

Regular Meeting

Tuesday

October 11, 2016

The Regular Meeting of the Municipal Airport Authority of the City of Fargo, North Dakota, was held Tuesday, October 11, 2016 at 8:00 a.m. in the Airport Boardroom.

The members present or absent were as follows:

Present: Clark, Blazek, Haugen, Pawluk

Absent: Kilander

Others: Bossart, Gehrig

Chairman Pawluk presiding.

Approved the Minutes of the Regular Meeting of the Municipal Airport Authority Held September 13, 2016:

The minutes of the Regular Meeting of the Municipal Airport Authority held September 13, 2016, were approved without objection.

Approved the Airport Vouchers Totaling \$47,290.95:

Mr. Blazek moved to approve the airport vouchers totaling \$47,290.95.

Second by Dr. Clark.

On the call of the roll, members Clark, Blazek, Haugen, Pawluk voted aye.

Absent and not voting: Kilander

The motion was declared carried.

Approved the Individual Voucher to Forum Communications:

Dr. Clark moved to approve the individual voucher in the amount of \$71.28 to Forum Communications for advertisement (legal notice) for the Airport Master Plan Update Open House, AIP42.

Second by Mr. Blazek.

On the call of the roll, members Clark, Blazek, Haugen, Pawluk voted aye.

Absent and not voting: Kilander

The motion was declared carried.

Approved the Individual Voucher to Olaf Anderson:

Dr. Clark moved to approve the individual voucher in the amount of \$329,951.79 to Olaf Anderson Inc. for Partial Payment Request #6 for construction of the Access Road, Apron Lighting and Sanitary Sewer Improvements.

Second by Mr. Blazek.

On the call of the roll, members Clark, Blazek, Haugen, Pawluk voted aye.

Absent and not voting: Kilander

The motion was declared carried.

Approved the Individual Voucher to Mead & Hunt:

Dr. Clark moved to approve the individual voucher in the amount of \$11,604.47 to Mead & Hunt for partial payment request for engineering services in connection with the Access Road, Apron Lighting and Sanitary Sewer Improvements.

Second by Mr. Blazek.

On the call of the roll, members Clark, Blazek, Haugen, Pawluk voted aye.

Absent and not voting: Kilander

The motion was declared carried.

Approved the Individual Voucher to Mead & Hunt:

Dr. Clark moved to approve the individual voucher in the amount of \$55,480.03 to Mead & Hunt for partial payment request for engineering services in connection with the Taxiway A Reconstruction Project, AIP45.

Second by Mr. Blazek.

On the call of the roll, members Clark, Blazek, Haugen, Pawluk voted aye.

Absent and not voting: Kilander

The motion was declared carried.

Approved the Individual Voucher to Mead & Hunt:

Dr. Clark moved to approve the individual voucher in the amount of \$39,719.58 to Mead & Hunt for partial payment request for engineering services in connection with the Airport Master Plan Update, AIP42.

Second by Mr. Blazek.

On the call of the roll, members Clark, Blazek, Haugen, Pawluk voted aye.

Absent and not voting: Kilander

The motion was declared carried.

Approved the Individual Voucher to Mead & Hunt:

Dr. Clark moved to approve the individual voucher in the amount of \$86,610.62 to Mead & Hunt for partial payment request for engineering services in connection with the Terminal Taxiway and Taxiway A Reconstruction Project, AIP46.

Second by Mr. Blazek.

On the call of the roll, members Clark, Blazek, Haugen, Pawluk voted aye.

Absent and not voting: Kilander

The motion was declared carried.

Approved the Individual Voucher to Sixel Consulting Group:

Dr. Clark moved to approve the individual voucher in the amount of \$2,250.00 for payment request for quarterly airline report.

Second by Mr. Blazek.

On the call of the roll, members Clark, Blazek, Haugen, Pawluk voted aye.

Absent and not voting: Kilander

The motion was declared carried.

Approved the Individual Voucher to Sixel Consulting Group:

Dr. Clark moved to approve the individual voucher in the amount of \$10,000.00 to Sixel Consulting Group for the True Market Study.

Second by Mr. Blazek.

On the call of the roll, members Clark, Blazek, Haugen, Pawluk voted aye.

Absent and not voting: Kilander

The motion was declared carried.

Approved the Individual Voucher to Swanston Equipment:

Dr. Clark moved to approve the individual voucher in the amount of \$22,560.20 to Swanston Equipment for payment request (full and final) for runway markings.

Second by Mr. Blazek.

On the call of the roll, members Clark, Blazek, Haugen, Pawluk voted aye.

Absent and not voting: Kilander

The motion was declared carried.

Approved the Individual Voucher to Mead & Hunt:

Dr. Clark moved to approve the individual voucher in the amount of \$4,991.25 to Mead & Hunt for partial payment request for engineering services in connection with the Airport Master Plan Update, AIP42.

Second by Mr. Blazek.

On the call of the roll, members Clark, Blazek, Haugen, Pawluk voted aye.

Absent and not voting: Kilander

The motion was declared carried.

Approved the Individual Voucher to Northern Improvement Company:

Dr. Clark moved to approve the individual voucher in the amount of \$1,917,532.47 to Northern Improvement Company for Partial Payment Request #6 for construction of the Taxiway A Reconstruction Project, AIP45.

Second by Mr. Blazek.

On the call of the roll, members Clark, Blazek, Haugen, Pawluk voted aye.

Absent and not voting: Kilander

The motion was declared carried.

Approved the Individual Voucher to Northern Improvement Company:

Dr. Clark moved to approve the individual voucher in the amount of \$1,572,184.41 to Northern Improvement Company for Partial Payment Request #3 for the construction of the Terminal taxiway and Taxiway A Reconstruction Project, AIP46.

Second by Mr. Blazek.

On the call of the roll, members Clark, Blazek, Haugen, Pawluk voted aye.

Absent and not voting: Kilander

The motion was declared carried.

Received Update Regarding Deed Restrictions for Airport Property:

Mr. Dobberstein stated Attorney Stacey Bossart has been working on the deed restrictions for airport property and we have a second draft before us. He stated Attorney Bossart has incorporated language we received from the FAA, City Engineering, and Mr. Ryk Dunkelberg, Mead & Hunt.

Attorney Bossart stated the deed restriction examples she received from the City of Fargo really did not apply as the purpose for those deed restrictions were completely different from the airport situation. She stated the deed restriction is redundant as the FAA regulations already restrict development of the property. She stated she will probably work with Mr. Dunkelberg to help identify the parcels and then the deed restriction will be recorded for each parcel involved.

Mr. Dobberstein explained that the City of Fargo is requesting these deed restrictions even though the property is restricted by the FAA's FAR Part 77. He stated once the deed restrictions are in place the specials assessed to the property, which do not benefit the airport, will be deferred by the City of Fargo until such time the airport would need or benefit from those special assessments.

Received Update Regarding Deed Restrictions for Airport Property: (Continued)

He stated the 1982 Congressional Act requires any impact fees (assessments) have to have an immediate benefit for any property purchased with federal funds. He stated the City of Fargo and the FAA are debating the issue of benefit to the airport.

Attorney Bossart stated she used the most restrictive language possible because there is no immediate benefit.

Mr. Dobberstein stated we received a notice from the City of Fargo yesterday that we owe \$83,794.58 in special assessments from a water main project north of County 20 from 2001-2002. He stated Attorney Stewart worked with City Engineer Mark Bittner on deferring those specials since they did not benefit the airport. He stated this special assessment was lost in a transition of property between the county and the city. He stated we have an opportunity to pay this assessment without interest between October 12 and 21, or we can appeal and request another deferral. He stated the FAA will not allow us to pay these specials as they do not benefit the airport and doing so would be a violation of the FAA's policy regarding revenue diversion and our federal funding would be in jeopardy. He stated the FAA's policy is very clear.

Mr. Dobberstein stated Attorney Bossart will draft a letter to the City of Fargo requesting a deferral of these special assessments.

Mr. Blazek moved to adopt the proposed deed restrictions pending verification of legal descriptions.

Second by Dr. Clark.

Mr. Gehrig stated last night the City Commission awarded the project which involved the \$700,000+ assessment to the airport. He stated Mayor Mahoney told the commissioners that the Airport Authority would be able to pay these special assessments as the airport has paid other special assessments in the past.

Mr. Dobberstein stated the Airport Authority has paid special assessments in the past and today we are going to talk about the \$609,000 special assessment due for the recent 19th Avenue North project. He stated we will pay that assessment because the property adjacent to the improvement can be developed and the airport benefits from the improvement. He stated the two scenarios are totally different.

Mr. Gehrig stated the mayor indicated that the airport has funds other than federal funds that can be used to pay special assessments.

Mr. Dobberstein asked which funds are those?

Attorney Bossart stated in her discussion with Assistant City Attorney Nancy Morris the possibility of using mill levy funds was proposed.

Mr. Dobberstein stated the FAA also considers mill levy funds airport revenue which must be designated for airport construction. Any other use would be revenue diversion.

Mr. Gehrig stated he and Commissioner Strand opposed the motion because of their understanding that the FAA would not allow the airport to use airport funds to pay this special assessment that does not benefit the airport. Mr. Gehrig stated he would like for the City of Fargo and the Airport Authority to work out a resolution to this issue. He stated there must be something that still needs to be explained regarding the FAA's regulations.

Received Update Regarding Deed Restrictions for Airport Property: (Continued)

Mr. Dobberstein stated the Airport Authority is between a rock and a hard place as we have to follow the FAA regulations.

Chairman Pawluk stated we need to make clear how much FAA funding is in jeopardy if we violate their regulations.

Mr. Dobberstein stated our federal entitlement funds are at least \$3 million per year and that does not include any discretionary funding we may receive.

Chairman Pawluk called for a vote on the motion to approve the deed restriction.

All members present voted aye and the motion was declared carried.

Received Communication from CenturyLink Regarding Proposed Easement for Cargo Area:

The draft Cable Easement from CenturyLink was received and filed without objection.

Mr. Dobberstein stated this request for a cable easement is kind of on the fast track for the FedEx facility. He stated this easement will allow them to extend fiber from the County 20 area down through 31st Street to their facilities. He stated CenturyLink will provide us with GPS coordinates when the project is complete.

Mr. Blazek moved to approve the proposed Cable Easement with CenturyLink.

Second by Gen. Haugen.

All members present voted aye and the motion was declared carried.

Airport Construction and Security Update:

Mr. Darren Anderson was recognized and stated the TSA has installed their new x-ray machines at the checkpoint. He stated last week the TSA had an enrollment site in the terminal for passengers to sign up for TSA Pre-check. He stated they enrolled approximately 400 people. He stated we had our FAA certification inspection two weeks ago and we passed with no discrepancies.

Mr. Jeff Klein, Mead & Hunt, was recognized and stated today is the goal to open the Terminal Taxiway and the north end of Taxiway A. He stated tomorrow will be the last concrete pave for the entire project so Northern Improvement is on track to have everything done by the end of October.

The meeting of the Municipal Airport Authority was adjourned until the next Regular Meeting to be held Tuesday, October 25, 2016.

Time at adjournment was 8:53 a.m.