

April 2023

SECOG

SOUTH EASTERN COUNCIL OF GOVERNMENTS

SOUTH DAKOTA

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The Director's Corner

In 2022, several Sioux Falls community leaders saw an opportunity to maximize the use of the riverfront land on the edge of the viaduct east of Downtown Sioux Falls near 10th and Cliff. Leaders from across the community have come together as the Friends of the Riverline District to create an opportunity to expand Sioux Falls' vibrant downtown area. The Friends of the Riverline District are focused on creating family-friendly opportunities in the Riverline District, powering economic development in the area, and revitalizing the Whittier neighborhood.

In January 2023, I was honored with the invitation from Mayor Ten Haken to co-chair the Friends of the Riverline District along with Natalie Eisenberg. The following five non-profits donated \$250,000 in order for the land purchase options to be secured.



The Riverline District land under contract consists of approximately nine acres. The land offers riverside views, access to the bike trail, and an adjacent location to the growing downtown area. Development for the land could include year-round recreation access, housing, business developments, opportunities for professional or amateur sports, and more.

The Friends of the Riverline District recently conducted a community survey to gather input on how the community would like to see that area developed. The next step in the process will be hiring a consultant to conduct an economic impact study of the area which is expected to be completed in July.

Please visit the Riverline District's website at www.riverlinedistrict.com for additional information.



From Jim's Desk



Sioux Falls MPO 2022 Year End Report

The Sioux Falls Metropolitan Planning Organization (MPO) receives federal funding to conduct continuous, comprehensive, and cooperative transportation planning and programming activities for the Sioux Falls metropolitan area. The 2022 Year End Report for the Sioux Falls MPO is posted at: <http://siouxfallsmpo.org/resources/publications/>.

Highlights of the transportation planning activities from 2022 include completion of the Brandon Bicycle & Pedestrian Plan and the Harrisburg Master Transportation Plan, continued work on the I-229 Exit 6 (10th Street) Interchange Modification Study, and initiation of the Lincoln County Highway 106 Corridor Study and the Brandon Master Transportation Plan. Additional information on these activities and more can be found at: <http://siouxfallsmpo.org/resources/transportation-studies/>.

Overall, the Sioux Falls MPO completed \$1.658 million in transportation planning activities in 2022, which continues work to improve a coordinated multi-modal transportation system in the region.

Sioux Falls MPO 2024 Unified Planning Work Program

The Sioux Falls Metropolitan Planning Organization (MPO) is preparing its 2024 Unified Planning Work Program (UPWP). The UPWP is the document which describes the annual objectives, work activities, and planning studies to be accomplished by the Sioux Falls MPO participants. The participants include the cities of Brandon, Crooks, Harrisburg, Hartford, Sioux Falls, and Tea; Lincoln County and Minnehaha County; SECOG; South Dakota Department of Transportation; Federal Highway Administration; and Federal Transit Administration.

The draft 2024 UPWP will be presented to the MPO committees at their May meetings in the SECOG Boardroom, 500 N. Western Ave, Sioux Falls. Interested parties may attend these public meetings in-person or via Microsoft Teams. Teams meeting information and a link to the draft 2024 UPWP will be provided in the MPO committees' agendas. The agendas can be found at: <https://siouxfallsmpo.org/committees/>

Upcoming Meetings

Citizen Advisory Committee

May 10, 2023 @ 3:00 p.m.

Technical Advisory Committee

May 11, 2023 @ 2:00 p.m.

Urbanized Development Commission

May 11, 2021 @ 4:00 p.m.

SECOG Welcomes a New Team Member



The South Eastern Council of Governments, Dakota BUSINESS Finance, and the South Eastern Development Foundation are excited to announce the addition of Erik Barnes to our team. Erik will be serving as the Senior Loan Officer for Dakota BUSINESS Finance and South Eastern Development Foundation.

As the Senior Loan Officer, Erik is responsible for marketing, underwriting, and packaging loans for Dakota BUSINESS Finance and the South Eastern Development Foundation.

Erik received his Bachelor degree in Economics from South Dakota State University and has been in commercial lending for over five years.

The Planners' Plans

Pre-Disaster Mitigation Plan (PDM)

Every five years, counties are required to update their Pre-Disaster Mitigation (PDM) Plan in order to receive Federal Emergency Management Agency (FEMA) funding per the Federal Disaster Mitigation Act of 2000. SECOG is providing technical assistance to aid Minnehaha and Lincoln counties in updating their 2017 PDM Plan. The planning process is nearing completion. SECOG will hold public hearings and encourages the public to comment and review the 2023 updated PDM Plan when it becomes available.

Amid the planning process to update the Minnehaha and Lincoln counties PDM, SECOG has also submitted requests for funding assistance for McCook, Turner, and Union counties to start the updates on each of the county's plans. Over the next few months, SECOG's planning team will update Clay County's PDM Plan.



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Communities Awarded Grants and Loans

The Board of Water and Natural Resources met this past March. The following communities were awarded a grant, loan, or a combination thereof totaling over \$52,000,000 in funding:

Applicant	Funding Requested	CW SRF Loan	DW SRF Loan	Additional Subsidy	Total BWNR Funding
Crooks (Water)	\$ 3,200,000		\$ 1,575,000	\$ 1,625,000	\$ 3,200,000
Dell Rapids (Water)	\$ 800,000		\$ 800,000		\$ 800,000
Dell Rapids (Sewer)	\$ 1,300,000	\$ 845,000		\$ 455,000	\$ 1,300,000
Harrisburg (Sewer)	\$ 11,709,000	\$ 11,709,000			\$ 11,709,000
Salem (Water)	\$ 1,400,000		\$ 1,400,000		\$ 1,400,000
Salem (Sewer)	\$ 3,400,000	\$ 1,400,000		\$ 2,000,000	\$ 3,400,000
Vermillion (Sewer)	\$ 23,100,000	\$ 23,100,000			\$ 23,100,000
Vermillion (Water)	\$ 7,000,000		\$ 7,000,000		\$ 7,000,000
Vermillion (Waste Management)	\$ 260,800			\$ 260,800	\$ 260,800
Total	\$ 52,169,800	\$ 37,054,000	\$ 10,775,000	\$ 4,340,800	\$ 52,169,800

The South Dakota DOT Transportation Alternatives Committee awarded the following Transportation Alternative Program (TAP) awards in March totaling \$2,086,825 in funding:

Applicant	Project	Funding
Colton	Shared use path	\$ 600,000
Dell Rapids	Shared use path	\$ 600,000
Sioux Falls	Shared use path	\$ 600,000
Valley Springs	Sidewalk	\$ 286,825

The Planners' Plans

UPCOMING DEADLINES



**DRINKING WATER
SANITARY/STORM SEWER
& SOLID WASTE MANAGEMENT
FACILITIES FUNDING**

**APPLICATIONS
DUE JULY 1, 2023**

SECOG

**Community Access Grant
Program (CAG)**

- State funds to be used for the construction or reconstruction of major streets in towns with a population of 5,000 or less. Major streets include Main Street, the road to the elevator, schools, hospital, etc.
- Grant provides 80% of the construction costs of the project, not including engineering or utility work
- Grant size is limited to \$600,000

**Application Deadline:
July 14, 2023**

SD DOT

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The Planners' Plans

Variances - A Relief from Zoning Regulations

The article is designed to give you brief familiarity with the law in the hope that you will seek the advice of legal counsel should you encounter questions with granting or denying a variance. According to SDCLs 11-2-53(2) and 11-4-17(2), the Board of Adjustment may “[a]uthorize upon appeal in specific cases a variance from the terms of the ordinance that is not contrary to the public interest, if, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship and so that the spirit of the ordinance is observed and substantial justice done.” When we think about variances, we mostly focus on whether the present condition is an “unnecessary hardship”. However, Courts will look at more than just the “unnecessary hardship” when determining whether the Board of Adjustment should have granted a variance. As articulated in *Hines v. Bd. of Adjustment of Miller*, 2004 S.D. 13, “for a [board of adjustment] to grant a variance, both the public interest prong and special conditions prong [of the statutes] must be met.”

While the two-prong test was established in *Hines*, the Court only examined the public interest prong. In *Hines*, the City of Miller’s Board of Adjustment unanimously denied a variance request solely because a group of neighbors objected to the proposal. In overturning the Board’s decision, the Court reasoned, “[t]he ultimate determination of the public’s best interest is for the legislative body, not a minority of neighboring property owners. Because the Constitution protects a landowner’s right to use land for any legitimate purpose, we are wary of decisions that are based on whims of neighboring landowners. This is so because



(Continued on next page)

their decisions may be lacking any standards or guidelines, leading to decisions that may be arbitrary or capricious. Worse, their opinions may be wholly self-serving.” The Court provided more guidance a few years later in *Dunham v. Lake County Commission*, 2020 S.D. 23. When determining whether the public interest would be harmed by granting a variance, the Court determined that if the variance “would not be injurious to the neighborhood or detrimental to the public welfare” is enough to satisfy public interest prong.

The second part of the test, the special conditions prong, was more fully addressed by the Court in Dunham. In Dunham, the local zoning ordinance required that some “exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property” exist in order to grant a variance. Ultimately, the Court in Dunham overturned the Board’s decision because they found it had made only a “terse finding that special conditions exist on the property but failed to meaningfully address [which] special conditions [necessitated granting the variance]. More specifically, the Board made no determination that because of a particular feature of the property at the time the Ordinance was enacted, or because of some ‘extraordinary and exceptional’ situation on the property, a variance was necessary.” When considering the special conditions required to grant a variance, the Court requires an examination and explicit determination that a specific special condition exist rather than a conclusory statement.

The general rule is that courts will not interfere with or overturn the decision of a local government so long as they did not act “fraudulently or in arbitrary or willful disregarding of undisputed and indisputable proof.” *Lamar Outdoor Advert. of S.D., Inc. v. City of Rapid City*, 2007 S.D. 35 (quoting *Cole v. Bd. Of Adjustment of Huron (Cole I)*, 1999 S.D. 54). Litigation regarding variances often boils down to the record made during the hearing. Therefore, especially for the special conditions prong, it is important that the Board thoroughly and directly articulate its justifications and reasoning to ensure that its decision is above reproach. If you have questions about granting a variance, make sure to consult your legal counsel for advice and guidance.



SEAN HEGYI

The Planners' Plans

Annual DOT Road Inventory Project

The South Eastern Council of Governments (SECOG) may be visiting your community shortly to collect and update changes to your local roads.

Since 1995, the South Dakota Department of Transportation (SDDOT) and the South Dakota Planning and Development Districts have been working together to update changes to the public road system. SECOG distributed two copies of the local road map as well as a letter outlining the information SECOG requested from members for the DOT Road Inventory program in January 2023. We appreciate our members who have reported changes to us. If you have not done so already, please return your maps as soon as possible.

In addition to road information, it would also be appreciated if member cities would pay close attention to the city limit boundaries represented on the map. Please report any annexations or inaccuracies you find so that SECOG is able to maintain accurate information.

If you have any questions about what is entailed in this program, please contact Levi Jayom at gis@secog.org or (605) 681-8174.



LEVI JAYOM

New Approved Loans

Dakota BUSINESS Finance
South Eastern Development Foundation



Ambush Brandon, SD

SBA 504 Loan through DBF

Purpose: Purchase a building

Participating Lender: Weston Hansen,
The First National Bank in Sioux Falls



Colton Retirement Living Colton, SD

SBA 504 Loan through DBF

Purpose: Purchase a building

Participating Lender: Ryan Dulaney,
First Dakota National Bank

Dutch Dakota Dairy Lake Preston, SD

SBA 504 Loan through DBF

Purpose: Purchase farm land to grow
feed for the dairy

Participating Lender: Rodney Krantz,
Plains Commerce Bank



Continued on next page

**Madison Lodging
Madison, SD**

SBA 504 Loan through DBF

Purpose: Purchase a hotel

Participating Lender: Dave Dancler,
Security Savings Bank



**Mitchell Manufacturing
Mitchell, SD**

SBA 504 Loan through DBF

Purpose: Purchase a building and
equipment

Participating Lender: Rob Schelske,
First Dakota National Bank

**Sleep Inn
Sioux Falls, SD**

SBA 504 Loan through DBF

Purpose: Purchase a hotel

Participating Lender: Amy Hoffman,
Pinnacle Bank



HIGH PLAINS HYDROVAC, INC.

**High Plains HydroVac
Sioux Falls, SD**

SEDF Loan

Purpose: Purchase Equipment

Participating Lender: Matt Pecoske,
Levo Credit Union

Continued on next page

Roo's Sanitation
Tea, SD
SEDF Loan

Purpose: Purchase a new garbage truck



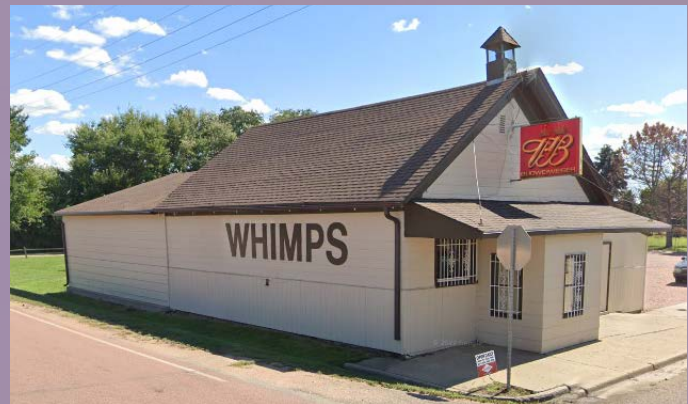
Walsh & Company Tax,
Bookkeeping & Consulting
Tea, SD
SEDF Loan

Purpose: Leasehold improvements
Participating Lender: Travis Olsem,
American Bank & Trust

Whimp's Place
Burbank, SD
SEDF Loan

Purpose: Refinance of existing debt
and renovation

Participating Lender:
Darwin VanDenOever, Cortrust Bank





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