


**MINUTES**  
**November 17, 2020**  
**9:00 A.M.**  
**ND PISB Board Meeting-Zoom Video Conference**  
**NDPISB**

1. Vice-Chairman Randy Ziegler called the meeting to order at 9:01 a.m. Board members present: Randy Ziegler, Jason Nelson, Steven Lundin, Justin Blinsky, and Ernie Thurman. Board member absent: Mike Wetsch. Others present: Executive Director John J. Shorey III, Board Legal Counsel Monte Rogneby, North Dakota Assistant Attorney General Courtney Titus, and North Dakota Assistant Attorney General Allyson Hicks.
2. Assistant Attorney General Allyson Hicks advised an open records request was received from Chad Nodland regarding a litigation hold document. Allyson advised the document contains attorney work product and requires attorney consultation. Steven Lundin advised for the agenda items that involved TigerSwan, the documents, and the pending litigation, he wanted to go on record that he was recusing himself.
3. A motion was made by Justin to close the meeting for an executive session (44-04-19.2(1), 44-04-19.1(1), 44-04-19.1(2)) concerning discussion and consideration of open records request from Chad Nodland. Seconded by Ernie. A roll call vote was taken, and it was unanimous to go into executive session. The executive session began at 9:06 A.M. The executive session adjourned at 9:09 A.M. The public was invited back for the open session of the meeting.
4. Ernie made a motion for Allyson Hicks to respond to Chad Nodland's open records request as discussed in executive session. Jason second. A roll call vote was taken, and it was unanimous to approve the motion.
5. A motion was made by Ernie to close the meeting for an executive session for attorney consultation (44-04-19.1(2)) concerning Energy Transfer LP and Dakota Access LLC vs. ND PISB and TigerSwan, LLC case No. 08-2020-CV-02788 Update. Seconded by Justin. A roll call vote was taken, and it was unanimous to go into executive session. The executive session began at 9:15 A.M. The executive session adjourned at 9:29 A.M. The public was invited back for the open session of the meeting.
6. Justin made a motion for the Board to proceed as discussed in executive session. Jason seconded. A roll call vote was taken, and it was unanimous to approve the motion.
7. A motion was made by Ernie to close the meeting for an executive session for attorney consultation (44-04-19.1(2)) concerning Energy Transfer LP and Dakota Access LLC vs. ND PISB and TigerSwan, LLC Notice of Appeal. Seconded by Jason. A roll call vote was taken, and it was unanimous to go into executive session. The executive session began at 9:33 A.M. The executive session adjourned at 9:40 A.M. The public was invited back for the open session of the meeting.
8. Jason made a motion for the Board to proceed as discussed in executive session. Ernie seconded. A roll call vote was taken, and it was unanimous to approve the motion.
9. A motion was made by Ernie to close the meeting for an executive session for attorney consultation (44-04-19.1(2)) concerning First Look Media Works, Inc. vs. NDPISB. Seconded by Jason. A roll call vote was taken, and it was unanimous to go into executive session. The executive session began at 9:43 A.M. The executive session adjourned at 9:48 A.M. The public was invited back for the open session of the meeting.
10. Ernie made a motion for the Board to proceed as discussed in executive session. Jason seconded. A roll call vote was taken, and it was unanimous to approve the motion.
11. Courtney provided an update on TigerSwan, LLC and James Patrick Reese vs. ND PISB Case No. 08-2020-CV-01952. Courtney advised the Judge entered an order dismissing the case with prejudice and without cause to either parties.

12. Justin made a motion to approve the following minutes as presented: regular meeting 9-4-2020, special meeting 9-11-2020, special meeting 9-11-2020, special meeting 9-14-2020, special meeting 9-21-2020, special meeting 9-28-2020, special meeting 10-5-2020, special meeting 10-12-2020, and special meeting 10-29-2020. Ernie seconded. A roll call vote was taken, and it was unanimous to approve the motion.
13. At 9:52 A.M. Jason Nelson, Allyson Hicks, and Courtney Titus left the meeting.
14. Election of Officers. Randy nominated Mike Wetsch as Chairman. Justin seconded the nomination. A roll call vote was taken, and it was unanimous to approve the nomination. Justin nominated Randy Ziegler as Vice-Chairman. Ernie seconded the nomination. A roll call vote was taken, and it was unanimous to approve the nomination. Justin nominated Ernie Thurman as Treasurer. Randy seconded the nomination. A roll call vote was taken, and it was unanimous to approve the nomination.
15. Ernie provided the financial report. Ernie asked John if he thought the Board should put more funds into CDs. John advised he thought they should not with the ongoing litigation. Ernie stated he agreed. Ernie advised as of October 31st, 2020 the Board had total current assets of \$113,398.21. Ernie advised the profit and loss for October 2020 was a net income of \$8,523.89. Justin made a motion to approve the financial report. Steven seconded. A roll call vote was taken, and it was unanimous to approve the motion.
16. Ernie advised with John's workload at the Board's Office they had not been able to work on the 2021 budget. Ernie advised the Board will need to call a special meeting before the end of the year to approve the 2021 budget, once a draft is prepared for review of the full Board.
17. Monte provided the Board with an update with the administrative rules. Monte advised there were two issues with the administrative rules, one was attorney errors, and the second was disagreement with the North Dakota Attorney General's Office over the Board's proposed administrative rules. Monte advised the attorney errors was failure to properly notice regarding timing for comment and an incomplete address of the Board in the publications. Monte advised they believed the notices were still in substantial compliance with the law, but the North Dakota Attorney General's Office disagreed and indicated they would not approve the rules because of the errors. Monte advised the Vogel Law Firm was going to compensate the Board for all the publication costs due to the errors. Monte advised that Board members were provided a statement and memo regarding this for their review. Monte advised the Board created a structure in the rules for the Armed First Responder in School Program. Monte advised the North Dakota Attorney General's Office view is the passed bill was not specific enough to create the structure the Board was proposing in the rules. Monte advised the North Dakota Attorney General's Office had suggested two courses of action for the Board. The first was re-write the administrative rule which Monte advised he did not favor. The second was for the Board to go to the legislature this session and asked them to re-write the statute so it was more in-line with the administrative rules the Board wrote and was wanting. Monte requested the Board by motion to authorize the withdrawal of the rules from the North Dakota Attorney General's Office to avoid a formal rejection of the rule. Ernie made a motion to withdraw the rules from the North Dakota Attorney General's Office. Steven seconded. A roll call vote was taken, and it was unanimous to approve the motion.
18. Monte discussed legislative council-prefiling of bills for the 2021 legislative session. There was Board discussion that they believed what they were trying to do with the administrative rules regarding the Armed First Responder in School Program was what the legislature intended them to do. The Board directed Monte and John to draft bills regarding the following to be brought back to the Board before the prefiling deadline for their review: the Armed First Responder in School Program to address the issues that came to light in the administrative rules process; the jurisdictional issue the Board recently lost at the North Dakota Supreme Court; and to review Chapter 43-30 to identify any other changes they thought were needed.
19. Monte advised he did not attend the FARB Regulatory Law Seminar on October 1-3, 2020. Monte advised he did not have time to attend. Monte commented that he and John had been very busy with Board business the last few months.

20. John advised he did not have an update for the Board with agenda items # 18 thru # 30 due to his workload in the Board's Office.
21. John and Steven Lundin provided Board members with information regarding the IASIR Virtual 2020 conference that they attended. John advised he did not plan on attending due to the Board workload he was facing. John indicated he was nominated for "IASIR Best of the Best" by Lisa Collet, Director-Corporate and Licensing, Securitas USA. John advised since he was nominated, he thought it was appropriate to attend for that portion of the conference. Steven indicated he attended 4 out of 5 sessions and missed the session John attended where his nomination was presented. Steven touched on information regarding what the industry and different regulatory agencies were doing due to the pandemic and moving different processes remote and/or online. Based on Board discussion regarding the pandemic and the backlog John was facing, the Board directed John to research the Board possibly moving its application process and fingerprint submission from paper-based to electronic and report back to the Board.
22. Monte summarized the Byron Bad Brave Application. Monte advised they were waiting for the ALJ to issue a recommended decision.
23. John summarized the question the Board received from Jared Gregor from Spartan Solutions Group, LLC. John advised the question included the issue of subcontracting. John advised he and Monte were going to research the issues surrounding the question and bring those back to the Board for discussion.
24. John advised the Board was audited by ND WSI and summarized the results of the audit that had been provided to Board members.
25. John advised the Board continues to have a very large backlog with the processing of 2020 renewal applications. John advised he had brain-stormed solutions to the backlog, however, with the size of the Board's Office that limits the options with the pandemic going on with social distancing requirements, etc. John advised he was triaging items coming into the Board's Office, keeping the Chairman apprised, and was doing the best he could under the circumstances.
26. John advised typically at the November meeting the Board, in conjunction with the next year's budget, do employee reviews that includes wages reviews. John advised with the backlog he has not been able to put anything together and asked that it be considered with the 2021 budget once it is brought to the Board. No Board members had an issue with that.
27. John advised Dale Maixner resigned as a Board member on 9-10-2020. John advised the email resignation was provided to Board members. John advised if anyone knew of individuals that were interested in the now open Board Member position, to refer them to the Governor's website to make application.
28. The Board Meetings for 2021 were set as Zoom meetings due to the pandemic for the following dates all at 9:00 A.M.: February 23, 2021, May 18, 2021, August 17, 2021, and November 16, 2021.
29. Justin stated he wanted to tell John the Board overwhelming appreciates all the time he is dedicating, and that Justin knows it must be hard for John to do it all by himself, and that the Board says "thanks".
30. Ernie made a motion to adjourn the meeting. Justin seconded. A roll call vote was taken, and it was unanimous to approve the motion. The meeting adjourned at 10:50 A.M.

  
 \_\_\_\_\_  
 Chairman

3/5/22  
 \_\_\_\_\_  
 Date

  
 \_\_\_\_\_  
 NDPISB Executive Director

2/15/2022  
 \_\_\_\_\_  
 Date