

**TRANSPORTATION COMMISSION MEETING MINUTES  
FEBRUARY 1, 2018 – 9:00 A.M.  
BECKER-HANSEN BUILDING – 700 EAST BROADWAY  
PIERRE, SD**

**COMMISSIONERS PRESENT:** Ron Rosenboom, Chairman  
Kyle White, Vice Chairman  
Kathy Zander, Member  
Mike Vehle, Member  
Kim Vanneman, Member  
Rod Fouberg, Member  
Don Roby, Member (joined the meeting at 9:10 a.m.)  
Larry A. Nelson, Member

**DOT STAFF PRESENT:** Darin Bergquist, Mike Behm, William Nevin, Karla Engle,  
Becky Janssen, Bonnie Olson, Joel Gengler, Julie Bolding,  
Kelly VanDeWiele, Jerry Ortbahn, Andy Vandel, Karen  
Olson, and Patricia Saukel

**OTHERS PRESENT:** Kirk Fredrichs and Mark Clausen - FHWA

**OTHERS PRESENT** Levi Hillmer and Les Noonan (joined the meeting at 10:22  
a.m.)

**VIA CONFERENCE CALL:**

Chairman Rosenboom called the meeting of the Transportation Commission (the “Commission”) to order at 9:03 a.m.

Chairman Rosenboom asked for a motion to approve the minutes of December 21, 2017.

A MOTION WAS MADE by Vehle and seconded by Vanneman to approve the December 21, 2017, meeting minutes. All present voted aye by voice vote. The motion carried.

\*\*\*\*\*

Chairman Rosenboom opened the floor to Commission members to disclose potential conflicts of interest and to present requests for waivers pursuant to South Dakota Codified Law (SDCL) chapter 3-23.

Commissioner Larry A. Nelson submitted a written annual disclosure and a waiver request (attached to and incorporated into these minutes as **Exhibit A**) concerning conflicts of interest.

A MOTION WAS MADE by Zander and seconded by Vanneman to approve the waiver request submitted by Nelson as the Commission has determined that the matters underlying the conflict are fair, reasonable, and not contrary to the public interest. All present voted aye by voice vote, except Nelson, who abstained from the Commission discussion and vote. The motion carried.

Commissioner Rodney Fouberg submitted a written annual disclosure and a waiver request (attached to and incorporated into these minutes as **Exhibit B**) concerning a perpetual easement

agreement entered into between Fouberg's spouse and the city of Aberdeen, South Dakota, for the donation of real property to accommodate a shared use path/recreational trail.

A MOTION WAS MADE by Vehle and seconded by White to approve the waiver request submitted by Fouberg as the Commission has determined that the matter underlying the conflict is fair, reasonable, and not contrary to the public interest. All present voted aye by voice vote, except Fouberg, who abstained from the Commission discussion and vote. The motion carried.

\*\*\*\*\*

Commission Roby joined the meeting at 9:10 a.m.

Karla Engle of the Office of Legal Counsel requested that the Transportation Commission set an administrative hearing for March 1, 2018, at 9:00 a.m. to consider suspension and debarment of K&L Construction, Inc. from submitting bids to the Department of Transportation (the "Department") and from being prequalified to submit bids to the Department and to further consider the term of any debarment.

A MOTION WAS MADE by Fouberg and seconded by Zander to set the administrative hearing date of March 1, 2018, at 9:00 a.m. as requested. All present voted aye by voice vote. The motion carried.

\*\*\*\*\*

Secretary Darin Bergquist presented the Secretary's Report and requested to take his items in reverse order and begin with the election of officers. Bergquist reminded the Commission of past practice of using a methodology of selection of Chair and Vice Chair of the Commission which is a rotation from Vice Chair to Chair based on length of service.

A MOTION WAS MADE by Vanneman and seconded by Roby to elect Kyle White as Chair and Kathy Zander as Vice Chair beginning with the February 15, 2018, conference call meeting for a tenure of one year. All present voted aye by voice vote. The motion carried.

Bergquist informed the Commission that the Department has already had its budget hearing and it went well. Bergquist continued that the Department had several bills this legislative session. The Department introduced HB 1008 which would allow testing the use of variable speed limits on two segments of interstate, namely west of Rapid City and north of Brookings. Bergquist said this bill passed the House 68-2.

Bergquist also mentioned HB 1107 which amends and cleans up outdated language regarding county/township highway laws. This bill passed House Transportation 13-0.

He added that the Department was also working on three other bills, HB 1132 (setting minimum drinking age for military personnel at 18, to which the Department is opposed), SB 157 which would require the Department to institute a bidding process for median mowing, and SB 158 which would require transfer of \$6 million per year into the Local Bridge Improvement Grant (BIG) fund.

Bergquist also noted that there was a bill filed in the House (HB 1241) to impose annual fees on electric and hybrid vehicles. This fee would go into a local fund and is considered a registration fee.

\*\*\*\*\*

Joel Gengler of the Right of Way office provided the following items for Commission consideration:

1. Abandonment – Hanson County

This resolution will abandon portions of old South Dakota Highway 42 in Hanson County, South Dakota.

Request Transportation Commission approval to abandon by resolution the following property acquired for highway right-of-way:

Lots A and B in Lot H1 in the NE1/4 of Section 20, Township 101 North, Range 58 West of the 5th P.M., Hanson County, South Dakota.

Said Lot A contains 0.82 acre, Lot B contains 2.35 acres

Lots A, B and C in Lot H1 in the S1/2 NW1/4 of Section 20, Township 101 North, Range 58 West of the 5th P.M., Hanson County, South Dakota.

Said Lot A contains 1.98 acres, Lot B contains 0.60 acre, Lot C contains 0.70 acre

This property is no longer needed for highway purposes and abandonment is requested by DOT Mitchell Area.

A MOTION WAS MADE by Roby and seconded by Fouberg to approve the request for abandonment item #1-Hanson County. All present voted aye by voice vote. The motion carried.

**RESOLUTION #2018-02.01** was adopted.

2. Abandonment – Meade County

This resolution will abandon portions of old South Dakota Highway 34 in Meade County, South Dakota.

Request Transportation Commission approval to abandon by resolution the following property acquired for highway right-of-way:

Lot A in Lot H2 in the W1/2 SW1/4 of Section 5, Township 5 North, Range 6 East of the B.H.M., Meade County, South Dakota.

Said Lot A contains 4.49 acres.

Lot A in Lot H2 in the E1/2 SW1/4 of Section 5, Township 5 North, Range 6 East of the B.H.M., Meade County, South Dakota.

Said Lot A contains 2.88 acres.

This property is no longer needed for highway purposes and abandonment is requested by DOT Rapid City Region and Area.

A MOTION WAS MADE BY White and seconded by Vehle to approve the request for abandonment item #2-Meade County. All present voted aye by voice vote. The motion carried.

**RESOLUTION #2018-02.02** was adopted.

3. Abandonment – Hutchinson County

This resolution will abandon the following property utilized as a roadside park:

Beginning at a point 66 feet North and 33 feet East of the SE1/4 corner of the NE1/4 of Section 26, Township 100 North, Range 56 West, Hutchinson County, South Dakota, thence South 486.6 feet along the Road Right of way, thence N 21° 43 feet East a distance of 525.9 feet, thence West 194.6 feet to the Road Right of way and place of beginning; all located in Section 25, Lot 4, Township 100 North, Range 56 West, Hutchinson County, South Dakota, less Lot H3.

The property contains 0.8 acres, more or less, located on the east side of Hwy 81 approximately three miles southwest of Dolton.

This property is no longer needed for roadside park purposes and abandonment is requested by DOT Yankton Area.

A MOTION WAS MADE by Fouberg and seconded by Zander to approve the request for abandonment item #3-Hutchinson County. All present voted aye by voice vote. The motion carried.

**RESOLUTION #2018-02.03** was adopted.

Gengler requested the Commission disregard Item #10 because upon further verification by the Department there were not any temporary easements in Meade County.

4. Abandonment – Beadle County

This resolution will abandon the temporary easements on Beadle County Project:  
NH 0014(173)342, PCN 026V

5. Abandonment – Clark County

This resolution will abandon the temporary easements on Clark County Project:  
PH 0025(77)164, PCN 04J6.

6. Abandonment – Custer County

This resolution will abandon the temporary easements on Custer County Project:  
PH 0040(214), PCN 04GR.

7. Abandonment – Harding County

This resolution will abandon the temporary easements on Harding County Project:  
NH 0085(81)112, PCN 036G.

8. Abandonment – Hughes County

This resolution will abandon the temporary easements on Hughes County Project:  
P 0034(154)225, PCN 038E.

9. Abandonment – Lake County

This resolution will abandon the temporary easements on Lake County Project:  
P-PH 0019(31)73, PCN 025Z.

10. Abandonment – Meade County

This resolution will abandon the temporary easements on Meade County Project:  
NH 0073(63)182, PCN 02S7.

11. Abandonment – Minnehaha County

This resolution will abandon the temporary easements on Minnehaha County Project:  
P-PH 0019(31)73, PCN 025Z.

12. Abandonment – Minnehaha County

This resolution will abandon the temporary easements on Minnehaha County Project:  
NH 0011(00)79, PCN 05JL.

13. Abandonment – Perkins County

This resolution will abandon the temporary easements on Perkins County Project:  
NH 0073(63)182, PCN 02S7.

14. Abandonment – Potter County

This resolution will abandon the temporary easements on Potter County Project:  
P 0020(117)254, PCN 02R9.

15. Abandonment – Walworth County

This resolution will abandon the temporary easements on Walworth County Project:  
P 0020(117)254, PCN 02R9.

A MOTION WAS MADE by Vehle and seconded by Roby to approve the request to abandon items #4-Beadle County, #5-Clark County, #6-Custer County, #7-Harding County, #8-Hughes County, #9-Lake County, #11-Minnehaha County, #12-Minnehaha County, #13-Perkins County, #14-Potter County, and #15-Walworth County. All present voted aye by voice vote. The motion carried.

**RESOLUTIONS #2018-02.04, #2018-02.05, #2018-02.06, #2018-02.07, #2018-02.08, #2018-02.09, #2018-02.10, #2018-02.11, #2018-02.12, #2018.02.13, and #2018.02.14** were adopted.

16. Condemnation – NH 0018(179)402, PCN 036L, Turner County

Request Transportation Commission approval to condemn for DOT right of way ownership by resolution within the following property:

Parcel 62 – Levi Hillmer & Sarah Dlugosh

The DOT has been unable to acquire the right of way property through normal negotiations for the project NH 0018(179)402, PCN 036L, Turner County - US18 from US81 to SD19.

A MOTION WAS MADE by Roby and seconded by Zander to approve condemnation for Item #16.

After extensive discussion regarding the condemnation of item #16 in Turner County, the Commission requested additional information from the Department. Roby withdrew his motion with consent of the second (Zander).

The Chair deferred any further action on the request for condemnation until either the Department provides additional information during this meeting or at a subsequent meeting.

\*\*\*\*\*

Kelly VanDeWiele of Project Development presented the following bid letting results:

**January 24, 2018**

**ADA Curb Ramp Upgrades**

1	04NF, 04T7 NH 0212(00)114, NH 0073(00)174 Ti-Zack Concrete, Inc. US212 & SD73 through Faith	Meade County \$240,025.50
---	---	------------------------------

**Bridge Deck Overlay**

2	05QW BRF 6496(00)16-3 J.V. Bailey Company, Inc. Structure on 309th Ave, 0.2 miles west & 0.4 miles south of Blunt over a creek	Hughes County \$241,413.60
---	--	-------------------------------

3 **Moved to January 26, 2018 letting**

**Replace Structure (2-11'x11' RCBC) & Scour Protection**

4	03U5 P 0047(105)44 Schweigert Construction Inc. SD47, 5.5 miles north of the Gregory County Line over Waterhole Creek & 7.3 miles south of I90 over the White River	Lyman County \$2,243,686.02
---	---	--------------------------------

**Asphalt Concrete Resurfacing, Pavement Marking, & Guardrail**

5	04WN NH 0281(112)96 Asphalt Paving & Materials Co US281 from south of SD34 to the Jerauld/Beadle County Line	Jerauld County \$2,066,020.74
---	--	----------------------------------

**Slide Repair**

6      045J NH 0083(77)115      Stanley County  
A-G-E Corporation      \$333,168.98  
US83 1.5 miles south of the end of the divided lanes south of Ft. Pierre on the east side  
of the roadway

**Shared Use Path Construction**

7      05C9 P TAPU(13)      Brown County  
Wright & Sudlow, Inc.      \$217,665.04  
Along 15th Ave. NE from the existing trail end east of Northview Lane to Roosevelt St in  
Aberdeen

**Areawide Pipe Repair**

8      06EE NH-P 0012(222)      Brookings, Deuel County  
Subsurface, Inc.      \$543,297.30  
Various Locations Throughout the Watertown Area

**Durable Pavement Marking**

9      04H7 PH 0020(146)      Minnehaha, Moody County  
Traffic Solutions Inc      \$807,797.05  
Various locations on the State System in the Mitchell Region

A MOTION WAS MADE by White and seconded by Vanneman to approve bid #'s 1, 2, 4, 5, 6, 8, and 9. All present voted aye by voice vote. The motion carried.

A MOTION WAS MADE by Vehle and seconded by Roby to approve bid #7. All present voted aye by voice vote, except Fouberg who abstained. The motion carried.

**January 26, 2018**

**Replace Structures (418'-0" Prestressed Girder Bridge & 2-11'x11' RCBC), Approach Grading, & RCBC Outlet Repair**

3      03U0, 03TY P 0183(24)51, P 0248(10)239      Lyman, Tripp County  
Heavy Constructors, Inc.      \$6,200,484.00  
Structures on US183 at the Tripp/Lyman Co Line over the White River, RCBC 10 miles  
south of the Lyman Co. Line, and RCBC on SD248 0.1 miles east of US183

A MOTION WAS MADE by Vanneman and seconded by Zander to approve bid #3. All present voted aye by voice vote. The motion carried.

\*\*\*\*\*

Mike Behm, Director of Planning and Engineering presented the following State Transportation Improvement Program (STIP) revisions for approval:

- REV 18-005            This revision will delete a 2020 railroad crossing improvement project located on SD25 (Sequence #206, Page 67 in the 2018-2021 STIP Book) as this work will be accomplished in separate projects in 2018 and 2021. It will also add a new 2018 project for installation of an advance warning sign for the crossing on US14 west of Blunt.
- FY 2018 Plus \$30,000  
FY 2020 Minus \$320,000
- REV 18-024            This revision will add a 2018 pavement preservation project for the Mitchell Region.
- FY 2018 Plus \$51,000
- REV 18-025            This revision will defer a 2018 bridge maintenance project over the James River on US14 (Sequence #66, Page 46 in the 2018-2021 STIP Book) to the Long-Range Program due to the work being cost prohibitive.
- FY 2018 Minus \$196,000  
Long Range Plus \$225,000
- REV 18-026            This revision will defer a 2018 pipe maintenance project on I90 from the Wyoming State Line to Exit 10 at Spearfish to 2021 (Sequence #501, Page 120 in the 2018-2021 STIP Book).
- FY 2018 Minus \$435,000  
FY 2021 Plus \$461,000
- REV 18-030            This revision will add a 2018 project to upgrade various permanent vehicle classification sites throughout the state.
- FY 2018 Plus \$163,000
- REV 18-031            This revision will add a 2018 project to replace a waterline serving the Homestead Rest Area and the SDDOT State Shop at Junction City.
- FY 2018 Plus \$367,000

A MOTION WAS MADE by White and seconded by Vanneman to approve the above-listed STIP revisions. All present voted aye by voice vote. The motion carried.

\*\*\*\*\*

The following informational revisions were provided to the Commission by Behm:

- REV 18-018            This revision changed federal participating funding to state participating funding for local bridge replacement projects located in Lake, Miner, Lawrence, Hand, Spink, Lake, Aurora, and McCook counties (Sequences #55, 390, 488, 489, 502, 579, 631 & 875, Pages 43, 101, 119, 120, 132, 141 & 170 in the 2018-2021 STIP Book).



FY 2018 No Change

REV 18-027 This revision revised the cost estimate of US83 Shoulder Widening, Spot Grading, AC Surfacing & Lighting project located from the Nebraska State Line to South of Mission. (Sequence #996, Page 184 in the 2018-2021 STIP Book).

FY 2018 Plus \$4,262,000

REV 18-028 This revision deferred a 2018 pavement preservation in Sioux Falls Area to 2019. (Sequence #530, Page 125 in the 2018-2021 STIP Book).

FY 2018 Minus \$179,000

FY 2019 Plus \$182,000

REV 18-032 This revision removed the SD73 East Junction to Antelope Road portion of the US18 Resurfacing project from the West Junction of SD73 to the Bennett/Todd County Line (Sequence #83 , Page 48 in the 2018-2021 STIP Book). This segment will be programmed for reconstruction in the future.

FY 2019 Minus \$2,155,000

REV 18-SC-011 This revision added repair work for a structure located 1.1 mile south of US12 on the 2019 US281 Mill & AC Resurfacing Project in Brown and Spink Counties (Sequence #s 132 & 88, Pages 54 & 171 in the 2018-2021 STIP Book).

FY 2019 Plus \$110,000

REV 18-SC-012 This revision adjusted the cost estimate of a 2018 Slide Repair project on US83 south of Ft Pierre (Sequence # 888, Page 173 in the 2018-2021 STIP Book).

FY 2018 Plus \$267,000

REV 18-SC-013 This revision added bridge guard rail approach work to the 2021 Shoulder Widening and AC Surfacing project on SD44 between US281 and SD37 (Sequence #s 311 & 437, Pages 86 &109 in the 2018-2021 STIP Book).

FY 2018 Plus \$224,000

REV 18-SC-014 This revision adjusted the cost estimate of a 2018 Huron Area Chip Seal project (Sequence #s 69, 201, 391, 441, 483 & 876, Pages 46, 66, 101, 111, 118 & 170 in the 2018-2021 STIP Book).

FY 2018 Plus \$1,444,000

REV 18-SC-015

This revision adjusted the cost estimate of a 2018 Huron Area Rout & Seal project (Sequence #s 199 & 875, Pages 66 & 170 in the 2018-2021 STIP Book).

FY 2018 Plus \$450,000

\*\*\*\*\*

Behm presented the following spreadsheet listing the 2018 Transportation Alternatives Program Applications (TAP) for consideration of the Commission.

2018 Transportation Alternatives Program Applications and Recommendations Class 1 Cities									
Location	Project	Overall Cost	Req. Funding	Local Match	% Match	Rec. Funding	Local Match	Overall Cost	% Match
North Sioux City		\$326,302	\$244,727	\$81,575	25.00%	\$244,727	\$81,575	\$326,302	25.00%
Crooks		\$394,000	\$322,883	\$71,117	18.05%	\$322,883	\$71,117	\$394,000	18.05%
Brookings		\$210,300	\$157,725	\$52,575	25.00%	\$0			
	<b>Current Subtotal - Class 1 Cities</b>	<b>\$930,602</b>	<b>\$725,335</b>	<b>\$205,267</b>		<b>\$567,610</b>	<b>\$152,692</b>	<b>\$720,302</b>	
				<b>Annual Federal Authority</b>		<b>\$1,120,873</b>			
				<b>Balance</b>		<b>\$553,263</b>			
2018 Transportation Alternatives Program Applications and Recommendations Rural Communities									
Location	Project	Overall Cost	Req. Funding	Local Match	% Match	Rec. Funding	Local Match	Overall Cost	% Match
Kyle		\$594,891	\$400,000	\$194,891	32.76%	\$400,000	\$194,891	\$594,891	32.76%
Bullhead		\$235,013	\$192,593	\$42,420	18.05%	\$192,593	\$42,420	\$235,013	18.05%
Salem		\$552,000	\$400,000	\$152,000	27.54%	\$400,000	\$152,000	\$552,000	27.54%
Faulkton		\$133,526	\$106,821	\$26,705	20.00%	\$106,821	\$26,705	\$133,526	20.00%
Valley Springs		\$157,522	\$129,089	\$28,433	18.05%	\$129,089	\$28,433	\$157,522	18.05%
Lake Andes		\$353,816	\$289,952	\$63,864	18.05%	\$0			
Leola		\$261,000	\$213,890	\$47,110	18.05%	\$0			
Dell Rapids		\$693,000	\$400,000	\$293,000	42.28%	\$0			
	<b>Current Subtotal - Small Cities</b>	<b>\$2,980,768</b>	<b>\$2,132,345</b>	<b>\$848,423</b>		<b>\$1,228,503</b>	<b>\$444,449</b>	<b>\$1,672,952</b>	
				<b>Annual Federal Authority</b>		<b>\$1,022,284</b>			
				<b>Auth. From Prev. Yrs.</b>		<b>\$206,219</b>			
				<b>Balance</b>		<b>\$0</b>			
	<b>Recommended Projects</b>								

Updated 1/8/2018 jdo

A MOTION WAS MADE by Vehle and seconded by Zander to approve the recommendation of the applications for TAP awards to the following communities: North Sioux City, Crooks, Kyle, Bullhead, Salem, Faulkton, and Valley Springs. All present voted aye by voice vote. The motion carried.

\*\*\*\*\*

Levi Hillmer and Les Noonan joined the meeting via conference call at 10:22 a.m.

The Commission returned to the condemnation discussion of item #16 of the Right of Way items. Karen Olson of the Office of Road Design provided the plat in question for Item #16 which was displayed on the overhead screen for viewing.

Levi Hillmer, the landowner that was to be directly affected by the condemnation of item #16, appeared by conference call with his father-in-law, Les Noonan of Lennox, South Dakota, to address the Commission.

A MOTION WAS MADE by White and seconded by Roby to defer further discussion and any decision on Item #16 until the February 15, 2018, conference call meeting. All present voted aye by voice vote, except for Nelson who voted nay. The motion carried.

\*\*\*\*\*

Kirk Fredrichs of the Federal Highway Administration presented an informational item on the 2016 Fatal Crash Overview.

\*\*\*\*\*

Commissioner Kyle White addressed the Chair and offered some closing comments on the discussion of the Right of Way condemnation recommendation item #16.

\*\*\*\*\*

Mike Behm addressed the Commission with an additional STIP revision clarification regarding the Department's ability to move projects within the STIP year. He clarified that staff may move projects within the STIP and it could be within "years or a year" within the construction STIP.

\*\*\*\*\*

With no other business to come before the Commission, the meeting was declared adjourned at 11:10 a.m.

STATE OF SOUTH DAKOTA

(insert name of board/commission/authority)

REQUEST FOR STATE BOARD WAIVER  
PURSUANT TO SDCL CHAPTER 3-23

**THIS IS A PUBLIC DOCUMENT**

Date: January 26, 2018

Name of Board Member or Former Board Member: Larry A. Nelson

Name of Board, Authority or Commission: Transportation Commission

Brief explanation of contract for which a waiver is requested:

- a) Parties to the contract  
Please see attached document
  
- b) Board Member's role in the contract  
Please see attached document
  
- c) Purpose and objective of the contract  
Please see attached document
  
- d) Consideration or benefit conferred or agreed to be conferred upon each party  
Please see attached document
  
- e) Duration of the contract  
Please see attached document

Signature of Requesting Party:  Date 1-26-2018

Brief explanation of contract for which a waiver is requested:

1.
  - a) City of Canton, South Dakota & Larry A. Nelson, with assistance of Brenda M. Ask, attorneys of Frieberg, Nelson & Ask, LLP, law firm.
  - b) Provides legal services to the City of Canton.
  - c) Provide legal services to the City of Canton.
  - d) Legal services are provided in exchange for payment.
  - e) 1990, until no longer serving in capacity as City Attorney.
  
2.
  - a) City of Worthing, South Dakota & Larry A. Nelson, with assistance of Brenda M. Ask, attorneys with Frieberg, Nelson & Ask, LLP, law firm.
  - b) Provides legal services to the City of Worthing.
  - c) Provide legal services to the City of Worthing.
  - d) Legal services are provided in exchange for payment.
  - e) 1994, until no longer serving in capacity as City Attorney.
  
3.
  - a) City of Hartford, South Dakota & Larry A. Nelson, with assistance of Brenda M. Ask, attorneys with Frieberg, Nelson & Ask, LLP, law firm.
  - b) Provides legal services to the City of Hartford.
  - c) Provide legal services to the City of Hartford.
  - d) Legal services are provided in exchange for payment.
  - e) 1996, until no longer serving in capacity as City Attorney.
  
4.
  - a) City of Beresford, South Dakota & Thomas Frieberg, with assistance of Samuel J. Nelson, attorneys with Frieberg, Nelson & Ask, LLP, law firm.
  - b) Provides legal services to the City of Beresford.
  - c) Provide legal services to the City of Beresford.
  - d) Legal services are provided in exchange for payment.
  - e) 1992, until no longer serving in capacity as City Attorney.
  
5.
  - a) City of Alcester, South Dakota & Thomas Frieberg, with assistance of Samuel J. Nelson, attorneys with Frieberg, Nelson & Ask, LLP, law firm.
  - b) Provides legal services to the City of Alcester.
  - c) Provide legal services to the City of Alcester.
  - d) Legal services are provided in exchange for payment.
  - e) 2018, until no longer serving in capacity as City Attorney

6.
  - a) Lincoln County Rural Water Systems, Inc., City of Harrisburg, South Dakota, and City of Sioux Falls, with SDDOT providing project funds.
  - b) Provide legal services as Attorney for Lincoln County Rural Water Systems.
  - c) Water line relocation and funding involving highway construction project.
  - d) LCRW - Water line relocation reimbursements  
City of Harrisburg - Reimbursements and cost share  
City of Sioux Falls - Reimbursements and cost share  
SDDOT - Road improvements and funding
  - e) Providing legal services until completion of project.
  
7.
  - a) Larry A. Nelson, Frieberg, Nelson & Ask, LLP, law firm and Sioux Falls School District 49-5.
  - b) Legislative contract lobbyist.
  - c) Sioux Falls School District 49-5 is represented and lobbied on behalf of during each South Dakota Legislative Session.
  - d) Lobbying services are provided in exchange for payment.
  - e) 2014, until no longer serving as Lobbyist by Sioux Falls School District 49-5.
  
8.
  - a) City of Canton, South Dakota, and Edith Nelson.
  - b) None. Edith Nelson is the spouse of Larry A. Nelson.
  - c) Edith Nelson is employed by the City of Canton as Director of the City Library.
  - d) Edith Nelson is paid a yearly salary by the City of Canton as Director of the City Library.
  - e) 2008, until Edith Nelson is no longer employed by the City of Canton as Director of the City Library.
  
9.
  - a) Thomas Frieberg, with assistance from Samuel J. Nelson, attorneys of Frieberg, Nelson & Ask, LLP, law firm and Union County, South Dakota.
  - b) Larry A. Nelson is a partner in the law firm of Frieberg, Nelson & Ask, LLP.
  - c) Frieberg, Nelson & Ask, LLP, law firm is contracted as a court appointed Attorney for legal services to criminal defendants who cannot afford a retained Attorney.
  - d) Legal services are provided in exchange for payment.
  - e) January 1, 2016, through December 31, 2018 contract, which can be renewed for another 5 year contract.
  
10.
  - a) Brenda M. Ask, Frieberg, Nelson & Ask, LLP, law firm and Lincoln County Commission.
  - b) Larry A. Nelson is a partner in the law firm of Frieberg, Nelson & Ask, LLP.
  - c) Brenda M. Ask is appointed as Chair of the Mental Health Board.
  - d) Services to the Mental Health Board are provided in exchange for payment from the Lincoln County Commission.
  - e) Appointed June 2009, and reappointed yearly until no longer reappointed.

11.
  - a) Thomas Frieberg, Frieberg, Nelson & Ask, LLP, law firm and University of South Dakota.
  - b) Larry A. Nelson is a partner in the law firm of Frieberg, Nelson & Ask, LLP.
  - c) Thomas Frieberg is retained as an Attorney for the University of South Dakota and provides legal services.
  - d) Legal services are provided in exchange for payment.
  - e) 2005, until no longer serving in capacity as Attorney for the University of South Dakota.
  
12.
  - a) Brenda M. Ask, Frieberg, Nelson & Ask, LLP, law firm and Lincoln County, South Dakota.
  - b) Larry A. Nelson is a partner in the law firm of Frieberg, Nelson & Ask, LLP.
  - c) Brenda M. Ask has been previously appointed, and has the possibility of being appointed again, by the Court of Lincoln County as a court appointed attorney for legal services.
  - d) Legal services are provided in exchange for payment.
  - e) There is no contract on file, as services are performed by the request of the Court.
  
13.
  - a) Samuel J. Nelson, Frieberg, Nelson & Ask, LLP, law firm and Lincoln County, South Dakota.
  - b) Larry A. Nelson is a partner in the law firm of Frieberg, Nelson & Ask, LLP.
  - c) Samuel J. Nelson has been previously appointed, and has the possibility of being appointed again, by the Court of Lincoln County as a court appointed attorney for legal services .
  - d) Legal services are provided in exchange for payment.
  - e) There is no contract on file, as services are performed by the request of the Court.

# FRIEBERG, NELSON & ASK, L.L.P.

---

## ATTORNEYS AT LAW

ROBERT B. FRIEBERG  
THOMAS H. FRIEBERG  
LARRY A. NELSON  
BRENDA M. ASK (SD & IA)  
SAMUEL J. NELSON

---

AUGUST FRIEBERG (1863-1932)  
ROSCOE A. FRIEBERG (1903-1982)  
BLAINE O. RUDOLPH (1925-2016)

Sender's Address:  
206 E. 5<sup>th</sup> Street  
P.O. Box 38  
Canton, SD 57013-0038

PHONE: (605) 987-2686  
FAX: (605) 987-5779  
EMAIL: lnelson@frieberglaw.com

January 26 , 2017

Mr. Ronald Rosenboom, Chairman  
South Dakota Transportation Commission  
South Dakota Department of Transportation  
700 East Broadway Avenue  
Pierre, SD 57501

Re: *Conflict of Interest Disclosure*

Dear Chairman Rosenboom:

This letter is in response to SDCL § 3-23-1 and SDCL § 3-23-2, and is intended to address whether I, my wife, or any entity in which we have ownership interests derives any direct benefit from a contract or transaction with the State of South Dakota that specifically relates to the South Dakota Department of Transportation and my involvement as an active SDDOT Commissioner.

I am a Partner in the law firm of Frieberg, Nelson & Ask, L.L.P. The partnership is appointed as City Attorney for the municipalities of Hartford, Worthing, Canton, and Beresford, all of which are located in South Dakota. Should a situation arise with a SDDOT contract or transaction with any of these municipalities I would disclose any potential conflict at that time.

I have enclosed the completed Annual Disclosure for Commission Member pursuant to SDCL Chapter 3-23, and Request for State Board Waiver pursuant to SDCL Chapter 3-23.

I will continue to review the agenda items for upcoming Transportation Committee meetings and be forthcoming in any potential conflict of interest. Thank you for your consideration.



LARRY A. NELSON  
Commissioner  
South Dakota Transportation Commission

LAN/src  
CC: Darin Bergquist, Secretary of Transportation, SDDOT  
Karla Engle, Chief of Legal Counsel, SDDOT



ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER  
PURSUANT TO SDCL CHAPTER 3-23

**THIS IS A PUBLIC DOCUMENT**

Name of Member: Larry A. Nelson

Name of Board, Authority or Commission: Transportation Commission

The Member shall disclose below any contract in which the Member has an interest or from which the Member derives a direct benefit if the contract is:

- 1) With the state agency to which the Member's board, authority or commission is attached for reporting or oversight purposes and which contract requires the expenditure of government funds;
- 2) With the state and which contract requires the approval of the Member's board, authority or commission and the expenditure of government funds; or
- 3) With a political subdivision of the state if the political subdivision approves the contract and:
  - a. Is under the regulatory oversight of the authority, board, or commission, or
  - b. Is under the regulatory oversight of the agency to which the Member's board, authority or commission is attached.

The Member shall disclose the contract even though no additional authorization is needed from the Member's board, authority or commission to have an interest or derive a benefit from the contract.

The Member shall also identify every entity in which the Member possesses an ownership interest of five percent or greater if:

- 1) The entity receives grant money from the State, either directly or by a pass-through grant or
- 2) The entity contracts with the State or any political subdivision for services.

1. Contracts in which you have an interest pursuant to SDCL Chapter 3-23 and which do not violate any other provision of law - Provide the following for each contract in which you have, or will have, an interest. For further information see SDCL 3-23-2.1 and 3-23-3.1.

Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed, if applicable

*Attach additional pages, if necessary.*

2. Contracts in which you have a direct benefit pursuant to SDCL Chapter 3-23 - Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2 and 3-23-3.1.

Description of the contract	Parties	Description of the direct benefit	Date contract was authorized
Hired Attorney	Lincoln County Rural Water Systems, Inc. & Frieberg, Nelson & Ask, LLP, law firm	Hired Attorney paid by LCRW for legal services	1996 - Renews yearly
Hired Attorney	City of Canton, South Dakota & Frieberg, Nelson & Ask, LLP, law firm	Hired Attorney paid by the City of Hartford for legal services	1990 - Renews yearly
Hired Attorney	City of Worthing, South Dakota & Frieberg, Nelson & Ask, LLP, law firm	Hired Attorney paid by the City of Worthing for legal services	1994 - Renews yearly
Hired Attorney	City of Hartford, South Dakota & Frieberg, Nelson & Ask, LLP, law firm	Hired Attorney paid by the City of Hartford for legal services	1996 - Renews yearly

*Attach additional pages, if necessary.*

Please see additional pages attached

2. **Contacts in which you have a direct benefit pursuant to SDCL Chapter 3-23** - Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2, and 3-23-3.1.

Description of the Contract	Parties	Description of the direct benefit	Date contract was authorized
Hired Attorney	City of Beresford, South Dakota & Frieberg, Nelson & Ask, law firm	Hired Attorney paid by the City of Beresford for legal services	1992 - Renews yearly
Hired Attorney	City of Alcester, South Dakota & Frieberg, Nelson & Ask, law firm	Hired Attorney paid by the City of Alcester for legal services	2018 - Renews yearly
Hired Attorney for Lincoln County Rural Water System, Inc., who has an agreement with City of Harrisburg & City of Sioux Falls for water line relocation project and use of DOT funds	Lincoln County Rural Water System, Inc, City of Harrisburg, City of Sioux Falls & Frieberg, Nelson & Ask, law firm	Hired Attorney paid by Lincoln County Rural Water Systems, Inc. for legal services	1996 - Serves at pleasure of Board
Legislative Contract Lobbyist	Larry A. Nelson & Sioux Falls School District 49-5	Hired lobbyist paid by Sioux Falls School District 49-5 for lobbying services	2014 - original contract date, subsequent yearly renewals
Edith Nelson, Director of the City Library for the City of Canton, South Dakota	City of Canton, South Dakota & Edith Nelson	Edith Nelson, Director of City Library paid by the City of Canton a yearly salary to run the City Library as a City employee	2008 hired as Director of the City Library
Union County Court Appointments for criminal legal services	Thomas Frieberg of Frieberg, Nelson & Ask, LLP, law firm, with assistance of Samuel J. Nelson, Attorney, and Union County	Hired Court Appointed Attorney paid by Union County for legal services to criminal defendants who cannot afford a retained Attorney	January 1, 2016, through December 31, 2018, contract with Union County
Mental Health Board Chairman appointed by Lincoln County Commission, South Dakota	Brenda M. Ask and Lincoln County Commission	Appointed as Chair to the Mental Health Board and paid by Lincoln County for mental health services	Appointed June 2009 and reappointed yearly by Lincoln County Commission

2. Contacts in which you have a direct benefit pursuant to SDCL Chapter 3-23 - Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2, and 3-23-3.1.

Description of the Contract	Parties	Description of the direct benefit	Date contract was authorized
Council of the Disciplinary Board of South Dakota Bar Association	Robert Frieberg and South Dakota Bar Association	Appointed to and paid by Disciplinary Board of South Dakota Bar Association, which Association receives money from the Attorney General's office	Appointed in 2000 and reappointed by President of the Board as determined by President of the Board
Hearing Examiner for the South Dakota Board of Medical and Osteopathic Examiners	Thomas Frieberg and South Dakota Board of Medical and Osteopathic Examiners	Hired by South Dakota Board of Medical and Osteopathic Examiners as a Hearing Examiner	2004- original contract and renews yearly
Hearing Examiner for the South Dakota Pharmacy Board	Thomas Frieberg and South Dakota Pharmacy Board	Hired by South Dakota Pharmacy Board as a Hearing Examiner	January 2018
Hired Attorney	University of South Dakota and Thomas Frieberg of Frieberg, Nelson & Ask, LLP, law firm	Hired Attorney for University of South Dakota for legal services	2005 - Renews yearly
Lincoln County Court Appointments for criminal legal services	Brenda M. Ask of Frieberg, Nelson & Ask, LLP, and Lincoln County	Hired by Lincoln County as Court Appointed Attorney paid by Lincoln County for legal services to criminal defendants who cannot afford a retained attorney	Last appointed 2017, appointed as needed by Court

3. Entities in which you possess an ownership interest of five percent or more that receive grant money from the State, either directly or by a pass-through grant, or that contract with the State or any political subdivision for services – Provide the following for each such entity. See SDCL 3-23-3.1.

Description of the contract or grant	Party in which you possess the interest	State agency or subdivision

*Attach additional pages, if necessary.*

The member shall complete a separate authorization request for any contract identified above that requires authorization from the Member's board, authority or commission in order for the Member to legally derive a direct benefit.

Signature of Member:  Date: 1-26-2013

STATE OF SOUTH DAKOTA  
TRANSPORTATION COMMISSION

REQUEST FOR STATE BOARD WAIVER  
PURSUANT TO SDCL 3-23-3

Date: January 29, 2018

Name of Board Member or Former Board Member: Rodney Fouberg

Brief explanation of contract for which a waiver is requested:

Agreement for Voluntary Right of Way Donation. Perpetual Easement for shared use Path/Recreational Trail. Project Number P-TAPU (13) PCN 05C9. Aberdeen SD. Project number 7 1/24/2018 SDDOT Letting. 0.296 Acres (5' wide by 2,581.8 long). Dated 16<sup>th</sup> Day of January, 2017.

a) Parties to the contract

Glenna N. Fouberg Donor  
City of Aberdeen SD

b) Board Member's role in the contract

DOT Commissioner/Board member Rodney Fouberg is the husband of Glenna N. Fouberg.

c) Purpose and objective of the contract

The City of Aberdeen requested the 5' wide easement to accommodate a 10' trail with a 6' grass strip between the trail and 15<sup>th</sup> Ave NE.

d) Consideration or benefit conferred or agreed to be conferred upon each party

Donated. One Dollar (\$1.00) and other good and valuable consideration.

e) Duration of the contract

The perpetual easement shall be in effect until the recreational trail is abandoned by the proper action of the City of Aberdeen, SD.

Signature of Requesting Party: \_\_\_\_\_



Date

1/29/18

ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER  
PURSUANT TO SDCL CHAPTER 3-23

**THIS IS A PUBLIC DOCUMENT**

Name of Member: Rodney Foubert

Name of Board, Authority, or Commission: South Dakota Transportation Commission

The Member shall disclose below any contract in which the Member has an interest or from which the Member derives a direct benefit if the contract is:

- 1) With the state agency to which the Member's board, authority, or commission is attached for reporting or oversight purposes and which contract requires the expenditure of government funds;
- 2) With the state and which contract requires the approval of the Member's board, authority, or commission and the expenditure of government funds; or
- 3) With a political subdivision of the state if the political subdivision approves the contract and:
  - a. Is under the regulatory oversight of the authority, board, or commission, or
  - b. Is under the regulatory oversight of the agency to which the Member's board, authority, or commission is attached.

The Member shall disclose the contract even though no additional authorization is needed from the Member's board, authority, or commission to have an interest or derive a benefit from the contract.

The Member shall also identify every entity in which the Member possesses an ownership interest of five percent or greater if:

- 1) The entity receives grant money from the State, either directly or by a pass-through grant or
- 2) The entity contracts with the State or any political subdivision for services.

1. **Contracts in which you have an interest pursuant to SDCL Chapter 3-23 and which do not violate any other provision of law** – Provide the following for each contract in which you have, or will have, an interest. For further information see SDCL 3-23-2.1 and 3-23-3.1.

Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed, if applicable

Attach additional pages, if necessary.

2. **Contract in which you have a direct benefit pursuant to SDCL Chapter 3-23** – Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2, and 3-23-3.1.

Description of the contract	Parties	Description of the direct benefit	Date contract was authorized
Agreement for Voluntary Right of Way Donation. Perpetual Easement for Shared Use Path/Recreational Trail. Project Number P-TAPU (13) PCN 06C9. Aberdeen SD project number 7 1/24/2018 SDDOT Letting. 0.296 acres (5' wide by 2,581.8' long). Dated 16 <sup>th</sup> day of January, 2017. Easement donated. One Dollar (\$1.00) and other good and valuable consideration.	Glenna N. Foubberg-Donor City of Aberdeen SD	I am the husband of Glenna N. Foubberg-Donor	1/16/2017



3. **Entities in which you possess an ownership interest of five percent or more that receive grant money from the State, either directly or by a pass-through grant, or that contract with the State or any political subdivision for services – Provide the following for each such entity. See SDCL 3.23-3.1.**

Description of the contract or grant	Party in which you possess the interest	State agency or subdivision

*Attach additional pages, if necessary.*

The Member shall complete a separate authorization request for any contract identified above that requires authorization from the Member's board, authority, or commission in order for the Member to legally derive a direct benefit.

Signature of Member:



Date

1/29/18