

N.D.A.G. Letter to Meier (Nov. 19, 1987)

November 19, 1987

Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, ND 58505

Dear Secretary Meier:

Thank you for your letter of October 12, 1987. Your letter inquires whether you may issue a certificate of incorporation to an airport authority when the entity involved has not yet determined a name.

N.D.C.C. § 2-06-04(1) indicates that the Secretary of State shall issue a certificate of incorporation to a regional airport authority upon receipt of a certified copy of a resolution adopted pursuant to N.D.C.C. § 206-03(1). This latter statute indicates that two or more municipalities may by joint resolution create a public body, corporate and politic, to be known as a regional airport authority which is authorized to exercise its function upon the issuance by the Secretary of State of the certificate of incorporation. The statute further provides the manner in which a regional airport authority is created including the number of persons to act as commissioners, their representations, their term of office and the manner in which officers are elected.

I have learned additional facts surrounding your request for an opinion on this matter. The information provided to you by the regional airport authority in question did comply with N.D.C.C. § 2-06-03(1). A joint resolution was adopted creating a public body, corporate and politic, which was known as a regional airport authority.

The problem occurred in that the certified copy of the joint resolution provided to you required a name for the regional airport authority to be provided for within the joint resolution. However, nowhere in the joint resolution was any name provided. Instead, a name was provided to you by the attorney for the city of Grand Forks indicating that the name has been agreed to by county officials. I understand that you were reluctant to issue a certificate of incorporation using the name provided to you as the name was not provided within the joint resolution creating the regional airport authority as required by the joint resolution.

I can understand your reluctance in issuing a certificate of incorporation where it appears that a joint resolution had not been followed by the entities involved. However, I have found no requirement in N.D.C.C. § 2-06-03, 2-06-04 preventing a certificate of incorporation from being issued where the name does not appear within the joint resolution as required by the resolution by itself. As the statutorily required information was provided to you, I believe that you correctly issued the certificate of incorporation to

the regional airport authority pursuant to N.D.C.C. § 2-06-04(1).

I hope this information is helpful to you. If you have further questions, please do not hesitate to contact me.

Sincerely,

Nicholas J. Spaeth

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