

**TRANSPORTATION COMMISSION MEETING MINUTES
July 28, 2016 – 9:30 A.M.
BECKER-HANSEN BUILDING – 700 EAST BROADWAY
PIERRE, SD**

COMMISSIONERS PRESENT:

Tim Dougherty, Chairman
Rod Fouberg, Member
Ralph Marquardt, Member
Ron Rosenboom, Member
Larry Thompson, Member
Kathy Zander, Member

**COMMISSIONERS PRESENT
VIA CONFERENCE CALL:**

Don Roby, Member
Kyle White, Member

DOT STAFF PRESENT:

Darin Bergquist, Karla Engle, Mike Behm, Laurie Schultz, Terri Boyle, Tammy Williams, Kristi Sandal, Doug Kinniburgh, Greg Fuller, Bonnie Olson, Joel Jundt, Joel Gengler, Mark Leiferman, Paula Huizenga, Julie Bolding, Dean VanDeWiele, Jason Humphrey, Mark King, and Kellie Beck

OTHERS PRESENT:

Dick Howard – Association of Towns and Townships,
Larry Engbrecht – South Dakota American Concrete
Paving Association, Representative Mary Duvall, Mark
Clausen – FHWA, Virginia Tsu - FHWA

The meeting was called to order at 9:30 a.m. by Chairman Tim Dougherty. Roll call was taken and a quorum was determined.

Chairman Dougherty asked for a motion to approve the minutes of June 23, 2016.

A MOTION WAS MADE by Thompson to approve and seconded by Zander. All voted aye by roll call vote and motion carried.

Chairman Dougherty asked for a motion to approve the minutes of July 14, 2016.

A MOTION WAS MADE by Fouberg to approve and seconded by Rosenboom. All voted aye by roll call vote and motion carried.

Chairman Dougherty referred to the written procedure for conflict of interest disclosure provided as Attachment #3 in the Commission packet. A discussion was had on adopting the outlined process and the Commission discussed examples of what would be considered a conflict.

A MOTION WAS MADE by Marquardt to approve the procedure for conflict of interest disclosure outlined in Attachment #3 of the Commission's meeting packet. This motion was seconded by Rosenboom. All voted aye by roll call vote and motion carried.

Chairman Dougherty 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.

Chairman Dougherty turned the gavel over to Vice Chairman Thompson.

Dougherty made a verbal disclosure requesting a waiver from the Commission relating to Revision 16-065 to the State Transportation Improvement Plan (STIP). Dougherty is a registered lobbyist for BNSF Railway Company and is involved in railroad items on behalf of BNSF related to legislative matters. Dougherty will abstain from any discussion and voting in regard to contracts and other matters involving BNSF Railway Company, including items on the current agenda.

A MOTION WAS MADE by Fouberg to approve the waiver request submitted by Dougherty as the Commission has determined that the matter underlying the conflict is fair, reasonable, and not contrary to the public interest and seconded by Marquardt. All voted aye by roll call vote, except for Dougherty, who abstained in the commission discussion and vote. The motion carried.

Dougherty made a verbal disclosure requesting a waiver from the Commission relating to Revision 16-SC-034 to the STIP.

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

Vice Chair Thompson turned the gavel back over to Chairman Dougherty.

A discussion ensued concerning application of the conflicts of interest law relating to boards, authorities, and commissions.

Karla Engle of the Office of Legal Counsel asked the Commission to set a public hearing for August 24, 2016, to consider proposed changes to chapter 70:13:01 of the administrative rules concerning local bridge improvement grant requirements. Changes are proposed to the entire chapter, except ARSD 70:13:01:05 and 70:13:01:11.

A MOTION WAS MADE by Fouberg to set the public hearing date of August 24, 2016, and seconded by Marquardt. All voted aye by roll call vote and motion carried.

RESOLUTION #2016-07.01 was adopted.

Secretary Bergquist clarified the agenda should say Wednesday, not Thursday for 8/24 meeting. Bergquist reminded the Commission the August meeting will be in Deadwood and a tour of construction projects will follow.

Secretary Bergquist informed the Commission that Dick Howard has asked to be on the agenda for an update on potential proposed the Township Culvert Program. Dick Howard provided an update on the proposed process for the Small Structure/Large Culvert Funding program as the workgroup has termed it. The workgroup started doing its inventory mid-May and to date the number of structures that have been inventoried are marked in red on the map. (See Attachment 1) The black number is the number of townships in each county. As of earlier this week 4,852 of the structures have been inventoried with 55 counties and 450 Townships. Howard would like to be on the agenda in September to present the group's findings and to make a final request for funding from the Commission.

Secretary Bergquist introduced the Rest Area Revitalization Plan ("Plan"). Jason Humphrey, Construction and Maintenance Engineer, gave a presentation on the Plan, outlining proposed closures, remodels and enhancements.
<http://boardsandcommissions.sd.gov/bcuploads/InterstateRestAreaFinalReport-web.pdf>

Greg Fuller, Director of Operations, presented the following Construction Change Orders to the Transportation Commission:

Construction change orders approved in June contain an increase of approximately \$680,607.

Over the past 12 months, the overall contract increase is 1.37%.

The following projects have a Construction Change Order (CCO) amounting to a contract change in excess of \$50,000.

ABERDEEN REGION

- I.** Project: NH-P 0013(26), Beadle County, PCN 045U
Location: Various Routes in the Huron Area
Contractor: Hills Materials Company
Type of Work: Asphalt Surface Treatment (Chip Seal)

Original Contract Amount: \$ 2,997,108.36
Change on CCO No. 2F: \$ (383,591.26)
Net Change to Date: \$ (249,757.81)

Explanation of Change on CCO No. 2F: This decrease was the result of an adjustment to the contract quantity of asphalt for fog seal, asphalt for surface treatment, and cover aggregate used on the project. The Department approved application rates were less than estimated in the plans.

- II.** Project: NH 0014(197)267, Hand County, PCN 04E3
Location: US14 from the Hughes/Hyde County Line to Miller
Contractor: Anderson Western, Inc.
Type of Work: Cold Milling Asphalt Concrete, Asphalt Concrete Resurfacing, Pipe Repair, Permanent Signing, & Rapid Rate Flashers

Original Contract Amount: \$ 8,924,835.35
Change on CCO No. 1F: \$ (53,551.58)
Net Change to Date: \$ (53,551.58)

Explanation of Change on CCO No. 1F: This decrease was the result of a change to the contract quantity of asphalt binder. The Department approved asphalt concrete mix design contained an asphalt binder target lower than estimated in the plans.

- III.** Project: P 0047(101)137, Hyde County, PCN 038B
Location: SD 47 from Highmore to the Jct. with SD 26
Contractor: McLaughlin & Schulz, Inc.
Type of Work: Asphalt Concrete Resurfacing

Original Contract Amount: \$ 6,018,597.22
Change on CCO No. 1F: \$ 235,595.26

Net Change to Date: \$ 235,595.26

Explanation of Change on CCO No. 1F: This increase was the result of an incentive adjustment made for asphalt concrete ride quality. The incentive payment was made in accordance with the contract. Additionally, the Department approved asphalt concrete mix design contained an asphalt binder target higher than estimated in the plans. The contract quantity was adjusted accordingly.

- IV.** Project: P 6111(01), Beadle County, PCN 5732
Location: Broadland Road near Huron
Contractor: Midland Contracting, Inc.
Type of Work: Grading & Base Course

Original Contract Amount: \$ 2,678,284.05
Change on CCO No. 1F: \$ (190,874.01)
Net Change to Date: \$ (190,874.01)

Explanation of Change on CCO No. 1F: This decrease was the result of an adjustment to the contract quantity of Contractor furnished borrow. The quantity was adjusted to match the as constructed quantity.

MITCHELL REGION

- V.** Project: P TAPU(08), Davison County, PCN 04U7
Location: Mitchell Technical Institute area
Contractor: T&R Contracting, Inc.
Type of Work: Shared Use Path at Mitchell Technical Institute

Original Contract Amount: \$ 278,835.45
Change on CCO No. 1: \$ 51,354.18
Net Change to Date: \$ 51,354.18

Explanation of Change on CCO No. 1: This increase was the result of additional unclassified excavation required during construction. The contract quantity was adjusted accordingly.

- VI.** Project: NH 0281(111)48, Aurora County, PCN 04WF
Location: US 281 from Corsica to Stickney
Contractor: Spencer Quarries, Inc.
Type of Work: Asphalt Concrete Resurfacing

Original Contract Amount: \$ 3,038,025.95
Change on CCO No. 1: \$ 247,413.91
Net Change to Date: \$ 247,413.91

Explanation of Change on CCO No. 1: This increase was the result of additional asphalt concrete, asphalt binder, and hydrated lime used during construction. The existing field conditions and cross slope of the roadway were more distorted than estimated in the plans. As a result, additional asphalt concrete was used to correct the conditions. With the additional asphalt concrete quantity, addition asphalt binder and hydrated lime were also necessary.

PIERRE REGION

- VII.** Project: IM 0904(57)189, Jones County, PCN 035E
Location: I-90 from Murdo to Draper
Contractor: Knife River Midwest LLC
Type of Work: PCC Overlay, Pavement Repair, and Edge Drains

Original Contract Amount: \$ 13,214,694.07
Change on CCO No. 5: \$ 80,876.42
Net Change to Date: \$ 314,818.87

Explanation of Change on CCO No. 5: This increase was the result of extra work performed by the Contractor to remove and reset luminaire bases and poles at a new elevation. The work was not included in the plans and became necessary due to other work needed for slope flattening.

- VIII.** Project: NH 0012(119)187, Walworth County, PCN 00GT
Location: US 12 in Mobridge
Contractor: McLaughlin & Schulz, Inc.
Type of Work: Cold Milling Asphalt Concrete, Asphalt Concrete Resurfacing, Drainage Improvements, Sidewalk, Curb Ramps & Lighting

Original Contract Amount: \$ 5,586,771.08
Change on CCO No. 9: \$ 187,410.63
Net Change to Date: \$ 473,663.31

Explanation of Change on CCO No. 9: This increase was the result of additional asphalt concrete and asphalt binder used during construction. The existing field conditions and cross slope of the roadway were more distorted than estimated in the plans and additional asphalt concrete was needed to tie into cross streets and parking lots. As a result, additional asphalt concrete was used to correct the conditions. With the additional asphalt concrete quantity, addition asphalt binder was also necessary.

RAPID CITY REGION

- IX.** Project: P 0085(72)23, Lawrence County, PCN 028L
Location: US 85 in Lead
Contractor: Reede Construction, Inc.
Type of Work: Urban Grading, Curb & Gutter, PCC Pavement, Pavement Restoration, & Lighting

Original Contract Amount: \$ 4,394,039.59
Change on CCO No. 9: \$ 52,694.42
Net Change to Date: \$ 123,698.17

Explanation of Change on CCO No. 9: This increase was the result of numerous minor adjustments made to various contract quantities. Increases were made for excavation, gravel cushion, concrete pavement, pavement repair, and concrete sidewalk. The adjustments were made to match the actual quantities used during construction and are considered normal variations.

- X.** Project: EM 0385(15)0, Fall River County, PCN 00D0
Location: US 385 from Oelrichs to the Nebraska State Line
Contractor: Loiseau Construction, Inc.
Type of Work: Grading, Structure, PCC Surfacing, and Asphalt Concrete Resurfacing

Original Contract Amount: \$ 25,172,061.84
Change on CCO No. 10: \$ (257,589.11)
Net Change to Date: \$ (207,824.03)

Explanation of Change on CCO No. 10: This decrease was the result of numerous adjustments made to various contract quantities. Decreases were made for the various types of excavation, pit run, base course, gravel cushion, asphalt binder, and asphalt concrete. The adjustments were made to match the actual quantities used during construction and are considered normal variations.

- XI.** Project: NH-P 0044(172)28, Pennington County, PCN 038C
Location: SD 44 from US 385 to Chapel Lane in Rapid City
Contractor: Hills Materials Company
Type of Work: Cold Milling Asphalt Concrete, Asphalt Concrete Resurfacing & Slope Flattening

Original Contract Amount: \$ 5,240,720.50
Change on CCO No. 2: \$ (233,001.93)
Net Change to Date: \$ (208,280.72)

Explanation of Change on CCO No. 2: This decrease was the result of an adjustment to the contract quantities of salvaged base course; Contractor furnished granular material; blend, haul, and stockpile granular material; asphalt binder; and asphalt concrete. The quantities were adjusted to match the quantities used for construction and are considered normal variation.

Greg Fuller, Director of Operations, gave a presentation on Tow Plows. The Department has purchased one of these plows and intends to use it this winter and evaluate the effectiveness of this type of plow.

Mike Behm, Director of Planning & Engineering, presented the following STIP revisions:

FOR COMMISSION APPROVAL

16-065 This revision will add a BNSF railroad crossing surfacing improvement project on SD471 on the south end of Edgemont to 2016.

FY 2016 \$80,000

16-066 This revision will add a centerline striping project on US14 northeast of Pierre to 2016.

FY 2016 Plus \$41,000.

16-070 This revision will add a project for the installation of temporary traffic signals and shoulder widening at the intersection of SD115/County 106 in Lincoln County to 2016.

FY 2016 Plus \$214,000

A MOTION WAS MADE by Fouberg to approve Revision 16-066 and 16-070 and seconded by Zander. All voted aye by roll call vote and motion carried.

Chairman Dougherty turned the gavel over to Vice Chairman Thompson.

A MOTION WAS MADE by Rosenboom to approve Revision 16-065 and seconded by Marquardt. All remained voted aye by roll call vote, except Dougherty who abstained from the Commission's discussion and vote. The motion carried.

INFORMATIONAL REVISIONS FOR THE COMMISSION

16-068 This revision adjusted the cost estimate of the 2016 Veterans Parkway construction project from Maple Street to Rice Street (Seq. #599, Page 134 of the 2016 STIP Book).

FY2016 Plus \$5,480,000

16-069 This revision adjusted the cost of a slide repair project on SD40 approximately 1 mile north of the Cheyenne River in Custer County (Page 74, Item 232 in the 2016 STIP).

FY 2016 Plus \$694,000

16-SC-034 This revision updated the segment location of three 2015 Crossbuck Sign Replacement projects on BNSF tracks from North Sioux City to Aberdeen and from Big Stone City to Lemmon that were added to 2016 by Revisions 16-061 & 062. The railroad requested this change so the work would match its maintenance units. There will be no change in the overall limits of the work, just a change in the segments breaks and a minor cost adjustment.

FY2016 Plus \$3,000

16-SC-035 This revision added preliminary engineering to the 2015 railroad signal installation and crossing surface improvement project that was added to 2016 by Revision 16-063. This is located on Deerview Road (218th Street) north of Piedmont at crossing 199675D, RCP&E.

FY2016 No Change

Vice Chairman Thompson turned the gavel back over to Chairman Dougherty.

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

1. Amendment to disposal of excess property in Fall River County.

Requesting an amendment to state in the agreement “no additional access to Hwy 71 will be allowed” for a DOT property disposal item previously approved by the Transportation Commission on November 20, 2015 in accordance with the procedures provided by SDCL 31-2-27 and ARSD chapter 10:02:01.

Previously approved item:

Lot A in the SW1/4SE1/4 less that portion platted as Country View Subdivision in Section 27, Township 7 South, Range 5 East of the B.H.M., Fall River County, South Dakota.

Appraised Value: \$800

Lot A contains 0.34 acre of mostly flat grassland located on the west side of Hwy 71 approximately one mile southwest of Hot Springs. The property is excess from a Hwy 71 construction project.

Access to Hwy 71 will not be allowed.

The amendment language request:

No additional access to Hwy 71 will be allowed.

Custer Area DOT advises the property is not needed for future department use.

A MOTION WAS MADE by Fouberg to approve Item #1 and seconded by Thompson. All voted aye by roll call vote and motion carried.

2. Disposal of excess property in Pennington County.

Request Transportation Commission approval to dispose of the following DOT property in accordance with the procedures provided by SDCL 31-2-27 and ARSD chapter 10:02:01.

Tract Dennis Reinke in the SW1/4NE1/4 of Section 22, Township 2 South, Range 4 East of the B.H.M., Pennington County, South Dakota, less Lot H3 and less that portion in conflict with Lot 2 as recorded in Book 46, Page 6405.

Appraised Value: \$18,225

The above property contains 4.86 acres located on the west side of Hwy 16/385 south of Hill City at the Spring Creek Road intersection (Custer County line). The property is excess from completed construction project BRF 0016(28)34, PCN 0585.

No additional access will be allowed from Hwy 16/385.

Custer Area DOT advises the property is not needed for future department use.

This item was tabled so no action was necessary.

3. Disposal of excess property in Pennington County.

Request Transportation Commission approval to dispose of the following DOT

property trade in accordance with the procedures provided by SDCL 31-2-27, SDCL 31-19-46 and ARSD chapter 10:02:01.

Lot 6 of Lot D, Wood Subdivision, less Lot H1, and the east 88 feet of Lot D, less Lot H1, all in the NE1/4 NW1/4 of Section 9, Township 1 North, Range 8 East of the B.H.M., Pennington County, South Dakota.

The above property contains 0.33 acre located at the Elk Vale Road / School Drive intersection in Rapid City.

Rapid City Area DOT desires to trade the above property to Holiday Stationstores, Inc. for the following Highway right-of-way, drainage easement and access easement also located at the Elk Vale Road / School Drive intersection in Rapid City:

Lot H1 in Lot X of Lot B of Johnson School Subdivision in the NE1/4 NW1/4 of Section 9, Township 1 North, Range 8 East of the B.H.M., Pennington County, SD.

Lot H1 in Vacated School Drive in the NE1/4 NW1/4 of Section 9, Township 1 North, Range 8 East of the B.H.M., Pennington County, South Dakota.

Drainage easement located in Lot X of Lot B of Johnson School Subdivision in the NE1/4 NW1/4 of Section 9, Township 1 North, Range 8 East of the B.H.M., Pennington County, South Dakota.

Access easement located in Lot C of NE1/4 NW1/4 and Lot X of Lot B of NE1/4 NW1/4, all in Johnson School Subdivision; and E88' of Lot D of NE1/4 NW1/4 and Vacated School Drive and Lot 6 of Wood Subdivision, all in NE1/4 NW1/4 of S9-T1N-R8E of the B.H.M., Rapid City, South Dakota.

Holiday Stationstores will perform all the surveys, plats, recordings and appraisals at its expense and any trade valuation difference will be incurred by the appropriate party.

A MOTION WAS MADE by Rosenboom to approve Item #3 and seconded by Fouberg. All voted aye by roll call vote and motion carried.

4. Abandonment of temporary construction easements– McPherson County

This resolution will abandon the temporary easements on McPherson County Project P 0010(81)224, PCN 0297.

A MOTION WAS MADE by Marquardt to approve Item #4 and seconded by Zander. All voted aye by roll call vote and motion carried.

RESOLUTION # 2016-07.02 was adopted.

Laurie Schultz, Program Manager for the Department's Office of Administration, presented an application for the Agri-Business Grant program for Moody County in the amount of \$23,460 for the improvement of 483rd Avenue near Flandreau, SD. The road will serve the Dakota Layers that employs 80 people. The capital investment for the facility is \$6.5 million.

A MOTION WAS MADE by Marquardt to approve the Agri-Business Grant for Moody County and seconded by Rosenboom. All voted aye by roll call vote and motion carried.

Mike Behm, Director of Planning & Engineering, discussed entering into agreements with the City of Brookings and the City of Pierre dealing with the repurposing of Federal Earmarks. South Dakota has been fortunate enough to receive several earmarks in past years. Through federal action, we have the ability to repurpose any remaining contract authority and obligation limitation. Since two original earmarks with the City of Brookings and the City of Pierre was either secured solely by the local government entity or in combination with the Department of Transportation, the department recommends repurposing of any remaining obligation limitation and swapping those to state funds with the City of Brookings at 100% of the remaining obligation limitation and at a 50/50 share with the City of Pierre for the remaining obligation limitation.

A MOTION WAS MADE by Marquardt to allow the Department to enter into an agreement with the City of Pierre relating to the Earmark Repurposing and seconded by Zander. All voted aye by roll call vote and motion carried.

A MOTION WAS MADE by Thompson to allow the Department to enter into an agreement with the City of Brookings relating to the Earmark Repurposing and seconded by Rosenboom. All voted aye by roll call vote and motion carried.

With no other business to come before the Commission, the meeting was declared adjourned at 12:15 p.m.

Submitted by:

Approved by:

Kellie J. Beck
Recording Secretary

Darin P. Bergquist
Secretary of Transportation

Attachment #1

SMALL STRUCTURE/LARGE CULVERT FUNDING PROGRAM

1. **Proposed Project: State-Funded Grant Program for Local Small Structure and Culvert Improvements**
2. **Purpose: To construct, reconstruct, replace or rehabilitate small structures (less than 20 feet in length as measured along the center of the roadway) and large culverts (with an opening of 16 square feet or greater) on township and county secondary roads. The allocated funds could only be used for these purposes.**
3. **Procedure:**
 - a. **Counties would implement the program in the same manner as the on-going "Swap" program; wherein, SD DOT distributes State Highway Funds to counties and first-class cities in lieu of previously allocated Federal highway funds.**
 - b. **The Transportation Commission would annually determine the amount of funds available for the Program and distribute the funds to the Counties based on an inventory of needs in each county.**
 - c. **In the first year, the distribution of funds would be based on the total number of qualifying structures on township and county secondary roads within each county. Thereafter, the funds would be distributed based on county inventories of funding needs considering the condition, uses and travel impacts of the involved structures and culverts within each county.**
4. **Priorities: Townships would be responsible for assisting the Counties in preparing the inventory of small structures and large culverts on township roads and for establishing priorities for Township projects.**
5. **Process:**
 - a. **Implementation of this program would require cooperation and coordination between counties and townships. Joint Powers agreements could be developed if necessary or desirable to clearly define the goals objectives, procedures and responsibilities of counties and townships.**
 - b. **SD LTAP would help facilitate the projects by assisting in identification of needed projects, documenting project progress and providing other technical assistance to counties and townships as needed.**
6. **Project Evaluation: SD LTAP would assist the counties in developing a reporting mechanism to show that the funds are being used for the specified purpose. This could include photos before, during and after project completion; timelines, project costs and other pertinent information.**

