

MINUTES
September 11, 2020
10:00 A.M.
Special Board Meeting-Zoom Video Conference
NDPISB

1. Chairman Mike Wetsch called the Zoom special meeting to order at 10:01 a.m. Board members present: Mike Wetsch, Justin Blinsky, Ernie Thurman, Jason Nelson, and Steven Lundin. Board members absent: Randy Zeigler. Others present: Executive Director John J. Shorey III, Assistant Attorney General Allyson Hicks, Board Legal Counsel Monte Rogneby, James Reese, John LaDelfa, and Attorney Lynn Boughey.
2. Steven Lundin advised he was going to recuse himself from any voting and executive sessions on the agenda topics for this meeting.
3. Allyson advised at the last Board meeting the Board had requested information regarding costs for the Office of Administrative Hearings and attorneys and fees and costs. Allyson advised those have been provided to the Board and all parties. Allyson advised this information was going to be supplemented and included on the record. Allyson advised she received no objection to these documents being added to the record. John advised the Board did not receive any objections either. Lynn advised they do not object to any foundation, but object to the amounts, any sanction, any attorney fees, and any administrative costs. Lynn advised they did not object to documents supplementing the record as the Board has that right. Allyson advised those documents were in and the Board can consider them. Allyson went over the document from the ALJ titled: Order on Motion for Sanctions and Notice of Noncompliance.
4. A motion was made by Justin to close the meeting for an executive session for attorney consultation (44-04-19.1(2)) concerning ND PISB v. TigerSwan, LLC and James Patrick Reese-Consider Recommended Decision from Office of Administrative Hearings and Motions. Seconded by Ernie. A roll call vote was taken, and it was unanimous to go into executive session. The executive session began at 10:10 A.M. The executive session adjourned at 10:30 A.M. The public was invited back for the open session of the meeting.
5. Justin advised after reviewing all of documentation provided to the Board by Mr. Boughey, Mr. Rogneby and the ALJ, he made a motion for the Board to adopt the finding of fact and conclusions of law provided to them by the ALJ. Jason Seconded. Lynn asked to be heard. The Chairman denied that request. A roll call vote was taken, and it was unanimous to approve the motion.
6. Justin advised based on the forgoing reasons he mentioned earlier, after reviewing all the documentation, he would make a motion for the Board to adopt the ALJ's recommended order. Ernie seconded. Lynn asked to be heard. The Chairman denied that request. A roll call vote was taken, and it was unanimous to approve the motion.
7. Justin made a motion that the Board adopt the facts alleged in the complaint as additional findings of fact. Ernie seconded. Lynn asked to be heard. The Chairman denied that request. A roll call vote was taken, and it was unanimous to approve the motion.
8. Chairman Wetsch advised there needed to be a discussion about the administrative fees. Lynn advised they had received a settlement offer yesterday from Monte and would like to discuss the possibility of a settlement before the Board discussed administrative fees. Allyson advised she serves as General Counsel regarding the recommended findings of fact. Allyson advised there may be cause for Monte to talk with the Board about settlement, that would be an

ex-parte communication, however she believed it would allowable under law. Allyson advised she wanted to clarify she would not be advising the Board on settlement offers, that would be under Monte's purview. Monte advised his position was that settlement offers needed to go through him, and they were confidential until such time that the executive team brings them to the Board. Monte advised this was not the time or place for settlement discussions. Lynn advise he disagreed, and they could resolve this right now with the Board. Lynn advised they had talked with a Board member about settlement. Monte advised his recommendation to the Board was that settlement discussion should come through him and not in an open meeting. Chairman Wetsch asked if there was a way for the attorneys to talk about settlement outside of the meeting and then come back to the meeting if there was some type of offer. Chairman Wetsch allowed James Reese to address the Board. James asked that settlement discussions take place. There were discussions between the parties about what the path forward would need to be to discuss settlement. Monte proposed that he and John talk with Lynn Boughey, James Reese, and John LaDelfa about settlement and they can take any counteroffer to the Board in executive session. Allyson suggested the meeting be adjourned, and if another special meeting needs to be notice, it can be at a moment's notice. Justin made a motion for a fifteen-minute break be taken to give the attorney's time to discuss settlement. Jason seconded. A roll call vote was taken, and it was unanimous to approve the motion. The meeting was back in session (from break) at 11:21 a.m. Monte advised the Board had an offer it needed to go into executive session to discuss. Monte advised the Board will need to adjourn this meeting, and instantly notice a new special meeting, and then the Board could go into executive session to discuss the offer. Monte advise he and John would work on the agenda and notice for the special meeting to be called at 11:35 a.m. The Chairman directed Monte and John to do the same.

9. Justin made a motion to adjourn the meeting. Jason seconded. A roll call vote was taken, and it was unanimous to approve the motion. The meeting was adjourned at 11:24 A.M.



Chairman

11-18-20

Date



NDRISB Executive Director

11-17-2020

Date