

**Official Proceedings**  
**Special Meeting of the Board of City Commissioners**  
**September 6, 2018 - 12:00 pm**  
**City Hall – Williston, North Dakota**

1. Roll Call of Commissioners and Pledge of Allegiance

**COMMISSIONERS PRESENT:** Brad Bekkedahl (via phone), Deanette Piesik, Tate Cymbaluk, Chris Brostuen and Howard Klug

**COMMISSIONERS ABSENT:** None

**OTHERS PRESENT:** John Kautzman, David Tuan, Anthony Dudas, Andrea Duntz, Jordon Everet and Steve Armstrong

Mayor Klug presented a quorum.

2. XWA Taxiway A Contract

David Tuan City Administrator presented the following;

On August 9, 2018, the City Commission took action to terminate the Taxiway A contract at XWA with J.M. Marschuetz, for lack of performance, in meeting our timelines, when we had asked for a recovery schedule. The submittals to us, indicated the taxiway would not be completed in time to open the airport in October 2019, based on this, we terminated that contract in the hopes of either finding a supplemental contractor to come in and do the work or working with the surety company to find a method to accelerate the work, remediate the issues that had been discovered in performance and get the project completed in order to stay on schedule for our October 10, 2019 opening day. We have had a couple weeks to negotiate with the surety with Marschuetz, with other contractors. Our project program coordination team has taken a lot of time to collect this data and plan out how we are going to get this job done in time to meet our goals for the overall project. What you have before you, is a modified agreement with Marschuetz going back to work, with supplemental conditions to ensure they meet our program deadlines and that the Taxiway A can be completed, not only on budget, but on time. This modified agreement includes action from the surety company, they will be engaged and involved in this work, they will have some engineering assets monitoring, they will be collecting information and keeping very close track of the schedule, that now has different performance milestones, throughout, that have been added. There will be more frequent progress reports, elevated liquidated damages and a greater number of sub-consultants on the job, working for Marschuetz, to get the job done.

Commissioner Cymbaluk asked if our team will be on-site to observe and bring things to our attention if necessary, immediately. Dave indicated this is correct and there is still a construction observation and construction administration component that is on the job, every day, which has not changed, however, what we have now is a second level of observation that the surety, as an independent third party, will be evaluating progress also.

Commissioner Piesik asked if this all needs to be approved by the FAA. Anthony Dudas, Airport director, indicated yes it does have to be approved by the FAA and they have already approved the original contract and this abeyance agreement is just an attachment, above and beyond what the original terminated contract had, so we have been in contact with the FAA in regards to this and they have no comments.

Commissioner Brostuen stated that it is very important that we track this very closely, so we don't have any surprises that delay us further and jeopardizes us opening the airport on time and feels like it was surprising when we found out they were not on track and not going to finish on time and we want to avoid this going forward and stay on top of things. This is not ideal but feels this is our best option.

**Motion by Brostuen, Seconded by Cymbaluk to move that the City Commission approve the abeyance agreement between the City of Williston, Zurich Surety & Financial Claims and J.M. Marschuetz Construction for the Taxiway A PCC Pavements, Lighting and Signage as presented**

**AYE: Bekkedahl, Piesik, Cymbaluk, Brostuen and Klug**

**NAY: None**

**ABSENT AND NOT VOTING: None**

**CARRIES: 5-0**

3. Adjourned meeting at 12:06 pm

**Motion by Cymbaluk, Seconded by Piesik to make a motion to adjourn  
UNANIMOUS BY VOICE VOTE**

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Howard Klug, President  
Board of City Commissioners

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John Kautzman, City Auditor