

August 13, 2009
Nemaha Natural Resources District
Regular Meeting
Tecumseh, Nebraska

1. **CALL TO ORDER/ROLL CALL/MOMENT OF SILENCE**

Chair Scott Kudrna called the four hundred twelfth meeting of the Nemaha Natural Resources District Board of Directors to order at 8:10 p.m. Thursday, August 13, 2009, at the NRD Headquarters in Tecumseh, Nebraska.

| | | | |
|--------------------|----------------|--------------|----------------|
| DIRECTORS | John Albrecht | Ron Heskett | William Umland |
| PRESENT: | Lisa Beethe | Scott Kudrna | Bruce Walker |
| | Rob Bohling | Jim Rush | Dan Watermeier |
| | Charles Duryea | Don Siske | Paul Weber |
| <i>*Left early</i> | Orval Gigstad | Mike Speece* | Tom White |
| | Ted Godemann | Duane Sugden | Jim Wirth |
| | Wayne Goering | Steve Sugden | |

DIRECTORS Lynn Heng
ABSENT:

STAFF Bob Hilske, Manager
PRESENT: Scott Nelson, Assistant Manager
Jane Kuhl, Administrative Assistant
Allison Caspers, Administrative Assistant

GUESTS Terry Newell, NRCS, Tecumseh
PRESENT:

Following the Pledge of Allegiance, a moment of silence was observed. Chair Kudrna announced that the Open Meetings Act was posted at the back of the room.

2. **PROOF OF PUBLICATION**

Proof of Publication was presented and is on file.

3. **EXCUSED ABSENCES**

White moved, seconded by Wirth, to approve the excused absence requested by Lynn Heng. Motion carried on consent agenda.

4. **OPEN FORUMS**

All directors, NRD staff, and guests introduced themselves.

5. **MINUTES**

White moved, seconded by Siske, to approve the minutes as presented. Motion carried on consent agenda.

6. **TREASURER'S REPORT**

White moved, seconded by Siske, to approve the Treasurer's Report as submitted. Motion carried on consent agenda.

7. **STAFF REPORT**

Hilske and Nelson reviewed their reports.

8. **AGENCY/ASSOCIATION REPORTS**

A. Natural Resources Conservation Service

Terry Newell provided his written report. He added that their offices were busy with conservation work layout, and they are in the process of funding EQIP contracts. Newell then reviewed the new CSP signup and reported that Nebraska was chosen as a test state for grazing options for wetlands.

B. Five Rivers RC&D

Kudrna reported that on September 25 Nebraska Tourism will have a development plan meeting in Nebraska City for their 2010 guide. There is another wine school coming up this fall, and the tire collections are winding down. He also distributed their annual report to all directors.

C. Nebraska Association of Resources Districts

Gigstad commented on some misunderstandings about the recent NRD public relations campaign clarifying that this effort was already underway before LR 181 came about and is not a reaction to this resolution.

D. Nebraska Natural Resources Commission

Watermeier reported they met in July but he was unable to attend; their next meeting will be in September in conjunction with the NARD conference in Kearney.

E. Nebraska Water Resources Association

Duane Sugden stated that their next meeting is in September, and their convention is in November. He had received a letter from Senator Langemeier asking for information for a state water plan.

9. STANDING COMMITTEES

A. Programs & Projects Committee

1. *Bids for Bohlken Muddy Creek Structure:* Bids received were as follows:

| Contractor | Bid |
|---|-------------|
| Gyhra Construction | \$36,487.00 |
| Tom Sisco Construction | \$39,471.30 |
| Prange Construction | \$42,724.00 |
| <i>Engineer's Estimate: \$36,100.00</i> | |

S. Sugden moved, seconded by Godemann, to approve the bid of \$36,487.00 from Gyhra Construction for the Larry Bohlken Muddy Creek structure. Motion carried.

AYE: Albrecht, Bohling, Duryea, Gigstad, Godemann, Goering, Heskett, Kudrna, Rush, Siske, Speece, D. Sugden, S. Sugden, Umland, Walker, Watermeier, Weber, White, Wirth

ABSTAINING: Beethe

NOT PRESENT: Heng

2. *Bids for McGuire/Watkins Small Dams Program Structure:* Bids received were as follows:

| Contractor | Bid |
|---|-------------|
| Tom Sisco Construction | \$48,046.67 |
| Gyhra Construction | \$56,959.00 |
| Prange Construction | \$62,131.18 |
| <i>Engineer's Estimate: \$53,983.97</i> | |

S. Sugden moved, seconded by Godemann, to approve the bid of \$48,046.67 from Tom Sisco Construction for the McGuire/Watkins Small Dams Program Structure. Motion carried.

AYE: Albrecht, Beethe, Bohling, Duryea, Gigstad, Godemann, Goering, Heskett, Kudrna, Rush, Siske, Speece, D. Sugden, S. Sugden, Umland, Walker, Watermeier, Weber, White, Wirth

NOT PRESENT: Heng

3. *Agreement to Provide Cost-Share Assistance for Behrends Muddy Creek EQIP Structure:*

S. Sugden moved, seconded by Godemann, to approve funding, not to exceed \$10,000, as outlined in an agreement for the Craig Behrends Muddy Creek structure. Nelson explained that the agreement states the NRD will provide additional funding to supplement his EQIP funding in order to bring the total cost share to 75 percent; in the event his EQIP funding equals 75 percent or more, the NRD will not provide any additional cost-share. **Motion carried.**

AYE: Albrecht, Bohling, Duryea, Gigstad, Godemann, Goering, Heskett, Kudrna, Rush, Siske, Speece, D. Sugden, S. Sugden, Umland, Walker, Watermeier, Weber, White, Wirth

ABSTAINING: Beethe

NOT PRESENT: Heng

5. *Request from Nemaha County Road Engineer to Provide Cost-Share Funds:* No action.

6. *Resolution to Request Funds from Nebraska Environmental Trust for Iron Horse Restoration Project:*

S. Sugden moved, seconded by Godemann, to approve a resolution requesting \$75,000 from the Nebraska Environmental Trust for the Iron Horse Restoration Project. Nelson explained in further detail how this money would be used to increase improvements at the park. **Motion carried.**

AYE: Albrecht, Bohling, Duryea, Gigstad, Godemann, Goering, Heskett, Kudrna, Rush, Siske, Speece, D. Sugden, S. Sugden, Umland, Walker, Watermeier, Weber, White, Wirth

ABSTAINING: Beethe

NOT PRESENT: Heng

7. *Landowner Request for District to Install Property Line Fence on Spring Creek Structure 9-3:*

S. Sugden moved, seconded by Rush, to build a fence contingent that the landowner obtains a certified survey to re-establish the property line. White did not think the NRD should get into this. Nelson explained the fence would have to be offset four feet from the property line, which is located down the middle of the dam. Duane Sugden felt this could result in a lot of feedback from other property owners. Godemann explained that this would be a specific agreement that only provides a property line. Rush felt there would be very few circumstances like this where the property line is through the middle of the dam and that offering to build the fence would be a good will gesture. There was some concern that the motion did not specify which landowner would be required to obtain the survey. **S. Sugden moved,**

seconded by Rush, to amend the motion to specify that Sam Kuhl would be the landowner required to obtain the certified survey prior to fence installation.

Motion failed.

AYE: Duryea, Godemann, Goering, Kudrna, Rush, Speece, S. Sugden, Umland, Watermeier, Weber

NAY: Albrecht, Beethe, Bohling, Gigstad, Heskett, Siske, D. Sugden, Walker, White, Wirth

NOT PRESENT: Heng

Upon roll call vote on the main motion, **motion failed.**

AYE: Watermeier, Weber

NAY: Albrecht, Beethe, Bohling, Duryea, Gigstad, Godemann, Goering, Heskett, Kudrna, Rush, Siske, Speece, D. Sugden, S. Sugden, Umland, Walker, White, Wirth

NOT PRESENT: Heng

8. *Dan Hill Request for Assistance with Establishing Livestock Water Facilities on New Dam:*

S. Sugden moved, seconded by Godemann, to provide up to \$1,570 to Dan Hill to assist in creating an alternative livestock water source in conjunction with the construction of his new dam. He added that the landowner will be required to provide receipts to substantiate the costs prior to reimbursement by the NRD. **Motion carried.**

AYE: Albrecht, Beethe, Bohling, Duryea, Gigstad, Godemann, Goering, Heskett, Kudrna, Rush, Siske, Speece, D. Sugden, S. Sugden, Umland, Walker, Watermeier, Weber, Wirth

NAY: White

NOT PRESENT: Heng

9. *Proposals to Provide Engineering Services on Ed Bruening Dam:*

S. Sugden moved, seconded by Godemann, to hire Schemmer Associates to provide engineering services not to exceed \$14,347 for the Ed Bruening dam.

Two other proposals were received from JEO-\$16,300 and The Flatwater Group-\$32,000. **Motion carried.**

AYE: Albrecht, Beethe, Bohling, Duryea, Gigstad, Godemann, Goering, Heskett, Kudrna, Rush, Siske, Speece, D. Sugden, S. Sugden, Umland, Walker, Watermeier, Weber, White, Wirth

NOT PRESENT: Heng

4. Update on 404 Permitting Issues with Ray Caspers Muddy Creek Road Structure:

Nelson updated the Board on the problems with getting the 404 permit for this project. The permit was submitted at the end of March, but on June 1 the Corps changed the way they determine how the permits are considered. Since it is now on an individual permit status, it is subject to a 21-day national comment period. At an on-site meeting with the U.S. Fish & Wildlife Service, they verbally stated that they would be recommending against approving the permit; however, the representative that walked the creek did not see any sign of fish and stated the impact to wildlife habitat is borderline. In his opinion, it was better to leave it as is rather than take out the trees. Nelson said we offered to mitigate anything we could including trees, wildlife habitat, retaining CRP, etc. We also heard from EPA that they would recommend against approval because of concerns about our approach to watershed management projects. Terry Newell stated NRCS is working on a more specifically measured wetland delineation which may help put this permit back under a nationwide permit status. We may be able to resubmit it with updated measurements. Newell explained the different options for resubmitting the permit or amending it. Speece explained the concerns from county officials, health officials, emergency management people, and school districts regarding the safety issues if this road is not available to travel, which could be the case without this structure. He felt we would create more habitat, a fishing area, and protection for some of the better bridges by pursuing this. Speece said he was stunned by the reaction from the Fish & Wildlife Service. He was concerned that if we can't build dams in southeast Nebraska, how will we control these problems. Hilske confirmed that EPA has commented negatively on projects in other NRDs as well and that, unfortunately, the problem is getting worse again instead of better. Hilske explained the conversation he had with an attorney and the steps that could be required before the Corps may ultimately deny the permit. Our best bet is to try and get it considered under the nation-wide permit. He added that we will have an opportunity to respond to any comments that are provided regarding our permit. Because we have a contractor hired and waiting now, it was his recommendation to try and get this moving along as quickly as possible. Rush suggested writing a letter to the editor about this issue to make the public aware of the problem. Watermeier suggested the Governor's office may be a place to go for support. Kudrna expressed his frustration that the NRD is trying to make local decisions, but someone from out of the area is telling us that we don't know what we are doing. He was very concerned that this could affect future projects as well and that there seems to be no criteria that is being used to deny the permits.

B. Operations & Education Committee

1. *Establish a Date to Close Iron Horse Trail Lake for Restoration:*

Wirth moved, seconded by White, to close Iron Horse Trail Lake effective August 24, 2009, due to upcoming restoration activities. Motion carried.

AYE: Albrecht, Beethe, Bohling, Duryea, Gigstad, Godemann, Goering, Heskett, Kudrna, Rush, Siske, Speece, D. Sugden, S. Sugden, Umland, Walker, Watermeier, Weber, White, Wirth

NOT PRESENT: Heng

2. *Agreement for Installation of Warning Siren at Kirkman's Cove:*

Wirth moved, seconded by D. Sugden, to approve the agreement with Richardson County Emergency Management to allow the installation of a warning siren at Kirkman's Cove. Motion carried.

AYE: Albrecht, Beethe, Bohling, Duryea, Gigstad, Godemann, Goering, Heskett, Kudrna, Rush, Siske, Speece, D. Sugden, S. Sugden, Umland, Walker, Watermeier, Weber, White, Wirth

NOT PRESENT: Heng

3. *Construction Permit for Underground Power Line on Steamboat Trace Right-of-Way:*

Wirth moved, seconded by D. Sugden, to approve the construction permit with Auburn Board of Public Works and authorize staff to negotiate an easement after the line is installed and a survey of its location has been prepared. Motion carried.

AYE: Albrecht, Beethe, Bohling, Duryea, Gigstad, Godemann, Goering, Heskett, Kudrna, Rush, Siske, Speece, D. Sugden, S. Sugden, Umland, Walker, Watermeier, Weber, White, Wirth

NOT PRESENT: Heng

C. Executive Committee

1. *Update on Buck Creek Land Rights Negotiations:* Beethe reported that one easement is still coming by mail but that the others are done. No action.

2. *Buck Creek Road Agreements:*

Beethe moved, seconded by Siske, to approve the three road agreements with Nemaha County for 735 Road, 735A Road, and 643 Avenue. Hilske reviewed the roads impacted by the agreements. **Motion carried.**

AYE: Albrecht, Beethe, Bohling, Duryea, Gigstad, Godemann, Goering, Heskett, Kudrna, Rush, Siske, Speece, D. Sugden, S. Sugden, Umland, Walker, Watermeier, Weber, White, Wirth

NOT PRESENT: Heng

10. FY 2010 DRAFT BUDGET

Allison Caspers again reviewed the budget presentation pointing out changes and updates since last month. Hilske reviewed options for the tax request and asked for some direction on how to proceed before the next special meeting. White and Duane Sugden both suggested leaving the levy at the same rate as last year. Godemann felt discussion on what tax request we want is premature until the valuations are known. There was some discussion about the funds required for land purchases involved with the Duck Creek project. Beethe asked for some numbers to be provided at the special meeting that show what our needs will be for the next couple of years, particularly for the larger projects. No action.

11. WELL PERMIT APPLICATIONS

White moved, seconded by Wirth, to approve the well permits received from Jerry Pietzyk for an irrigation well 1.5 miles northeast of Burr and an irrigation well 1.25 miles east of Burr. Motion carried.

AYE: Albrecht, Beethe, Bohling, Duryea, Gigstad, Godemann, Goering, Heskett, Kudrna, Rush, Siske, D. Sugden, S. Sugden, Umland, Walker, Watermeier, Weber, White, Wirth

NOT PRESENT: Heng, Speece

12. ANNOUNCEMENTS, SEPTEMBER MEETING DATE/TIME & AGENDA ITEM REQUESTS

Kudrna reminded directors of the special meeting on August 27. It was agreed that the meeting would begin at 7:00 p.m. instead of 8:00 p.m. The September meeting will be Thursday, September 10, and will be preceded by the budget hearing(s).

13. CONSENT AGENDA

Godemann moved, seconded by White, to approve the consent agenda. Consent agenda items: Excused Absences, Minutes, Treasurer's Report. **Motion carried.**

AYE: Albrecht, Beethe, Bohling, Duryea, Gigstad, Godemann, Goering, Heskett, Kudrna, Rush, Siske, D. Sugden, S. Sugden, Umland, Walker, Watermeier, Weber, White, Wirth

NOT PRESENT: Heng, Speece

14. **ADJOURNMENT**

Siske moved, seconded by White, to adjourn. Motion carried.

AYE: Albrecht, Beethe, Bohling, Duryea, Gigstad, Godemann, Goering, Heskett, Kudrna, Rush, Siske, D. Sugden, S. Sugden, Umland, Walker, Watermeier, Weber, White, Wirth

NOT PRESENT: Heng, Speece

The meeting adjourned at 10:45 p.m. The next meeting of the Board of Directors will be Thursday, August 27, 2009, at 7:00 p.m. to review the budget and property tax valuations; the next regular meeting will be Thursday, September 10, at 8:00 p.m.; both will be at the NRD headquarters at 62161 Hwy 136 in Tecumseh.

Approved 9/10/09

Secretary, Nemaha Natural Resources District