

**SOUTH DAKOTA HEALTH AND EDUCATIONAL
FACILITIES AUTHORITY**

MINUTES OF THE AUGUST 17, 2016 SPECIAL MEETING

Pursuant to due notice, the South Dakota Health and Educational Facilities Authority met on Wednesday, August 17, 2016 at 2:30 p.m. CDT (1:30 a.m. MDT) via telephone conference call. Mr. Norbert Sebade, Chairman, instructed the Secretary to call the roll.

Present: Mr. Gene Lebrun
 Mr. William Lynch
 Mr. Don Scott
 Mr. Jim Scull
 Mr. Norbert Sebade
 Mr. Dave Timpe

Absent: Mr. Dave Fleck

Other staff and representatives of the Authority and other parties present were:

Mr. Donald Templeton, Executive Director
Mr. Vance Goldammer, General Legal Counsel
Mr. Dustin Christopherson, Associate Director
Mr. Steve Corbin, Finance Officer
Mr. Eric Matt, Redstone Law Firm, LLP
Mr. Dan Bacastow, Chapman and Cutler
Mr. Bruce Bonjour, Perkins Coie
Mr. Jack Arnold, Dougherty and Company
Mr. Toby Morris, Dougherty and Company
Mr. James Breckenridge, Avera Health
Mr. Mike Olson, Avera Health

The Chairman declared a quorum and called the meeting to order. The notice of the meeting dated August 11, 2016 was posted on the Authority doors, on the state website and the Authority's website prior to the meeting and is on file at the Authority office.

The Chairman asked for consideration of the minutes for the June 7, 2016 special meeting. Mr. William Lynch moved to approve the minutes as presented, seconded by Mr. Don Scott and upon roll call, the ayes were Lebrun, Lynch, Scott, Scull, Sebade and Timpe; nays: none; abstain: none. Motion carried.

Review of Conflict of Interest - HB 1214 & Board Member Conflict of Interest for the Meeting Agenda Items

Mr. Templeton explained that House Bill 1214 (the “Act”) had been passed by the 2016 legislature and became effective July 1, 2016. The Authority’s Board Members must comply with the new law. Eric Matt and Vance Goldammer reviewed the new law with the Board members and described the requirements for compliance, including the required Board findings for any potential conflict that was brought to the Board’s attention pursuant to Section 3 of the Act. Mr. Matt and Mr. Goldammer responded to questions from those in attendance regarding the interpretation of various provisions of the Act. Mr. Timpe, pursuant to the provisions of Section 3 of the Act, made those in attendance aware of his membership on the board of Avera Health Plans, an affiliate of Avera Health. Mr. Templeton also noted that three written disclosures including requests for conflict waivers under Section 3 of the Act had been received for agenda items being discussed at this meeting. The requests from Mr. Timpe and Mr. Fleck (who submitted disclosures and requests on two separate matters being considered by the Board were discussed). The board discussed each request individually and determined that each matter underlying the conflict disclosed was fair, reasonable and not contrary to the public interest, as described below. Mr. Fleck, due to potential conflicts on both substantive matters being considered by the Board, was not in attendance at the meeting or by phone, in compliance with the Act.

Mr. Fleck, as noted above, submitted a written disclosure statement and request for board waiver for the Canton School District matter, which is attached as ***Attachment #1***. Mr. Fleck was not present for the call as noted above. After full discussion of the nature of the potential conflict as disclosed by Mr. Fleck, the Board made the findings described above that Journey Constructions’ potential participation in a public bidding process for work at the District was fair, reasonable and not contrary to the public interest. A motion was made to accept the waiver for Mr. Fleck as it related to Canton School Districts (agenda item 5) by Mr. Gene Lebrun seconded by Mr. William Lynch and upon the roll call, the ayes were Lebrun, Lynch, Scott, Scull, Sebade and Timpe; nays: none; abstain: none. Motion carried.

Mr. Fleck submitted a written disclosure statement and request for board waiver for the Avera Health/Avera Marshall, MN term loan extension matter, which is attached as ***Attachment #2***. After full discussion of the nature of the potential conflict as disclosed by Mr. Fleck, the Board made the findings described above that Mr. Fleck’s membership on the Avera McKennan Board was fair, reasonable and not contrary to the public interest. A motion was made to accept the waiver for Mr. Fleck as it related to the Avera Health/Avera Marshall, MN term loan extension matter (agenda item 4) by Mr. Don Scott seconded by Mr. Gene Lebrun and upon the roll call, the ayes were Lebrun, Lynch, Scott, Scull, Sebade and Timpe; nays: none; abstain: none. Motion carried.

Mr. Timpe submitted a written disclosure statement and request for board waiver for the Avera Health/Avera Marshall, MN term loan extension matter, which is attached as ***Attachment #3*** and made the Board aware orally of his position on the Board of Avera Health Plans, an affiliate of Avera Health. After full discussion of the nature of the potential conflict as disclosed by Mr. Timpe, the Board made the findings described above that Mr. Timpe’s membership on the Board of Avera Health Plans was fair, reasonable and not contrary to the public interest. A

motion was made to accept the disclosure and request for waiver for Mr. Timpe as it related to the Avera Health/Avera Marshall, MN term loan extension matter (agenda item 4) by Gene Lebrun seconded by William Lynch and upon the roll call, the ayes were Lebrun, Lynch, Scott, Scull and Sebade; nays: none; abstain: Timpe. Motion carried. Mr. Timpe was dismissed from the discussion of the Avera Health/Avera Marshall, MN term loan extension matter on the agenda and left the call prior to that discussion taking place.

Mr. Timpe was later rejoined to the call following the discussion of Agenda item number 4 and the vote thereon to participate in the remainder of the Board's agenda and business after item 4 was completed in full compliance with the Act.

Because Mr. Fleck was not in attendance at the meeting, he was not present during the discussion of any of the agenda items noted above in full compliance with the Act.

Avera Health Direct Loan for Avera, Marshall, MN

Mr. Breckenridge reviewed the loan extension for a period of 10 years with an expected interest rate of 2.75%. The loan extends the term of the 2012C note, which was not an Authority issue. Mr. Breckenridge answered questions from board members and was excused from the call. Mr. Bacastow reviewed the Resolution, which is on file at the Authority office. Mr. Gene Lebrun made a motion to approve, seconded by Mr. Jim Scull and upon the roll call, the ayes were Lebrun, Lynch, Scott, Scull, and Sebade; nays: none; abstain: none (as noted above, neither Mr. Timpe or Mr. Fleck participated in the discussion or vote on this item as they were not present for this item (Mr. Timpe) or were not present at all during the meeting (Mr. Fleck). Motion carried.

Mr. Dave Timpe rejoined the call.

Canton School District 2016A

Mr. Templeton reviewed the State Aid Intercept Program as well as the Canton School District General Obligation Bonds Series 2016A in the expected amount of \$7.2 million. These bonds will belong to the school district and not the Authority. The Authority will charge an application fee of \$9,000. The bond received an AA+ rating from Standard & Poor's. Mr. Toby Morris added that the existing rating for Canton School District rating from Moody's is A2. Mr. Morris reported that the expected saving from the higher rating may be in the \$100,000 range. The project is the construction of a 38,000 square foot Performing Arts Center. 63% of the citizens voted in favor of the use of General Obligation bonds. Mr. Templeton reviewed the Debt Service Coverage with a minimum projection of 3.5 times.

Mr. Templeton reviewed an invoice from Dorsey and Whitney for \$7,500 for the initial review of the bond documents. Mr. William Lynch moved to approve the bill seconded by Mr. Dave Timpe, and upon the roll call the ayes were Lebrun, Lynch, Scott, Scull, Sebade and Timpe; nays: none; abstain: none (as noted above, Mr. Fleck did not participate in the discussion or vote on this item as he was not present at all during the meeting as a result of the potential conflicts of interest described above). Motion carried.

Mr. Bruce Bonjour reviewed the Resolution and described the maximum application fee of \$10,000 and expanding the February 10, 2016 Resolution to allow for General Obligation Bonds. This Resolution is on file at the Authority office. Mr. Dave Timpe moved to approve the Resolution seconded by Mr. William Lynch, and upon the roll call the ayes were Lebrun, Lynch, Scott, Scull, Sebade and Timpe; nays: none; abstain: none. Motion carried.

Mr. Bonjour reviewed the Canton School District Resolution on file at the Authority Office, which allows for the Canton School District to be eligible under the State Aid Pledge Program. Mr. Gene Lebrun moved to approve, seconded by Mr. Don Scott and upon the roll call the ayes were Lebrun, Lynch, Scott, Scull, Sebade and Timpe; nays: none; abstain: none. Motion carried.

EMMA Notice and Letters from the First National Bank in Sioux Falls

Mr. Templeton, Mr. Bonjour and Mr. Arnold reviewed with the board that the Trustee, The First National Bank in Sioux Falls, missed the Vocational Education Program principal payment of \$3,040,000 on August 1, 2016. The Authority had funds on hand with the Trustee, but the Trustee was in error in not making the principal payment until the next day. The notice of a material event filed with EMMA was reviewed with the board as well as letters dated August 4 and August 5, 2016 from The First National Bank in Sioux Falls.

The First National Bank in Sioux Falls has addressed the problem and assured the Authority that this will not happen again in the future. Mr. Arnold reported that this missed payment by the Trustee did not affect the bond ratings of the Vocational Education Program.

Annual Meeting

The annual meeting will be held in Sioux Falls and is scheduled for September, 21, 2016. The timing of the meeting was discussed with the Board members.

Adjournment

The Chairman stated there being no further business at this meeting, the meeting adjourned at 3:43 p.m.

STATE OF SOUTH DAKOTA

South Dakota Health and Educational Facilities Authority

STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23-3 (current member)

A written request for waiver of conflict, dated August 16, 2016, was received from

Dave Fleck. The request was acted upon by the members of South Dakota Health and Educational Facilities Authority during a meeting held on August 17, 2016.

(check one)

The request for waiver was denied for the following reasons:

The request for waiver was authorized for the following reasons:

Mr. Fleck has disclosed his potential conflict and has abstained from discussion and voting on the South Dakota Health and Educational Facilities agenda item of allowing Canton School District to use the new State Aid Intercept Program. If Journey Construction is awarded the bid on the Canton School District Project, it will be completely independent from the South Dakota Health and Educational Facilities Authority and it's voting members and is not contrary to the public interest. The South Dakota Health and Educational Facilities Authority will not issue the bonds nor be involved in the selection of the construction company.

The request for waiver was authorized subject to the following conditions:

William J Lynch
Signature of Chairperson or Authorized Member

August 17, 2016
Date

Printed Name: William Lynch, Board Treasurer

Date mailed to Auditor-General: _____

REQUEST FOR STATE BOARD WAIVER

THIS IS A PUBLIC DOCUMENT

Date: August 16, 2016

Name of Board Member or Former Board Member: Dave Fleck

Name of Board, Authority or Commission: South Dakota Health & Educational Facilities Authority "SDHEFA"

Brief explanation of your potential conflict of interest:

Chairman of the Board of Directors for Journey Construction

Brief explanation of the current or anticipated business transaction with a State agency or with a political subdivision of the State and your role in the transaction:

Journey Construction may bid on the Canton School District performing arts center.

Brief explanation of the essential terms of the contract or transaction.

A future contract may be entered into with the Canton School District for the performing arts center.

Brief explanation of why you believe a waiver should be granted:

We believe it is to the benefit of the Canton School District to have as many bidders as possible.

(I am Chairman of the Board of Directors for Journey Construction and we may bid on a construction project for the Canton School District. I am sending this as a waiver and will not vote/ be on any discussion pertaining to the South Dakota Health & Educational Facilities Authority matters regarding this project.)

Signature of Person Requesting Waiver: _____



STATE OF SOUTH DAKOTA

South Dakota Health and Educational Facilities Authority

STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
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Dave Fleck. The request was acted upon by the members of **South Dakota Health and Educational Facilities Authority** during a meeting held on **August 17, 2016**.

(check one)

The request for waiver was denied for the following reasons:

The request for waiver was authorized for the following reasons:

Mr. Fleck has made the South Dakota Health & Educational Facilities Authority board aware that he is a member of the Board of Trustees of Avera McKennan Hospital. Mr. Fleck has disclosed his potential conflict and has abstained from discussion and voting on the South Dakota Health and Educational Facilities agenda item of the Avera Marshall transaction refinancing.

The request for waiver was authorized subject to the following conditions:

William F. Lynch
Signature of Chairperson or Authorized Member

August 17, 2016

Date

Printed Name: William Lynch, Board Treasurer

Date mailed to Auditor-General: _____

REQUEST FOR STATE BOARD WAIVER

THIS IS A PUBLIC DOCUMENT

Date: 8/17/2016

Name of Board Member or Former Board Member: Dave Fleck

Name of Board, Authority or Commission: SDHEFA

Brief explanation of your potential conflict of interest:

*Current member of the Board of Trustees of
Avera McKennan Hospital*

Brief explanation of the current or anticipated business transaction with a State agency or with a political subdivision of the State and your role in the transaction:

Avera Marshall / US Bank transaction

Brief explanation of the essential terms of the contract or transaction.

Loan extension

Brief explanation of why you believe a waiver should be granted:

Member has opted to abstain from discussion and vote

Signature of Person Requesting Waiver: *Dave Fleck*

STATE OF SOUTH DAKOTA

South Dakota Health and Educational Facilities Authority

STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23-3 (current member)

A written request for waiver of conflict, dated **August 17, 2016**, was received from

Dave Timpe. The request was acted upon by the members of **South Dakota Health and Educational Facilities Authority** during a meeting held on **August 17, 2016**.

(check one)

The request for waiver was denied for the following reasons:

The request for waiver was authorized for the following reasons:

Mr. Timpe has made the South Dakota Health & Educational Facilities Authority board aware that he is a member of the board of Avera Health Plan. Mr. Timpe has disclosed his potential conflict and has abstained from discussion and voting on the South Dakota Health and Educational Facilities agenda item of the Avera Marshall transaction refinancing.

The request for waiver was authorized subject to the following conditions:

William J Lynch
Signature of Chairperson or Authorized Member

August 17, 2016
Date

Printed Name: William Lynch, Board Treasurer

Date mailed to Auditor-General: _____

REQUEST FOR STATE BOARD WAIVER

THIS IS A PUBLIC DOCUMENT

Date: 8-17-16

Name of Board Member or Former Board Member: David Timpe

Name of Board, Authority or Commission: SONEFA

Brief explanation of your potential conflict of interest: ^{plans}
member of Avera Health Board.
← Avera Health Plans Dept

Brief explanation of the current or anticipated business transaction with a State agency or with a political subdivision of the State and your role in the transaction:
Avera Marshall / US Bank Transaction -
AGENDA ITEM #3

Brief explanation of the essential terms of the contract or transaction.
Loan extension -

Brief explanation of why you believe a waiver should be granted:
Member has to abstain from discussion
& vote.

Signature of Person Requesting Waiver: David G. Timpe