

North Dakota One-Call Board of Directors Meeting

November 9, 2006

The meeting was called to order by Chairman Bittner at 10:00 AM in the conference room of the AGC of North Dakota building in Bismarck, ND.

Board Members Present: Mark Bittner, Ron Ness, Dennis Kellar, Jerry Blomeke, Dale Robbins, Perry Oberg, Ed Williams and Mark Dougherty

Others Present: Gloria Geiger and Alan Moch - PSC, Jim Holzer - One Call Concepts, Kevin Ailshouse - MDU, Richard Schultz - ND Locators Association, Don Nett – One Call Concepts and Larry Smith - Swenson Hagen Company, Tom Hanson - Webster Foster Weston and Greg Lattimor.

Minutes:

Agenda (Attached):

Chairman Bittner asked if there were any additions or modifications to the agenda. Perry Oberg moved to approve the agenda as submitted. Dennis Kellar seconded the motion. There being no discussion the motion was called. Ayes all, motion carried.

Approval of previous minutes:

Chairman Bittner called for additions or corrections to the minutes of the August 10, 2006 regular board meeting. Motion was made by Jerry Blomeke to approve the minutes as corrected. Ron Ness seconded the motion. There being no further discussion the motion was called. Ayes all, motion carried.

Financial report (Attached):

Treasurer Jerry Blomeke presented the current financial statements for review. Chairman Bittner called for questions on the financial statements. Jerry Blomeke mentioned last page of report, note two deposits, one deposit for June and one for August billing. This was an error on part of OCC, as they paid for August and still owe for July billing. Don Nett related July was missed and will be paid next. Motion to approve the financial report was made by Perry Oberg. Ed Williams seconded the motion. There being no discussion the motion was called. Ayes all, motion carried.

Approve bills:

Bills were submitted as follows: Expense statements, for One Call Center tour in October, from Ron Ness, Dennis Kellar and Mark Dougherty and advertising expenses from Don Nett. Mark Dougherty asked how Board Members should submit expenses. Treasurer Jerry Blomeke related that all he needs are room and meal receipts. Dennis Kellar made a motion to approve the submitted bills. Ron Ness seconded the motion. There being no further discussion Chairman Bittner called the motion. Ayes all, motion carried.

Public Service Commission

Status of 2006 Pipeline Safety Grant work. Gloria Geiger reported the 2006 Grant was for approximately \$13,000. Of that amount about \$2,000 was used to purchase key chains and magnets to promote the use of 811 and about \$11,000 was used for radio ads to promote the use of One Call statewide. About \$92 will be turned back to the Office of Pipeline Safety as unused funds. 2007 Pipeline Safety Grant. Don Nett has distributed information on the Grant process to the Board.

Gloria Geiger reported the 2007 grant application is due by December 8th and the Board needs to decide the grant priorities and items (Funding Priority List attached). Don Nett related the Grant committee met just before this meeting. Ed Williams relayed the committee's thought of applying for Priority 1 funds to provide educational services on proposed legislation. Gloria stated the legislative session would be nearing adjournment before the Board would actually receive the 2007 funds. Dennis Kellar asked Gloria Geiger to summarize the application process. Gloria offered the following: application will go in December 8th, and the PSC would not know the exact amount until sometime next March and maybe into April. Perry Oberg asked Gloria about the RFP timeline. Gloria related it would likely take two and half months from the time money is available for the PSC to get out the notice and request and allowing time for interested parties to respond and the PSC to evaluate the proposals and make award. Perry asked what the required advertising time was for this type of proposal. Gloria related it depends how complex the request is and should be about 2 weeks for a proposal of this nature. Dennis Kellar offered the committee's idea to use funds available under Priority 2 Item 1 to offer locator training. Gloria Geiger and Alan Moch thought this idea would be a Priority 3 item as the "locating equipment and training in item 7 of priority 2 is for operators buying new equipment and the required training for using the new equipment. Chairman Bittner asked if based on the committee offered grant items; if it was the committee's intention to go away from the historic uses of grant funds. Ed Williams responded there was no intent to not do the things done in the past but to offer some new items to diversify the grant request there by possibly improving the chance for additional funding. Don Nett added the attempt was to offer some of the Priority 1 and 2 items for discussion, in addition to the usual Priority 3 advertising options used in the past. Alan Moch offered the PSC would clarify our ideas with the Feds. Don Nett responded to a question on how monies could be used, money allowed in a priority maybe used on any of the items allowed within that priority. Chairman Bittner thought the locator training is a great idea and questioned if there would be enough interest among the operators to make it successful. Don Nett has contacted Staking University from Chicago, a provider of this type training. The cost of certified training is about \$9,000 per site, and would need about 10-12 participants per site. Suggestion was made by Don Nett to do a survey of operators to determine if there would be support for the training. Discussion was had on timing and location of training. Training timing was preferred in winter but may be a problem with frozen ground. Gloria asked if the committee's intent was to offer the training as a certification. Don Nett thought that was the case. Richard Schultz suggested that winter would be the best for the training and asked if this certification would be just for pipeline or will it cover all utilities. Chairman Bittner asked if the committee had some hard recommendations for the grant application. Ed Williams offered the Board needs to be careful throwing in too many items, due to the relatively small amount of dollars we normally receive. Chairman Bittner offered it's a good idea to keep items in the same

Priority due to the flexibility of using the funds as we see fit within that area. As an example if we request \$20,000 for training and \$30,000 for advertising and only receive \$30,000 total we can use it on the one we feel is the best opportunity for system improvement. Gloria suggested we put advertising in and her feeling is to go with television or billboards. With billboards and it not being an election year they should stay up for a long time after the contract time and television as she liked the ads from this year and feels they did a good job of educating the general public. Perry Oberg feels advertising is important but feels training is also very important and likes the mix for the grant application. Gloria feels nothing we've proposed would be allowed under anything other than Priority 3. Chairman Bittner asked for the Board's feelings on what should be in the application. Apply for full \$50,000 for advertising and possibly a mix with locator training was suggested by Chairman Bittner. Suggest made by Mark Dougherty to hold the decision until the legislative items have been decided.

Legislation

Design Survey Bill

Larry Smith of Swenson Hagen Company, representing the ND Society of Professional Land Surveyors and Tom Hanson of Webster Foster Weston representing the ND Association of Civil Engineering Companies were welcomed by the Board. Larry and Tom offered strong opposition to the proposed Design Survey Bill Draft. Larry Smith related that every one of his survey crews is equipped with a shovel and hammer drill to be used to place property pins to a depth of up to 2 feet and locate existing monuments which at times requires hand excavation up to 7 feet. He further stated very few surveys are completed without some type of excavation work which the law requires them to make the one call. Tom Hanson stated the problems they have when calling the one call center is as soon as they mention design or survey locate the center's response changes and the feeling is the locate will not be handled with the same priority as when a contractor makes the call. Tom Hanson added, at times they stretch the truth to get a better response to their locate requests. Chairman Bittner stated part of the reason for proposing this legislation is so the designers don't have to lie when contacting the center. Chairman Bittner also related there are times when designers ask for locates when they know there will be no excavation and the only purpose is to determine the locations of existing utilities for placement on plans or mapping use of the property owner. Everyone agreed part of the purpose of the one call statute is to enhance safety in working around the state infrastructure and both design firm representatives offered instances where their crews have damaged utilities and fortunately to this date it has not caused any injuries. Both design firm representatives expressed the feeling the design firms requests need to be treated the same as any other excavator because that is exactly what they are by law. They don't feel the Board should kill the proposed bill draft and are willing to work with the Board to modify the existing draft to address their concerns. Ed Williams stated he is sure no one on the ND One Call Board of Directors who would not consider the designer representatives stated locates as excavations, but the Board needs to find a way to better define where those actual excavation will be done, instead of having to locate three city blocks or 20 miles of roadway when the designer is going to actually excavated in 4 or 5, 20 foot diameter sites. Jim Holzer made a suggestion for the designers to be specific about what type of excavation their crews will be conducting when they talk to the center; don't just say it's for design or survey work.

The suggestion was made to form a committee of stakeholders to work out the differences in the

bill draft and possibly have something ready for introduction in the coming legislative session. It was agreed to form a committee of the following make up:

Two representatives from the surveyor's society.
Two representatives from the engineering association
One representative from the locators association
Mark Bittner, Mark Dougherty, Ed Williams & Ron Ness from the ND One Call

Board

Note: The surveyors and consultants are to send their representatives names to Chairman Bittner as soon as possible.

The Board thanked the design firm representatives for their help on this important issue.

Locators Group Merger Discussion

ND Locators Association representative Kevin Ailshouse related he does not have a lot of new information on the issue but just wanted to keep us updated. Since the last meeting the locators have taken steps to handle their own finances and administration. Even though, the locators group is still interested in a close connection with the ND One Call Board. Jerry Blomeke related the Board's attorney Rebecca Thiem expressed some concern in that the Board is statutorily created which places some limitations on how far the Board can stray from its legislated purpose. Chairman Bittner asked Kevin Ailshouse what the locators are contemplating out of this connection. Kevin's thought was to possibly create a standing committee acting along side the Board but not having a vote in the Board's business. Ron Ness asked what the locators expected to gain from the connection with the Board. Kevin Ailshouse responded it was originally to have help with the locator's administration and funds. Chairman Bittner offered the locators the opportunity to have a place holder on our agenda which is available now by simply notifying the Board of the need. Richard Schultz offered if the Board moves forward with the training discussed earlier; that would be a good combined effort for the two groups. No action was taken or required on this issue.

Promotional Items

Don Nett presented several items for the Board to consider for promotional purposes. The Board decided on the gloves.

OCC Tech Committee Meeting Report (Attached)

The Board received a short report from Ron Ness on the One Call Concepts Technical Committee meeting held on October 18, 2006 in Kansas City, MO.

Center Operations Report (reports attached)

Don Nett reported the incoming calls are about 3% over 2005 and the hold time is 32.7 seconds, well within the 60 seconds required. Jim Holzer added North Dakota's ticket numbers are up and Minnesota's is down about 7% compared to last year at the same time. Schedule of 2006 meetings attended was submitted by Don Nett. 2007 meeting schedule is included in the Board packet Don noted some minor changes from last year. Mark Bittner asked if Don has been invited to attend the pipeline meeting. Don responded the meeting hasn't been fully scheduled and he will attend as many as time allows. Next item is the expenditures for 2006. Budget for

2006 was \$48,000 and we have spent to date \$46,460. Included in the \$46,460 is \$14,015 for local TV ads and one additional order of white flags for \$2175 not included in the original \$48,000. There is also about \$6000 dollars coming for contractor dinner handouts. Don Nett included an estimated income report for 2006 and if the numbers for November and December stay near the same the advertising income for 2006 should be about \$52,173. Proposed advertising budget for 2007: promotional items reduced to \$10,000 due reduction in use of white flags, magazines and trade show stay the same \$2000 and \$4000 respectively, radio-TV ads stays the same \$27,500, and handouts remains at \$6000. This would be a proposed 2007 budget of \$49,500. Discussion was had on how to spend media dollars. Should we use grant dollars or Board dollars for radio and TV ads. If the PSC handles this they have to get an advertiser who we pay a lot for little return. Discussion on the purchasing of white flags and continue promoting their use. Perry Oberg moved to approve the proposed 2007 advertising budget. Jerry Blomeke seconded the motion. Don Nett said you'd need to add dollars to the proposed budget if the decision is to continue the practice. Motion was amended to include an additional \$4500 to the proposed advertising budget to cover cost of white flags. Jerry Blomeke agreed to the motion amendment.

Legislation

State Agency Status - Duane Houdek Governor's Legal Council

Mark Dougherty introduced Duane Houdek the Governor's legal council who is here to give us some insight into how becoming an unfunded state agency will affect the Board and its operations. Duane related he feels due to the fact the Board was created in statute that the Board could be given penalty and rule making authority by statute but, if the Board became a State agency it would be required to submit an annual or biennial report to the legislature, submit to an state audit on a regular basis, the Governor would appoint the members of the Board and notice of all meetings would need to be published. Duane related there is no set way for a Board such as ours to become an unfunded state agency, as there is a wide variance in how the existing groups in government have been constructed. He recommended we make a request of a legislator and have him/ her ask the legislative council for direction. In response to a question Duane, stated the way the Governor appoints the board members could be controlled in statute and may include appointing whoever he wants to appointing from a list provided by the effected industry. Responding to a question from Chairman Bittner, Duane suggested the Board could be given the authority to make rules by statute and should consider not calling them administrative rules to stay away from all the required procedures of that process. A discussion was had on how the Board would collect penalties if a person decides not to pay. Jim Holzer offered procedures used in other states, most of which have a PSC managing the system. Duane recommended we would probably need to have the collection handled by a states attorney's office or possibly the Attorney General as that office represents state government. Duane offered to contact the Attorney General to provide an answer to that question. Chairman Bittner asked Mark Dougherty to contact a legislator to sponsor a bill to get the bill draft in the best way to provide the desired authority. Discussion on how to proceed including can we just do the legislation and take the authority to enforce it or do we need to wait for the next session to further determine the stakeholders position on the issue and complete more research on the correct process to follow. Chairman Bittner suggested making a request for pipeline office grant funding next year and making this a priority for the 2009 legislative session. Jerry suggested the Board needs to find out specifically how the Board can get the authority to deal with penalties

and rule making and apply for grant funds to draft and illicit input from affected industries. Mark Dougherty suggested if the Board waits until the 2009 legislative session, we should get others from the industry on a committee to fashion the legislation and use them to help spread the word. Also Mark Dougherty recommends we get final answers to the questions of how to get the authority to administer the penalties and rule making. Everyone seems to be in agreement to hold the legislation until the next legislative session.

Mark Dougherty made a motion not to move forward with the enforcement and non-excavation legislation in the 2007 legislative session. Motion seconded by Jerry Blomeke. There being no discussion the motion was called. All ayes, motion carried. Jerry Blomeke made a motion to have OCC provide a proposal to coordinate the legislative activities required to bring the enforcement and non-excavation bills to the 2009 legislative session. Perry Oberg seconded the motion. There being no discussion the motion was called. All ayes, motion carried.

Transfer of Underground Facilities

Jim Holzer informed the Board of problems the Center is having when one operator sells or transfers facility to another. We get a notice from the existing owner but have trouble getting the new owner on board with the Center. Jim Holzer is asking the Board for direction on how to handle these situations. In response to a question from Chairman Bittner, Jim related in Minnesota the existing owner is not dropped until the new owner signs up with the Center. Mark Dougherty made a motion to send a notice letter to all operators informing them of the requirement for the new owner to be registered before the existing owner is released from responsibility. This notice or letter is to be signed by the Chairman of the Board. Seconded by Ron Ness. There being no discussion the motion was called. Ayes all, motion carried.

Appoint Nominating Committee for election of officers

Chairman Bittner asked for volunteers. Mark Dougherty nominated Ron Ness and volunteered himself.

Nominations were accepted and closed. Directors to be replaced would be Dennis Kellar and Mark Bittner.

Establish 2007 Meeting Schedule

Don Nett has requested the following dates at the NDARC building and all dates are open.

February 8, 2007

May 10, 2007

August 9, 2007

November 8, 2007

All meetings to start at 10:00 AM

Call Center Visit

Discussion was had on the feelings of the outcome of the October Call Center visit by several Board members. The general feeling is the visit was very informative.

Excavators Meetings

Board needs to prepare what to present at the Diggers Meeting in 2007. Don will send the 2006 presentation outline to Board members.

CGA & 811 Summit in Fargo - December 14, 2006

It's the Board's decision to have Don attend the Fargo meeting but not the Omaha meeting.

Changes to NDOC Handbook

Board members need to review the handbook and provide Don with suggested changes. The Board may want to wait until the end of this legislative session to make changes due to possible legislative action by others.

811 Tariffs

Qwest is still planning to charge a tariff of 1 cent per call but will not charge for the switch over. Chairman Bittner is to contact Mark Palma to follow up on what they have done in the past.


Other Business

Discussion on what municipalities are required to locate. This is an issue of national scope in that all states are struggling with the limit of municipalities locate responsibilities. A motion was made by Jerry Blomeke to have Chairman Bittner draft a letter to the cities in North Dakota to inform them of their responsibility to locate all utilities in their right of way when responding to a locate request. To date the cities are only locating the main lines. Motion was seconded by Ed Williams. There being no discussion the motion was called. Ayes all, motion carried.

There being no further business to come before the board the meeting was adjourned.

Submitted by Mark Dougherty, Secretary

Chairman Mark Bittner

Signature: 

Signature: _____

Date: 02/16/2007

Date: _____