

IOWA DEPARTMENT OF TRANSPORTATION

AGENDA ITEMS/COMMISSION ORDERS

Tuesday, June 9, 2015
 Mid-America Center
 One Arena Way
 Council Bluffs

| ITEM NUMBER | TITLE | SUBMITTED BY | PAGE |
|--------------------------|--|-----------------|------|
| D-2015-65 8:00 a.m. | *Approve Minutes of the May 12, 2015, Commission Meeting Commission Comments Staff Comments | Connie Page | 1 |
| IT-2015-66 8:05 a.m. | *Administrative Rules – 761 IAC 4 Public Records and Fair Information Practices | Jeff Sundholm | 2 |
| PPM-2015-67 | *2016-2020 Iowa Transportation Improvement Program | Stuart Anderson | 13 |
| PPM-2015-68 8:10 a.m. | *Revitalize Iowa’s Sound Economy (RISE) Application – Woodbury County (Delegation) | Craig Markley | 14 |
| PPM-2015-69 | *Revitalize Iowa’s Sound Economy (RISE) Proposed Settlement – Boone | Craig Markley | 17 |
| 8:20 a.m. | Adjourn | | |
| 8:30 a.m. | Public Input | | |

*Action Item

On Monday, June 8, 2015, the Commission and staff will tour transportation projects in the Council Bluffs area starting at 9:00 a.m. at the DOT Council Bluffs Interstate office, 1751 Madison Avenue, and ending around 3 p.m. at the Mid-America Center, One Arena Way, in Council Bluffs. The Commission and staff will hold an informal meeting at the Mid-America Center beginning at 3:30 p.m. Transportation-related matters will be discussed but no action will be taken.

Commission Comments

1. Monday's Commission Tour

Commissioner Yanney said yesterday the Commission had the privilege of touring the Council Bluffs area. Our tour leaders were Scott Suhr, George Feazell, and Troy Jerman of the District 4 office. She said she lives in Sioux City and gets to Council Bluffs quite often but she doesn't always take a tour of the highways and it was interesting to see what is all going on. The new wall depicting the river and loess hills along the interstate is gorgeous. We drove the I-29 corridor and crossed the U.S. 34 Missouri River bridge which was under construction the last time the Commission was in the area. We drove the I-680 corridor to U.S. 30 through Missouri Valley to DeSoto Bend National Wildlife Refuge and also toured some of I-480 and toured U.S. 6/Broadway in Council Bluffs. We stopped at the Council Bluffs airport and had a nice conversation with the airport director. The group saw a lot of reconstruction/construction work going on, and it is well worth it. She commended the people of Council Bluffs for work they are doing.

Commission Chair Boswell noted the Commission and staff held a workshop Monday afternoon and covered the agenda items in detail.

**DEPARTMENT OF TRANSPORTATION
COMMISSION ORDER**

Division/Bureau/Office Information Technology Division Order No. IT-2015-66
 Submitted by Annette Dunn Phone No. 515-239-1640 Meeting Date June 9, 2015
 Title Administrative Rules – 761 IAC 4 Public Records and Fair Information Practices

DISCUSSION/BACKGROUND:

Chapter 4 was thoroughly reviewed as part of the five-year review of all DOT rule chapters. The following summarizes the proposed changes.

Rules concerning the Department’s Records Management Manual and the public’s access to records were amended since they are both available electronically.

- Rules were amended to comply with changes in Iowa Code.
- The list of confidential records within rule 761 IAC 4.9 was updated to reflect Iowa Code changes and to eliminate subrules that were simply repeating what was already included in Iowa Code 22.7. Repeating the Iowa Code within the list of confidential records is unnecessary and causes our rules to be out of date too soon. A new subrule, 761 IAC 4.9(1), was added: “Records which are exempt from disclosure under Iowa Code section 22.7.”
- Other rule changes were made for technical purposes.

No comments or requests for oral presentations were received during the official public comment period.

PROPOSAL/ACTION RECOMMENDATION:

It is recommended the Commission approve the attached rule amendments.

COMMISSION ACTION:

Moved by Yanney Seconded by Rose

| | Aye | Vote Nay | Pass |
|---------|----------|-------------|-------|
| Boswell | <u>X</u> | _____ | _____ |
| Huber | <u>X</u> | _____ | _____ |
| Miles | <u>X</u> | _____ | _____ |
| Putney | <u>X</u> | _____ | _____ |
| Reasner | <u>X</u> | _____ | _____ |
| Rose | <u>X</u> | _____ | _____ |
| Yanney | <u>X</u> | _____ | _____ |

 Division Director Legal State Director

ITEM 1. Amend rule 761—4.1(22,304) as follows:

761—4.1(22,304 305) General provisions.

4.1(1) Scope of chapter.

a. and b. No change.

c. This chapter does not make available records compiled by the department in reasonable anticipation of court litigation or formal administrative proceedings. The availability of these records to the public or to any ~~subject~~ individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations of the department.

4.1(2) Custodian. The custodian of a record is the person who heads the departmental office responsible for that record. The department's electronic Records Management Manual identifies the offices that are responsible for particular records.

a. No change.

b. ~~The A~~ custodian's ~~designees~~ designee may include but ~~are~~ is not limited to the records center ~~and the department's general counsel.~~

c. No change.

4.1(3) Address of records center. The address of the department's records center is: Records Center Management Section, Office of Document Services Information Technology Division, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

4.1(4) Records Management Manual.

a. The department's electronic Records Management Manual contains the records management information required by Iowa Code chapter ~~304~~ 305, including descriptions of department records and their formats, management, maintenance, storage, retention, security, and disposal.

b. ~~Chapter III of the~~ The manual also contains the descriptive information on records that is required by Iowa Code section 22.11. ~~Chapter III, as revised through 2001, is made a~~ The manual is updated as needed and its provisions are made a part of these rules.

c. The manual is available for examination and copying at the department's records center and at various other departmental offices located throughout the state. A copy of the manual may also be obtained ~~at cost~~, upon request, from the records center.

4.1(5) Availability of open records. Open records of the department are available to the public for examination and copying unless otherwise provided by ~~rule or statute~~ state or federal law, regulation or rule.

4.1(6) and 4.1(7) No change.

4.1(8) Existing records. A request for access shall apply only to records that exist at the ~~times~~ time the request is made and access is provided. The department is not required to create, compile or procure a record solely for the purpose of making it available. EXCEPTIONS: See Iowa Code section 22.3A and subrule ~~4.4(5)~~ 4.4(4).

4.1(9) No change.

This rule is intended to implement Iowa Code chapter 22 and section ~~304.17~~ 305.15.

ITEM 2. Amend subrule 4.3(7) as follows:

4.3(7) Copies. A photocopy of an open record may be made on department photocopiers. If a photocopier is not available in the office where an open record is kept, the custodian shall permit its examination in that office and, if requested, arrange to have a copy made elsewhere. Most department records are stored in electronic formats; therefore, if the requested record is electronic, an electronic copy will be provided. If the requester is unable to open and read an electronic copy, or if the record does not exist in electronic form, a hard copy will be provided.

ITEM 3. Amend subrule 4.3(8) as follows:

4.3(8) Fees. The department may charge fees for records as authorized by Iowa Code section 22.3 or another provision of law. Under Iowa Code section 22.3, the fee for the copying service, whether electronic or hard copy, shall not exceed the cost of providing the service.

ITEM 4. Amend rule 761—4.4(22) as follows:

761—4.4(22) Access to confidential records. The following provisions are in addition to those specified in rule 761—4.3(22) and are minimum requirements. A statute or another department rule may impose additional requirements for access to certain classes of confidential records. A

confidential record may, due to its nature or the way it is compiled or stored, contain a mixture of confidential and nonconfidential information. The department shall not refuse to release the nonconfidential information simply because of the manner in which the record is compiled or stored.

4.4(1) No change.

4.4(2) *Release of confidential records by the custodian.* The custodian may release a confidential record or a portion of it:

a. to *e.* No change.

f. To the public information board pursuant to Iowa Code section 23.6.

4.4(3) *Release of confidential records by the director.*

a. No change.

b. Before the director of transportation releases a record to a person not covered in subrule 4.4(2), the director of transportation may notify the subject of the record of the impending release and may give the subject a reasonable amount of time to seek an injunction.

~~—**4.4(4)** *Mixed record.* A confidential record may, due to its nature or the way it is compiled or stored, contain a mixture of confidential and nonconfidential information. The department shall not refuse to release the nonconfidential information simply because the record is compiled or stored in this fashion.~~

~~**4.4(5)**~~ **4.4(4)** *Information released.* If a person is provided access to less than an entire record, the department shall take measures to ensure that the person is furnished only the information that is to be released. This may be done by providing to the person either an extraction of the information to be released; or a copy of the record from which the information not to be released has been deleted.

This rule is intended to implement Iowa Code section 22.11.

ITEM 5. Amend rule 761—4.6(22) as follows:

761—4.6(22) Requests for confidential treatment.

4.6(1) A person may request that all or a portion of a record be confidential. The request must be submitted in writing to the custodian and:

a. and *b.* No change.

c. Demonstrate that disclosure of the information would clearly not be in the public interest.

~~e- d.~~ Give the reasons why ~~the~~ any person or persons would be ~~aggrieved or adversely affected~~ substantially and irreparably injured by disclosure of the information. The ~~person~~ requester may be required to provide any proof necessary to support these reasons.

4.6(2) and **4.6(3)** No change.

This rule is intended to implement Iowa Code ~~section~~ sections 22.8 and 22.11.

ITEM 6. Rescind rule 761—4.9(22) and adopt the following **new** rule in lieu thereof:

761—4.9(22) Confidential records. This rule describes the types of departmental information or records that are confidential. This rule is not exhaustive. A citation of the legal authority for confidentiality follows each description. The following records shall be kept confidential. Records are listed by category, according to the legal basis for withholding them from public inspection.

Descriptions:

4.9(1) Records which are exempt from disclosure under Iowa Code section 22.7.

4.9(2) Records which constitute attorney work product, attorney-client communications, or are otherwise privileged. (Attorney work product is confidential under Iowa Code sections 22.7, 622.10 and 622.11, Iowa R.C. P. 1.503, Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Iowa Rules of Professional Conduct, and case law.)

4.9(3) Those portions of the department's staff manuals, instructions or other statements issued by the department which set forth criteria or guidelines to be used by its departmental staff in auditing, making inspections, settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when the disclosure of such statements would enable law violators to avoid detection, facilitate disregard of requirements imposed by law, or give a clearly improper advantage to persons who are in an adverse position to the department. (Iowa Code sections 17A.2 and 17A.3)

4.9(4) The detailed minutes and recordings of closed sessions of the commission. However, if a closed session regards a real estate purchase or sale, the minutes and recording shall be available for public inspection when the transaction discussed is completed. (Iowa Code section 21.5)

4.9(5) Vehicle accident reports submitted to the department by drivers and peace officers. (Iowa Code sections 321.266 and 321.271)

a. However, access shall be granted to those persons authorized by Iowa Code section 321.271.

b. Reserved.

4.9(6) Unless otherwise ordered by the court, all information filed with the court for the purpose of securing a warrant for an arrest including, but not limited to, a citation and affidavits, until such time as a peace officer has made the arrest and has made the officer's return on the warrant, or the defendant has made an initial appearance in court. (Iowa Code section 804.29)

a. However, the information in the record may be disseminated without court order during the course of official duties to the persons authorized in Iowa Code section 804.29.

b. Reserved.

4.9(7) All information filed with the court for the purpose of securing a warrant for a search, including, but not limited to, an application and affidavits, until such time as a peace officer has executed the warrant and has made return thereon. (Iowa Code section 808.13)

a. During the period of time that information is confidential, it shall be sealed by the court, and the information contained therein shall not be disseminated to any person other than a peace officer, magistrate or other court employee, in the course of official duties.

b. Reserved.

4.9(8) Information obtained by the department from the examining of reports, returns or records required to be filed or kept under the provisions of Iowa Code chapter 452A, except where disclosure is authorized by Iowa Code chapter 452A. (Iowa Code section 452A.63)

4.9(9) Sealed bids, until the time set for the public opening of bids, whereupon bids are unsealed and no longer confidential. (Iowa Code section 72.3)

4.9(10) Those records which, if disclosed, would diminish competition or would give an improper advantage to persons who are in an adverse position to the department. These records shall be kept confidential until the transaction to which they relate is consummated. However, if disclosure would reveal information which would hinder future competition, the records shall be kept confidential. (Iowa Code sections 17A.2, 17A.3, 22.7 and 313.10, Iowa Code chapter 553, and 761—Chapter 20)

a. Examples of records which could, in the proper circumstances, be determined to be within this category include, but are not limited to:

(1) Detailed estimates of the cost of a proposed contract.

(2) Economic analyses for determining pavement types.

(3) Negotiations for a proposed contract.

(4) Methodology for determining unfair bidding practices or bid rigging.

(5) Price quotations solicited.

(6) The value of points assigned to a bid rating formula prior to the time set for public opening of bids.

(7) Laboratory testing reports of suppliers' products. These may also be trade secrets. The subject of the report has the right of access to it.

b. Reserved.

4.9(11) Audit reviews for determining equal employment opportunity contract compliance. (Iowa Code section 22.7 and 5 U.S.C. §§ 552 and 552a)

a. The subject of the audit review has the right of access to it.

b. Reserved.

4.9(12) All financial records and any information contained within them that are made available to the department, unless otherwise expressly permitted to be divulged by federal or state law. (Iowa Code sections 22.7 and 422.20 and 5 U.S.C. §§ 552 and 552a)

4.9(13) Personal information in any motor vehicle record, including personal information contained on electronic driver's license or nonoperator's identification card records that is provided by the licensee or card holder to the department for use by law enforcement, first responders, emergency medical service providers, and other medical personnel responding to or

assisting with an emergency. (Iowa Code sections 22.7 and 321.11 and 18 U.S.C. § 2721 et seq.)

a. Information other than personal information contained on electronic driver's license or nonoperator's identification card records that is provided by the licensee or card holder to the department for use by law enforcement, first responders, emergency medical service providers, and other medical personnel responding to or assisting with an emergency may be disclosed only as provided in Iowa Code sections 321.11 and 321.11A, 18 U.S.C. § 2721 et seq., and 761—Chapters 415, 610 and 611.

b. The subject of the personal information has the right of access to the information.

4.9(14) A report received by the department from a physician licensed under Iowa Code chapter 148, an advanced registered nurse practitioner licensed under Iowa Code chapter 152 and licensed with the board of nursing, a physician assistant licensed under Iowa Code chapter 148C or an optometrist licensed under Iowa Code chapter 154 regarding a person who has been diagnosed as having a physical or mental condition which would render the person physically or mentally incompetent to operate a motor vehicle in a safe manner. (Iowa Code section 321.186)

4.9(15) Certain records regarding undercover driver's licenses issued to peace officers, as specified in 761—Chapter 625. (Iowa Code sections 22.7 and 321.189A)

a. The subject of the record and the head of the law enforcement agency employing the subject have the right of access to the record.

b. Reserved.

4.9(16) Records related to confidential plates issued for government vehicles. (Iowa Code section 321.19)

a. The head of the agency to which the vehicle is assigned has the right of access to the record.

b. Reserved.

4.9(17) Certified transcripts of labor payrolls (also known as certified payroll records) filed by contractors for federal-aid construction contracts, in accordance with the following paragraphs. (Iowa Code section 22.7, 5 U.S.C. §§ 552 and 552a, and 42 U.S.C. § 405)

a. The social security numbers in a certified payroll record are confidential. The record itself may be confidential if its release would give advantage to competitors and serve no public purpose.

b. The prime contractor and subcontractor, if applicable, that filed the record have the right of access to it.

c. Certified payroll records shall be released to the U.S. Department of Labor and Federal Highway Administration during investigations.

d. The custodian may release a certified payroll record with social security numbers withheld to representatives of the Iowa Labor Management Work Preservation Fund.

e. The custodian may release a certified payroll record with social security numbers withheld to persons outside the department other than the persons listed in paragraphs 4.9(17) “*b*” to “*d*” according to the following procedure:

(1) The request for the record must be in writing.

(2) The custodian shall send a copy of the request by registered mail to the prime contractor. If the request is for subcontractor information, the custodian shall send copies of the request to both the subcontractor and prime contractor.

(3) The requested record shall not be released until 14 calendar days have expired from receipt of the request by the contractor(s) to give the contractor(s) an opportunity to seek an injunction.

4.9(18) Information concerning an open or pending railroad accident investigation conducted on behalf of or in conjunction with the Federal Railroad Administration or National Transportation Safety Board to the extent necessary to prevent denial of funds, services or essential information from the United States government. (Iowa Code section 22.9)

4.9(19) A geographic computer database, except upon terms and conditions acceptable to the department. (Iowa Code section 22.2)

4.9(20) Confidential information, as defined in Iowa Code section 86.45, filed with the workers’ compensation commissioner. (Iowa Code section 22.7)

4.9(21) An intelligence assessment and intelligence data under Iowa Code chapter 692, except where disclosure is required or authorized by the Iowa Code. (Iowa Code chapter 692 and Iowa Code section 22.7)

4.9(22) Information in a record that would permit the commission, subject to Iowa Code chapter 21, to hold a closed session pursuant to Iowa Code section 21.5 in order to avoid public disclosure of that information, until such time as final action is taken on the subject matter of that information or unless otherwise authorized by the Iowa Code. (Iowa Code section 22.7)

4.9(23) All other information or records that by law are or may be confidential.

This rule is intended to implement Iowa Code chapters 22, 553 and 692; Iowa Code sections 17A.2, 17A.3, 21.5, 72.3, 313.10, 321.11, 321.11A, 321.19, 321.186, 321.189A, 321.266, 321.271, 422.20, 452A.63, 622.10, 622.11, 804.29 and 808.13; 5 U.S.C. §§ 552 and 552a; 18 U.S.C. § 2721 et seq.; and 42 U.S.C. § 405.

DEPARTMENT OF TRANSPORTATION
COMMISSION ORDER

Division/Bureau/Office Planning, Programming and Modal Division
Office of Program Management Order No. PPM-2015-67
Submitted by Stuart Anderson Phone No. 515-239-1661 Meeting Date June 9, 2015
Title 2016-2020 Iowa Transportation Improvement Program

DISCUSSION/BACKGROUND:

The 2016-2020 Iowa Transportation Improvement Program will be presented for final review and approval.

PROPOSAL/ACTION RECOMMENDATION:

It is recommended the Commission approve and authorize distribution of the 2016-2020 Iowa Transportation Improvement Program. It is also recommended the Commission approve the use of condemnation, if necessary, to acquire property for the projects listed in the highway section.

COMMISSION ACTION:

Moved by _____ Seconded by _____

| | Aye | Vote Nay | Pass |
|---------|-------|-------------|-------|
| Boswell | _____ | _____ | _____ |
| Huber | _____ | _____ | _____ |
| Miles | _____ | _____ | _____ |
| Putney | _____ | _____ | _____ |
| Reasner | _____ | _____ | _____ |
| Rose | _____ | _____ | _____ |
| Yanney | _____ | _____ | _____ |

Division Director Legal State Director

PPM-2015-67

Stuart Anderson, Planning, Programming and Modal Division, presented the 2016 to 2020 Iowa Transportation Improvement program for the Commission's final review and consideration for action. The highway section of this program invests \$3.2 billion of state and federal funding on the Primary Highway system over that five-year time period. Approximately \$500 million of that investment is due to the passage of the Transportation funding bill in February. Last month staff presented a draft version of this program for the Commission's review and for public input. We received a few minor comments; and there are no changes to the highway projects. He requested Commission approval.

Commissioner Reasner moved, Commissioner Rose seconded the Commission approve and authorize distribution of the 2016-2020 Iowa Transportation Improvement program. It is also recommended the Commission approve the use of condemnation, if necessary, to acquire property for the projects listed in the highway section.

Commissioner Rose expressed appreciation to all the citizens who worked on the transportation funding bill; it was about a 12-year process. It is an historic event for the Commission to have extra funds to invest back in Iowa. The Commission started in February with extra workshops to determine where we would put the funds. For us it is about \$100 million a year or \$500 million over the five years. He also expressed appreciation to the legislators who voted for this.

Director Trombino III noted we have outlined in the back of the program where all the additional funding is going; that complies with what the legislature asked of us. Of the \$502 million, \$479 million goes into pavement, structures, and grading. There is going to be quite a bit of work over the next five years.

Commission Chair Boswell said he thought everyone here appreciates that it is a constant challenge to not only to keep up but to plan ahead as we follow statistics, trends, etc. We are proud of the work that was done; it was very much needed. Iowa has a unique position in the center of the country; we are a connecting point to the east and west, north and south so a lot of folks are watching. It was the right thing to do; it gives us a chance to do some catching up and to prepare for what lies ahead.

Commissioner Miles commended staff for their hard work in helping the Commission to put together a well-balanced program.

A roll call vote was taken with all Commissioners voting aye; motion passed.

**DEPARTMENT OF TRANSPORTATION
COMMISSION ORDER**

Planning, Programming and Modal Division

Division/Bureau/Office Office of Systems Planning Order No. PPM-2015-68
 Submitted by Craig Markley Phone No. 515-239-1027 Meeting Date June 9, 2015
 Title Revitalize Iowa's Sound Economy (RISE) Application – Woodbury County (Delegation)

DISCUSSION/BACKGROUND:

Woodbury County submitted a RISE Immediate Opportunity application requesting a grant to assist in the reconstruction of approximately 8,600 feet of Port Neal Circle, including a right-turn lane located south of Sergeant Bluff. This project is anticipated to be completed by November 2015.

Because this project will provide improved access to 20 acres for industrial purposes and to maximize RISE support for this project, staff evaluated the application as a RISE Local Development project.

The evaluation and rating for the project will be discussed.

PROPOSAL/ACTION RECOMMENDATION:

It is recommended the Commission, based on the capital investment commitment and potential for future job creation, reclassify the project as a RISE Local Development project in the February 2015 round of applications and award a RISE grant of \$766,250 or up to 50 percent of the total RISE-eligible project cost, whichever is less, from the county share of the RISE Fund.

COMMISSION ACTION:

Moved by _____ Seconded by _____

| | Aye | Vote Nay | Pass |
|---------|-------|-------------|-------|
| Boswell | _____ | _____ | _____ |
| Huber | _____ | _____ | _____ |
| Miles | _____ | _____ | _____ |
| Putney | _____ | _____ | _____ |
| Reasner | _____ | _____ | _____ |
| Rose | _____ | _____ | _____ |
| Yanney | _____ | _____ | _____ |

 Division Director Legal State Director

PPM-2015-68

Craig Markley, Office of Systems Planning, reviewed a RISE immediate opportunity application from Woodbury County to assist in the reconstruction of approximately 8,600 feet of Port Neal Circle including a right-turn lane. The project is located south of Sergeant Bluff. Because this project will provide improved access to 20 acres for industrial purposes and to maximize RISE support for the project, staff evaluated the application as a RISE local development project. Under RISE local development criteria, the project scored 64 points. Total estimated project cost is \$1,532,500. The county is requesting a RISE grant of \$766,250 and will provide a 50 percent local match. He introduced Mark Nahra, Woodbury County Engineer.

Mr. Nahra introduced the delegation members. He said they appreciate the opportunity to bring this project to the Commission and staff's assistance with development of this project. AGP is located in the Port Neal area south of Sioux City and they are looking to make a \$90 million investment in Woodbury County with the expansion of their facility and the construction of a new soy oil refinery. This will allow them to use the product they are developing on-site and continue to refine it at the same facility. They anticipate a 19 percent increase in truck traffic coming in. The current road serving their plant was built in 1979 with portions built as early as 1969, and the pavement is worn out. This RISE grant will assist in reconstructing that pavement.

Mark Monson, Woodbury County Supervisor, said he started attending the Highway 20 Association meetings in 2005. Thank you! Thank you! Thank you! Woodbury County is experiencing pretty close to \$2.5 billion in additional economic activities. To keep up the infrastructure when you are behind the eight ball, the RISE grant is critical to make this happen.

Mr. Markley reviewed staff's recommendation.

Commissioner Huber moved, Commissioner Rose seconded the Commission, based on the capital investment commitment and potential for future job creation, reclassify the project as a RISE Local Development project in the February 2015 round of applications and award a RISE grant of \$766,250 or up to 50 percent of the total RISE-eligible project cost, whichever is less, from the county share of the RISE Fund. Commissioner Yanney abstained; remaining Commissioners voted aye.

RISE LOCAL DEVELOPMENT FUNDING
February 2015
SUMMARY

Applicant: Woodbury County

Multiyear?: No
Multijurisdiction?: No

ROAD PROJECT LOCATION AND DESCRIPTION: Reconstruct approximately 8,600 feet of Port Neal Circle, including a right-turn lane located south of Sergeant Bluff.

ASSOCIATED ECONOMIC DEVELOPMENT: This project will provide improved access to 20 acres for industrial purposes.

PROJECT FINANCING:

| | | | |
|-----------------------|-------------|---------------------------------|-----------|
| Roadway Project Cost: | \$1,532,500 | Local Match (Total): | \$766,250 |
| RISE (Total): | \$766,250 | Up-Front: | \$766,250 |
| Grant: | \$766,250 | NPV of Loan Repayment: | 0 |
| Loan: | 0 | Effective Match Percent: | 50 |
| Loan Terms: | Yrs. 0 | Up-front Participation Sources: | |
| | Int.: 0 % | Private: | |
| | | Public: | \$766,250 |
| | | Local Match (Total): | \$766,250 |

PROJECT EVALUATION:

| | |
|--|----|
| Development Potential (35): | 30 |
| Economic Impact and Cost Effect. (20): | 12 |
| Local Commit. and Initiative (35): | 16 |
| Transportation Need (4): | 3 |
| Local Economic Need (6): | 3 |

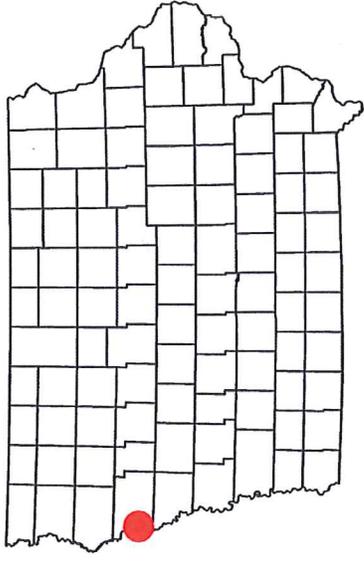
Total Rating: 64

Jobs: 20

STAFF RECOMMENDATION:

Award a grant of \$766,250 or up to 50 percent of the RISE-eligible project cost, whichever is less. Funding will come from the county share of the RISE Fund.

Woodbury County



DEPARTMENT OF TRANSPORTATION
COMMISSION ORDER

Planning, Programming and Modal Division

Division/Bureau/Office Office of Systems Planning Order No. PPM-2015-69
Submitted by Craig Markley Phone No. 515-239-1027 Meeting Date June 9, 2015
Title Revitalize Iowa's Sound Economy (RISE) Proposed Settlement – Boone

DISCUSSION/BACKGROUND:

On May 13, 2008, the city of Boone was awarded a RISE grant of \$725,000 to assist the construction of approximately 1,830 feet of new roadway east of Snedden Drive in the Airport Industrial Park.

Commission approval of this project was contingent on the retention of 195 existing jobs and the creation of 29 new jobs within three years after completion of the roadway. Associated capital investment was to be \$6,593,858.

On October 26, 2010, the roadway was opened to traffic. As of October 2013, the city of Boone had not met the job creation contingency. The department was advised that no jobs were retained and created.

The method of calculation and amount of proposed settlement was provided to the city. The city of Boone has agreed to repay the proposed settlement of \$216,793.

PROPOSAL/ACTION RECOMMENDATION:

It is recommended the Commission, approve the project settlement and proposed payment of \$216,793 for the city of Boone.

COMMISSION ACTION:

Moved by _____ Seconded by _____

| | Aye | Vote Nay | Pass |
|---------|-------|-------------|-------|
| Boswell | _____ | _____ | _____ |
| Huber | _____ | _____ | _____ |
| Miles | _____ | _____ | _____ |
| Putney | _____ | _____ | _____ |
| Reasner | _____ | _____ | _____ |
| Rose | _____ | _____ | _____ |
| Yanney | _____ | _____ | _____ |

Division
Director

Legal

State Director

PPM-2015-69

Craig Markley, Office of Systems Planning, said for RISE immediate opportunity projects there are job creation and retention commitments associated with receiving the funds. The Department monitors these contingencies to assure they are met within three years of the roadway being opened to traffic. If the contingencies are not met, the Department will seek partial or full revocation of the grant.

Mr. Markley reviewed a proposed settlement with the city of Boone for a RISE project awarded in May 2008. The city received a \$725,900 grant for roadway improvements contingent on the retention of 195 existing jobs and creation of 29 new jobs by Gates Corporation within three years of project completion. In October 2010 the roadway was open to traffic; however, the company associated with the project did not develop and no jobs were retained or created. Based on the settlement policy, the city has agreed to a repayment of \$216,793, and he requested Commission approval of the proposed settlement.

Commissioner Putney moved, Commissioner Rose seconded the Commission approve the project settlement and proposed payment of \$216,793 from the city of Boone. All voted aye.

Meeting adjourned at 8:21 a.m.

RISE Project Completion Settlement for:

RECIPIENT : Boone
 PROJECT # : RM-0750(623)--9D-08
 AGREEMENT #: 2008-R-032

Reimbursable Maximum : \$725,900

To bring this project agreement to a close, in accordance with the procedure adopted by the Iowa Department of Transportation Commission (Commission), the Recipient (as identified above) is required to repay a portion of the RISE grant funds received.

The amount to be repaid is calculated in the following manner, according to the method approved by the Commission, all amounts are rounded to the nearest whole dollar or percentage point.

Step 1 Determine the difference between the RISE grant funds actually reimbursed and 50% of the total eligible costs. The resulting amount is referred to as the "RISE differential"

| | Actual | |
|--|------------|---|
| a. RISE grant funds reimbursed: | 578,115.76 | |
| b. FINAL eligible project costs: | 722,644.70 | |
| c. 50% of FINAL eligible costs: | 361,322.35 | |
| d. "RISE differential" (a) - (c) = | 216,793.41 | \$216,793 Rounded |

Step 2 Determine the amount of the contingency unfulfilled.

An average of 0 FTE new jobs were created & 0 FTE jobs were retained for a total of 0 jobs by Gates Corporation. The funding contingency required that 28 FTE new jobs be created & 195 FTE jobs be retained for a total of 223 jobs.

| | | |
|---|--|---------|
| a. Contingency total # of jobs created/retained : | 223 | |
| b. - Actual total # of jobs created / retained : | 0 | |
| c. Contingency unfulfilled amount: | 223 | |
| Determine percentage = (c/a) | 100.00% | |
| Therefore the percentage of contingency still unfulfilled is: | 100% | Rounded |

Step 3 Determine the prorated amount by multiplying the RISE differential amount by the percentage of the contingency still unfulfilled.

| | | | | |
|------------------------------|---|------------|---|---|
| Prorated amount = (Step 1.d) | X | (Step 2 %) | = | Prorated Amount |
| \$216,793 | X | 100% | = | \$216,793 |
| | | | | Rounded |



Airport Industrial Park
Boone, IA

IOWA TRANSPORTATION COMMISSION
PUBLIC INPUT MEETING
 Mid-America Center
 One Arena Way, Council Bluffs
 June 9, 2015

| <u>TIME</u> | <u>DELEGATION</u> | <u>SPOKESPERSON</u> |
|-------------|---|---|
| 8:30 am | Opening Remarks | Leonard Boswell, Commission Chair Director Paul Trombino III |
| 8:35 am | City of Council Bluffs | Mayor Matt Walsh, Council Bluffs |
| 8:50 am | US 20 Association | Shirley Phillips |
| 9:00 am | City of Avoca | Clint Fichter |
| 9:15 am | City of Missouri Valley | Mayor Clint Sargent, Missouri Valley |
| 9:25 am | MAPA | Mike Helgerson |
| 9:35 am | Clinton Area Chamber of Commerce | Nathan Sondgeroth |
| 9:50 am | Legislator Introductions | |
| 9:55 am | Meet and Greet | |
| 10:15 am | SW Iowa Coalition | Larry Winum |
| 10:30 am | US Highway 30 Coalition | Mayor Bill Bonner, Denison |
| 10:45 am | Greene County/City of Jefferson | Mike Palmer |
| 10:55 am | West Central Cooperative | Alicia Clancy |
| 11:10 am | City of Sioux City | Mayor Bob Scott, Sioux City |
| 11:25 am | East Central Iowa Transportation Coalition | Beth Danowsky |
| 11:40 am | South Central Regional Airport Authority | Jim Hansen |
| 11:55 am | Unscheduled Delegations Twila Larson, Fremont County | |

Message from the Commission:

Welcome to the Iowa Transportation Commission (Commission) public input meeting. The Commission travels to different locations in the state every April, June, August and October in an effort to review ongoing or proposed projects. This is also our opportunity to hear from any member of the public who wants to address the Commission about any transportation topic. We welcome those comments.

Many of you in the audience are representatives of cities, counties, planning organizations or coalitions organized around a particular transportation goal. And, many of you representatives occasionally attend these public input meetings in order to thank the Commission for past project assistance, or to propose new partnerships. We welcome those comments, as well. However, please understand that in some cases the Commission is hearing about a proposed project for the first time, so that we may have questions about the project, but we would not have any ability to comment on the merits of the proposal until we receive staff input and until we begin our planning sessions (typically held every January to April). And, in some cases, the Commission is hearing about a proposed project that it has reviewed in the past but will have no comment as the project is not in the five year program at this time and we cannot say until our planning sessions whether the project will become eligible for funding in the five year program. Please consider this an opportunity for you to share your thoughts and concerns with us, and for us to consider those thoughts and concerns as well as review them with staff after gathering necessary information about how the issues may impact our various grant programs or our five year transportation program.

You can find out more about the Commission and our meetings at www.iowadot.gov/commission/commission.htm or you may reach out to us via email or telephone at our contact information listed on that web page.