

SOUTH DAKOTA TRANSPORTATION COMMISSION MEETING MINUTES

Thursday, August 24, 2023 at 9:00 a.m. CDT

Becker-Hansen Building/Commission Room - 700 East Broadway Avenue, Pierre, South Dakota

COMMISSIONER PRESENT: Jaf Karim, Chairman
Lynn Jensen, Vice-chairman
Larry Nelson
Ron Rosenboom
Don Roby
Austin Simons
Kathy Zander
Mike Vehle

**COMMISSIONER PRESENT
VIA CONFERENCE CALL:** Chris Frick (left at 10:32 a.m.)

DOT STAFF PRESENT: Joel Jundt, Mike Behm, Craig Smith, Kellie Beck, Karla Engle, Mark Leiferman, Joanne Hight, John Keyes, Sam Weisgram, Becky Hoffman, Doug Kinniburgh, Christina Bennett, Cody Axlund, Paula Huizenga, Corey Pinkley, Ron Bren, Rodney Schweitzer, Chris Voeller, Stacy DuChene, Chad Shull, Brent Morford, Jeff Brink, Dan Varilek, Les Winsell, Luke Neville, Logan Gran, Katlyn Wieme, and Kari Kroll

**DOT STAFF PRESENT
VIA CONFERENCE CALL:** Scott Rabern, Mark Peterson, Joseph Sestak, Steve Johnson, and Travis Dressen

OTHERS PRESENT: Mark Hoines – Federal Highway Administration (FHWA); Kelly VanDeWiele – FHWA; Anna Erickson – Lumin Advantage Consulting ;and Brad Stangohr – Ulteig Engineers, Inc.

**OTHERS PRESENT
VIA CONFERENCE CALL:** Toby Crow – Association of General Contractors (AGC); Jerry Miller – State’s Attorney Union County; and Tina Knutson

Chairman Jaf Karim called the meeting of the South Dakota Transportation Commission (the “Commission”) to order at 9:00 a.m. CDT. A roll call was taken and a quorum was present.

Karim opened the floor to the Commission members to disclose potential conflicts of interest and to present requests for waiver pursuant to South Dakota Codified Law (SDCL) chapters 3 – 23.

Commissioner Vehle indicated a conflict of interest with the Davidson County Economic Grant application found on Attachment #13, because he is an investor in High Plains Processing, LLC, which

could be benefitted by the grant. He stated he will recuse himself from participation and vote on that item.

Karim asked for a motion to approve the July 27, 2023 Commission meeting minutes.

A MOTION WAS MADE by Vehle and seconded by Rosenboom to approve the July 27, 2023 Commission meeting minutes. All present voted aye by roll call vote. The motion carried.

Karla Engle, Office of Legal Counsel, presented for Commission consideration amendments to Administrative Rules of South Dakota (ARSD) 70:01:02:49 Meade County Speed Zone Rule, 70:01:02:62 Union County Speed Zone Rule, and 70:06:03:02 Audits.

Engle discussed the purpose and effect of the proposed rule changes. Engle reported that the department had not received any written comments on the proposed rule changes to 70:01:02:49 Meade County speed zone rule and 70:06:03:02 Audits. Engle reported that the department received seven written comments on the proposed changes to 70:01:02:62 Union County speed zone rule. All commenters opposed the rule change due to safety concerns. The comments were received from Phil Aaker, Mary Erickson, Craig Aaker, Leah Klarmann, Linda Scarmon, Mick Scarmon, and Tara Olson, all of whom were residents living in or near Spink. The written comments were provided to the commission before the meeting, except the comment from Tara Olson which Engle read to the commission.

The chair called for testimony in favor of or in opposition to the proposed rule changes. Jerry Miller, the state's attorney for Union County, spoke in favor of the proposed rule change. He noted the loss of commercial traffic generators and small number of residences in the area and discussed law enforcement efforts and support of the rule change from the Highway Patrol. Tina Knutson, another employee of the Union County State's Attorney's Office, also spoke in favor of the proposed rule, asserting that other locations with residences like those in the Spink area have a 65 miles per hour speed limit.

A MOTION WAS MADE by Vehle and seconded by Jensen to approve the amendments to ARSD 70:01:02:49 – Meade County speed zone rule as recommend by the Department of Transportation (the "Department"). All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Zander and seconded by Roby to approve the amendments to ARSD 70:06:03:02 – Audits as recommended by the Department. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Simons and seconded by Roby to approve the amendments to ARSD 70:01:02:62 – Union County speed zone rule as recommended by the Department.

A SUBSITUTE MOTION WAS MADE by Nelson and seconded by Zander to amend ARSD 70:01:02:62 – Union County speed zone rule to replace the current 45 mile per hour speed zone with a 55 mile per hour speed zone in and around Spink.

Nelson withdrew his motion with the consent of the second, Zander.
Simons withdrew his motion with the consent of the second, Roby.

A MOTION WAS MADE by Roby and seconded by Jensen to approve the amendments to ARSD 70:01:02:62 – Union County speed zone rule as recommended by the Department. Commissioners Frick, Jensen, Roby, Rosenboom, and Karim voted aye by roll call vote. Commissioners Nelson, Simons, Vehle, and Zander voted nay by roll call vote. The motion carried.

RESOLUTION #2023 – 8.1 was adopted.

Engle requested the Commission set a hearing date of September 26, 2023, to consider amendments to ARSD 70:01:02:07 – Yankton County Speed Zone Rule.

A MOTION WAS MADE by Rosenboom and seconded by Vehle to set the administrative hearing date for September 26, 2023. All present voted aye by roll call vote. The motion carried.

RESOLUTION #2023 – 8.2 was adopted.

Karim opened the floor to public input.

No members of the public addressed the Commission nor offered input.

Secretary Joel Jundt presented the following items in his Secretary's Report to the Commission:

- Due to a long agenda, the Right of Way informational item has been moved to the September 26, 2023 meeting.
- The Brookings I-29 interchange ribbon cutting ceremony was August 23, 2023.
- Introduction of the Cohort #3 Leadership Development Program participants. Secretary Jundt thanked participants for their work to enhance the Department.
- Reminder of the September 26 & 27, 2023 *On the Road* Commission meeting in Sioux Falls.

Craig Smith, Director of Operations, presented the following informational Construction Change Orders (CCO) to the Commission.

CCOs Completed in July contain an increase of \$1,309,863.19. Over the past 12 months, the overall contract increase is 2.62%.

The following projects have a CCO amounting to a contract change more than \$50,000.

ABERDEEN REGION

1. Project: NH 0012(219)294, Brown County, PCN 05HT
Location: US12 from east of Aberdeen Airport to east of Bath
Contractor: Reede Construction, Inc
Type of Work: Grading, PCC surfacing, lighting & structure

Original Contract Amount:	\$	20,545,094.52
Change on CCO No. 2:	\$	57,213.22
Net Change to Date:	\$	51,836.22

Explanation of Change on CCO No. 2: This increase is the result of SDDOT compensating the contractor for extra work to excavate and undercut 1 foot of unstable material found during construction.

2. Project: P PH B 0015(82)167, Grant County, PCN 05D9
Location: SD15 from the north junction of SD20 north to Milbank
Contractor: Midland Contracting, Inc.
Type of Work: Grading, interim surfacing, structures

Original Contract Amount:	\$	10,815,862.65
Change on CCO No. 5:	\$	52,251.08
Net Change to Date:	\$	197,108.34

Explanation of Change on CCO No. 5: This increase is the result of SDDOT adjusting the contract quantities of base course items to match as built quantities. The quantity of state furnished base course available for use was less than estimated in the plans requiring the contractor to furnish additional material.

3. Project: P 0026(04)230, Hand & Hyde County, PCN 04X5
 Location: SD26 from SD47 to SD45
 Contractor: Anderson Western, Inc.
 Type of Work: Cold milling, asphalt concrete resurfacing, pipe work

Original Contract Amount:	\$	5,016,884.25
Change on CCO No. 1:	\$	(187,919.51)
Net Change to Date:	\$	(187,919.51)

Explanation of Change on CCO No. 1: This decrease is the result of SDDOT adjusting the contract quantities of base course, furnish granular material, and asphalt binder to match the as built quantities through normal project variations.

4. Project: P 0047(119)157, Faulk & Hyde County, PCN 069F
 Location: SD47 from north of SD26 to the US212 E junction
 Contractor: Anderson Western, Inc.
 Type of Work: Cold milling asphalt concrete, asphalt concrete resurfacing, culvert repairs

Original Contract Amount:	\$	4,153,979.12
Change on CCO No. 1:	\$	(76,698.47)
Net Change to Date:	\$	(76,698.47)

Explanation of Change on CCO No. 1: This decrease is the result of SDDOT adjusting the contract quantities of base course; furnish granular material; blend, haul, and stockpile granular material; and asphalt binder to match the as built quantities through normal project variations.

MITCHELL REGION

5. Project: IM P 0022(85), Miner & Minnehaha County, PCN 089K
 Location: Various routes in the Sioux Falls area
 Contractor: Interstate Improvement, Inc.
 Type of Work: Pavement restoration

Original Contract Amount:	\$	3,953,697.43
Change on CCO No. 6:	\$	425,895.08
Net Change to Date:	\$	327,924.31

Explanation of Change on CCO No. 6: This increase is the result of SDDOT adjusting the contract quantities of PCC pavement repair and concrete curb & gutter repair to match as built quantities through normal project variations.

6. Project: PH 0044(184)330, Douglas & Hutchinson County, PCN 04K0
 Location: SD44 from the east junction of US281 to SD37 in Parkston
 Contractor: Loiseau Construction, Inc.
 Type of Work: Shoulder widening, asphalt concrete surfacing of shoulder, pipe work, extend RCBC, upgrade bridge approach rail

Original Contract Amount:	\$	14,815,979.58
Change on CCO No. 5:	\$	1,185,440.31
Net Change to Date:	\$	1,236,058.75

Explanation of Change on CCO No. 5: This increase is the result of SDDOT adjusting the contract quantities of base course to match as built quantities due to less base course being salvaged than in the plans and for additional excavation required to construct the project.

PIERRE REGION

7. Project: NH 0033(37), Tripp County, PCN 089Q
 Location: Various locations in the Winner area
 Contractor: Bituminous Paving, Inc.
 Type of Work: PCC pavement grinding, asphalt concrete surfacing of shoulders

Original Contract Amount:	\$	4,793,586.10
Change on CCO No. 6:	\$	58,820.00
Net Change to Date:	\$	614,201.30

Explanation of Change on CCO No. 6: This increase is the result of SDDOT increasing the quantity of cold milling asphalt concrete due to inaccurate quantities in the plans.

8. Project: P 0053(11)49, Mellette County, PCN 07YF
 Location: SD53 from SD44 north 11 miles
 Contractor: Bituminous Paving, Inc.
 Type of Work: Full depth reclamation, otta seal & blotter surface

Original Contract Amount:	\$	2,913,162.70
Change on CCO No. 2:	\$	297,862.06
Net Change to Date:	\$	337,499.66

Explanation of Change on CCO No. 2: This increase is the result of SDDOT compensating the contractor for additional quantities of full depth reclamation and stabilizing additive for granular material due to unstable existing granular material and subgrade not anticipated in the plans.

9. Project: P 0053(11)49, Mellette County, PCN 07YF
 Location: SD53 from SD44 north 11 miles
 Contractor: Bituminous Paving, Inc.
 Type of Work: Full depth reclamation, otta seal & blotter surface

Original Contract Amount:	\$	2,913,162.70
Change on CCO No. 4:	\$	(51,779.24)
Net Change to Date:	\$	382,932.42

Explanation of Change on CCO No. 4: This decrease is the result of SDDOT adjusting the contract quantities of numerous items to match as built quantities through normal project variations.

RAPID CITY REGION

10. Project: P 000S(00)278, Rapid City Region, PCN 07DQ
 Location: Various locations in the Rapid City region
 Contractor: Dakota Barricade LLC
 Type of Work: Pavement markings

Original Contract Amount:	\$	898,020.00
Change on CCO No. 4:	\$	(103,668.00)
Net Change to Date:	\$	57,666.50

Explanation of Change on CCO No. 4: This decrease is the result of SDDOT adjusting the contract quantities of pavement markings to match as built quantities through normal project variations and an error in the plan quantities.

11. Project: P 6403(10), Pennington County, PCN 08P3
 Location: South Rochford Road from Rochford southwest to Deerfield
 Contractor: Loiseau Construction, Inc.
 Type of Work: Grading, drainage, base course, asphalt concrete surfacing

Original Contract Amount:	\$	23,381,920.13
Change on CCO No. 2:	\$	(619,059.60)
Net Change to Date:	\$	(619,059.60)

Explanation of Change on CCO No. 2: This decrease is the result of SDDOT adjusting the contract unit price for base course. Through discussion with SDDOT Environmental Office and US Forest Service, the decision was made to allow a higher pH level in the material. This change allowed the contractor to use a local quarry for material instead of hauling material from Cheyenne, Wyoming resulting in a cost savings.

Smith presented for Commission consideration a request to relinquish control of access in Sanborn County. The request is to relocate the access currently located approximately 420 feet west of 407th Avenue on South Dakota Highway 34 on the north side of the highway to a location 1200 feet west of 407th Avenue, also on the north side of the highway. This location is in the 4-lane divided section east of Forestburg and north of Mitchell.

A MOTION WAS MADE by Vehle and seconded by Simons to approve the access approach relocation as presented by the Department. All present voted aye by roll call vote. The motion carried.

RESOLUTION #2023 – 8.3 was adopted.

Sam Weisgram, Office of Project Development, presented to the Commission the following bid letting results:

August 10, 2023

Variable Speed Limit & ITS Device

1 05W7 IM 0901(194)28 Meade County
REJECTED BY SDDOT COMMISSION
I90 - Fm 2 W of Exit 30 (Sturgis) to 1 W of Exit 44 (Piedmont)

A MOTION WAS MADE by Jensen and seconded by Nelson to reject the bid. All present voted aye by roll call vote. The motion carried.

August 16, 2023

Replace Str (172' Steel Girder), Approach Grading, PCC Surfacing, Concrete Barrier, Approach Slabs, Guardrail, Lighting & 200' Temporary Pedestrian Structure

1 065K IM-B-TA 1902(67)0 Pennington County
NO BIDS RECEIVED
I190 - Fm N of Anamosa St to North St

No action was taken on bid #1 due to no bids received.

Polymer Chip Seal, Replace Abutments, Berm Repair, Replace Joints, Approach Slabs, Approach Pavement, Approach Guardrail, End Blocks

2 065L IM 0291(131)0 Union County
Journey Group Companies \$4,524,999.20
I29 - Strs, Exit 1 (Dakota Dunes); Exit 18 (Elk Point); 0.2 N of Exit 18 (Elk Point) over RR

A MOTION WAS MADE by Rosenboom and seconded by Nelson to approve bid #2 subject to receipt of the certification required by Executive Order 2023-13. All present voted aye by roll call vote. The motion carried.

Median Lighting & Innerduct Installation

3	03RD IM 2292(95)0	Lincoln, Minnehaha County
	Action Systems Inc.dba Action Electric	\$2,496,494.40
	I229 Corridor	

Culvert Cleaning & CIPP Lining

4	06EA NH-P 0011(115)	Edmunds, Faulk County
	Subsurface, Inc.	\$452,536.10
	Various Locations Throughout the Aberdeen Area	

A MOTION WAS MADE by Zander and seconded by Simons to approve bids #3 and 4 subject to receipt of the certification required by Executive Order 2023-13. All present voted aye by roll call vote. The motion carried.

Column Repair

5	07WN, 08A0 NH-B 0044(221)42, P-B 0020(219)26	Harding, Pennington County
	A-G-E Corporation	\$269,479.40
	SD44 - Str 1.9 W of the SD231 Jct over Rapid Ck; SD 20 0.9 W of Buffalo	

A MOTION WAS MADE by Roby and seconded by Vehle to approve bid #5 subject to receipt of the certification required by Executive Order 2023-13. All present voted aye by roll call vote. The motion carried.

The Commission took a short recess from 10:31 – 10:39 a.m. Commissioner Chris Frick left the meeting at 10:32 a.m. After the break, a roll call was taken and a quorum was present.

John Keyes, Office of Right of Way, presented for Commission consideration the following items.

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

Lot A in a tract of land recorded in book AN, page 237, Hutchinson County Register of Deeds, 33 feet on either side of the following described center line: Beginning at a point which is 67.8 feet south of the N1/4 corner of Section 11, Township 97 North, Range 58 West (which point is in the center of the roadway in Outlot 4 in the Town of Olivet, South Dakota, and 44.4 feet from west

end of the concrete viaduct constructed across the James River in 1923); thence S 75'45" E 2226.4 feet; thence 317.1 feet in a easterly direction along a curve whose radius is 716.3 feet; thence N 78'53" E 165.8 feet (intersecting the east section line of Sec. 11-97-58 and 593.7 feet south of the N.E. corner of Sec. 11-97-58); thence N 78'53" E 2577.9 feet (to a point 122.5 feet south of the N1/4 corner of Sec. 12-97-58); thence N 78'53" E 589.1 feet, intersecting the north section line of Sec. 12-97-58, Hutchinson County, South Dakota.

The above property is no longer needed for highway purposes and abandonment is recommended by DOT Mitchell Region and Yankton Area.

A MOTION WAS MADE by Jensen and seconded by Roby to approve the abandonment in Hutchinson County. All present voted aye by roll call vote. The motion carried.

RESOLUTION #2023 – 8.4 was adopted.

2. Abandonment – Pennington County

Request Transportation Commission approval to abandon by resolution the temporary easements on Pennington County DOT Project NH 0044(220)46, PCN 04PD.

3. Abandonment – Faulk County

Request Transportation Commission approval to abandon by resolution the temporary easements on Faulk County DOT Project PH 0212(167)245, PCN 03RQ.

A MOTION WAS MADE by Vehle and seconded by Rosenboom to approve the abandonment of temporary easements in Pennington and Faulk Counties. All present voted aye by roll call vote. The motion carried.

RESOLUTION #2023 – 8.5 and 8.6 were adopted.

Mark Leiferman, Program Manager for the Office of Project Development, presented for Commission information the following Statewide Transportation Improvement Program (STIP) revisions:

INFORMATIONAL REVISIONS FOR THE COMMISSION

(Work Type change, Cost update, Move Fiscal Year's within the 4-year construction STIP)

REV 23-SC-029 This revision increased the cost of a FY2023 Repair Embankment Settlement, Approach Pavement, Approach Slabs, Zone Painting project on a structure on US281 0.2 miles north of US12 Over BNSF RR in Aberdeen in the Aberdeen Region. (Sequence # 87, Page # 57 in the 2023-2026 STIP Book).

FY 2023 Plus \$1,851,000

Original = \$2,649,000; Updated = \$4,500,000

REV 23-SC-030 This revision removed “Lighting” from the work description of a Mill, AC Resurfacing, Modify Intersection, Lighting project on US212 from Dupree through Eagle Butte in the Pierre Region. (Sequence # 252, Page # 86 in the 2023-2026 STIP Book).

FY 2023 No Change

Leiferman presented for Commission consideration the 2024-2027 STIP, Sioux Falls Metropolitan Planning Organization (MPO) Transportation Improvement Program (TIP), Sioux City MPO TIP, Rapid City MPO TIP, and Transit Improvement Program.

A MOTION WAS MADE by Roby and seconded by Vehle to approve the 2024 – 2027 STIP, Sioux Falls MPO TIP, Sioux City MPO TIP, Rapid City MPO TIP, and Transit Improvement Program. All present voted aye by voice vote. The motion carried.

Doug Kinniburgh, Office of Administration, requested Commission approval of the 2023 Local Federal Rehabilitation/ Replacement and Removal Projects and the 2024 Preliminary Engineering Bridge Improvement Grant (BIG) applications. A revised Attachment #10 and Attachment #11 were provided to the commission.

Kinniburgh recommended award of all 2023 Local Federal Bridge Removal grant applications in the revised Attachment #10 and add to the 2024-2027 STIP. Kinniburgh recommended award of the top 8 bridges of the 2023 Local Federal Replacement on-system grant applications shown on the second page of revised Attachment #10 and add to the 2024-2027 STIP. Kinniburgh recommended award of the top 13 bridges for the 2023 Local Federal Replacement off-system grant applications as shown on the third page of revised Attachment #10 and add to the 2024-2027 STIP. Kinniburgh recommended award of the top 26 bridges in the 2024 BIG Preliminary Engineering grant applications as shown on the revised Attachment #11, except applications #1, 4, and 21 (which received federal grants), and add to the 2023-2026 STIP.

A MOTION WAS MADE by Nelson and seconded by Jensen to approve all 2023 local federal bridge removal grant applications shown on the revised Attachment #10, the top 8 ranked 2023 local federal bridge replacement on-system grant applications as shown on the revised Attachment #10, the top 13 ranked 2023 local federal replacement off-system bridge grant applications as shown on revised Attachment #10, and the top 26 ranked BIG preliminary engineering grant applications as shown on the revised Attachment #11, except for the projects numbered 1, 4, and 21 (which received federal grants). The motion included adding all projects with approved applications to the current 2023-2026 STIP. All present voted aye by voice vote. The motion carried.

Joanne Hight, Program Manager for the Office of Administration, presented for Commission consideration a request to re-award a 2020 Agri-Business Grant directly to Blinsmon Township that was previously awarded to Moody County. Hight explained that the township and the county support the re-award to the township instead of the county.

A MOTION WAS MADE by Roby and seconded by Rosenboom to approve awarding the 2020 Agri-Business Grant previously awarded to Moody County to Blinsmon Township instead. All present voted aye by voice vote. The motion carried.

Hight presented for Commission consideration an Economic Development Grant application for Davison County. The grant would be applied to a \$1 million road improvement project in the Mitchell area for the new High Plains Processing, LLC project planned by South Dakota Soybean Processors, LLC. Hight recommended a motion for approval of the Davison County Agri-Business Grant for One Hundred Sixty-Two Thousand Two Hundred Fifty Dollars (\$162,250.00).

Commissioner Mike Vehle recused himself from discussion and vote on this item due to a potential conflict of interest as an investor in High Plains Processing, LLC.

A MOTION WAS MADE by Zander and seconded by Rosenboom that the matters disclosed verbally by Commissioner Vehle are fair, reasonable, and not contrary to public interest. All present voted aye by voice vote except Vehle who abstained. The motion carried.

Commissioner Lynn Jensen recused himself from the discussion and vote due to a potential conflict of interest as he is a member of South Dakota Soybean Processors, LLC, which is an investor in the project that creates the need for the road improvement project.

A MOTION WAS MADE by Roby and seconded by Zander that the matters disclosed verbally by Commissioner Jensen are fair, reasonable, and not contrary to public interest. All present voted aye by voice vote except Vehle who abstained. The motion carried.

Commissioner Austin Simons elected to recuse himself by verbal declaration from the discussion and vote due to his trucking business having South Dakota Soybean Processors, LLC, as a customer. A waiver pursuant to SDCL ch. 3-23 was not deemed necessary in this circumstance.

Commissioner Nelson indicated a family member has invested in the project associated with the road improvement project, but he does not live with the family member or co-mingle assets with the family member. Zander noted South Dakota Soybean Processors, LLC is a member of South Dakota Agri-Business Association. It was determined that neither matter disclosed by Nelson and Zander required a waiver pursuant to SDCL ch. 3-23.

A MOTION WAS MADE by Nelson and seconded by Rosenboom to approve the 2024 Agri-Business Economic Development Grant to Davison County. All present voted aye by voice vote except Vehle, Jensen, and Simons who abstained. The motion carried.

Karim asked for a motion for the Commission to enter executive session.

A MOTION WAS MADE by Vehle and seconded by Roby to enter executive session pursuant to SDCL 1-25-2(3) for the purpose of consulting with legal counsel and reviewing communications from legal counsel about proposed or pending litigation or contractual matters. All present voted aye by roll call vote. The motion carried.

Executive session began at 12:01 p.m. CT

Executive Session ended at 12:48 p.m. CT.

With no further business to come before the Commission, Chairman Karim declared the meeting adjourned at 12:48 p.m. CDT.