eligibility. That approval is external to the municipality and conditional in nature. It does not constitute final authorization of the project or financing by the municipality itself.

The governing body must still independently determine whether to:

- Undertake the Project;
- Issue the revenue bond; and
- Impose rates or surcharges sufficient to repay the obligation.

These determinations involve discretionary policy choices regarding public improvements, financing structure, and allocation of financial burdens. As such, they are inherently legislative functions.

The involvement or approval of a state agency does not transform these policy determinations into administrative acts. Nor does it insulate the resolution from the referendum provisions of SDCL chapter 9-19. The municipality's final act of adopting the resolution remains legislative, regardless of prior or parallel approval by the South Dakota Conservancy District.

5. Internal Acknowledgment of Referendum Applicability

The resolution itself expressly recognizes the applicability of referendum procedures by providing:

“This Resolution shall take effect on the 20th day following its publication, unless suspended by a referendum.”

This language tracks SDCL chapter 9-19 and reflects the municipality's acknowledgment that the resolution is subject to referendum and may be suspended upon the filing of a valid petition.

6. Practical Effect

Because the resolution is subject to referendum:

- It does not become effective immediately upon passage;
- A timely referendum petition will suspend its operation; and
- If sufficient signatures are obtained, the measure must be submitted to the voters for approval or rejection.

Conclusion

The resolution constitutes a legislative act subject to referendum under SDCL chapter 9-19. While SDCL chapter 9-40 permits issuance of revenue bonds without a bond election, it does not eliminate referendum rights. Additionally, approval of the loan by the South Dakota Conservancy District does not convert the municipality's action from legislative to administrative. The resolution remains a policy-making enactment and is therefore properly subject to the referendum process.