

Barnes County Water Resource District

PO Box 306

Valley City, ND. 58072

701-845-8508

05/10/11

Special Meeting Minutes

Moore Engineering Inc.

9:00 AM

Present: Chairman McMillan, Pat Hurley, Duane Lettenmaier

Also present: Sean Fredricks and Chris McShane- Ohnstad Twitchell Law Office

Chad Engels and Mike Opat- Moore Engineering

Mark Sellin- Sellin Brother's Inc.

Chairman McMillan called the meeting to order at 9:00.

Sean Fredricks, Legal Counsel for the District, reviewed correspondence that was received from Thomas Olson, Legal Council for Sellin Brother's Inc. Mr. Fredrick's also presented the Board with a copy of the Notice to suspend until May 19, 2011, that was sent to Sellin's at the Districts request. A brief discussion was held on the strained relationship with Sellin's. Discussion was held on payment for remedial work (Emergency measures taken due to Sellin's failure to complete Phase 1 in a timely manner).

Mr. Sellin expressed that he simply wants to complete the work and reserve the right to seek payment for the \$150,000.00 that was withheld by the District.

Discussion was held on Change Order #1. Sean clarified the proper interpretation of the Change Order.

Duane moved to close the special meeting and open an Executive Session. Hurley seconded the motion. Chairman McMillan called for a roll call vote. The results are as follows; Hurley- yes, Lettenmaier-yes, McMillan- yes. The motion carried. Chairman McMillan closed the Special meeting at 9:15 am. Chairman McMillan opened the Executive Session.

The Excutive Session was attended by: Chairman McMillan, Pat Hurley, and Duane Lettenmaier
Sean Fredricks and Chris McShane- Ohnstad Twitchell
Chad Engels and Mike Opat- Moore Engineering

This session was record as per North Dakota Century Code 44-04-19.1

The Executive Session was closed at 10:10 AM.

Chairman McMillan recessed the meeting for a ten (10) minute break.

The Special meeting was reconvened at 10:20 AM.

Fredrick's gave a brief summary of what was discussed during the Executive Session to Mark Sellin.

Chairman McMillan called for the opinion of the Board as to how they wanted to move forward with the Clausen Springs Project. Discussion was held. Lettenmaier and Hurley both expressed that they did not trust that Sellin would complete the project in a timely manner. Chairman McMillan expressed his distrust. McMillan also stated that Sellin had not performed as per the contract in various capacities. He also reiterated the strained relationship that Hurley and Lettenmaier expressed. . Lettenmaier moved to make a claim on Sellin's Performance Bond and to terminate the contract with Sellin Brother's with cause. There was some discussion. Hurley seconded the motion. Chairman McMillan called for a roll call vote. The results are as follows; Hurley- yes, Lettenmaier-yes, McMillan- yes. The motion carried. The Board instructed Fredrick's to prepare a notice of the termination with cause and deliver to Sellin Brother's Inc. Fredrick's was also instructed to prepare a claim and reserve all of the Districts rights to Liquidated Damages. McShane notified the Board that a meeting with Sellin Brother's Inc, the Surrety Company and a member of the Board is required to be held within fifteen (15) days. McShane will notify the Secretary when the meeting date and time is set.

Being no further business, Duane moved to adjourn the meeting. Hurley seconded the motion. The motion carried. The meeting was adjourned.

Respectfully submitted,

Jamie Smith, Secretary