

June 14, 2007
Nemaha Natural Resources District
Regular Meeting
Tecumseh, Nebraska

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

Chair Ted Godemann called the three hundred eighty-sixth meeting of the Nemaha Natural Resources District Board of Directors to order at 8:30 p.m. Thursday, June 14, 2007, at the NRD Headquarters in Tecumseh, Nebraska.

DIRECTORS	John Albrecht	David Hunzeker	Bruce Walker
PRESENT:	Rob Bohling	Scott Kudrna	Dan Watermeier
	Lisa Beethe	Roland Meyer	Paul Weber
	Jeff Crunk*	Jim Rush	Tom White
<i>*Left Early</i>	Orval Gigstad	Don Siske	Jim Wirth
	Ted Godemann	Mike Speece*	
	Ron Heskett	Chuck Starr	

DIRECTORS Steve Sherrow
ABSENT: Duane Sugden

STAFF Bob Hilske, Manager
PRESENT: Scott Nelson, Assistant Manager
Jane Kuhl, Administrative Assistant
Chuck Wingert, Water Resources Manager
Artis Fisher, Business Assistant

GUESTS	Terry Newell, NRCS, Tecumseh	Craig Boldt, Otoe
PRESENT:	Bob Sullivan, NRCS, Tecumseh	Peggy Boldt, Otoe
	Bob Retzlaff	John Retzlaff

Following the Pledge of Allegiance, a moment of silence was observed. Chair Godemann announced that the Open Meetings Act was posted on the wall 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 Siske, to approve the excused absences requested by Steve Sherrow and Duane Sugden. Motion carried on consent agenda.

4. **OPEN FORUMS**

All directors, NRD staff, NRCS staff, and guests introduced themselves.

5. **MINUTES**

White moved, seconded by Albrecht, 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 & Nelson reviewed their written reports. Wingert also reviewed some of the activities of the water department.

8. **AGENCY/ASSOCIATION REPORTS**

A. Natural Resources Conservation Service

Terry Newell reviewed his written report as well as the number of EQIP contracts approved.

B. Five Rivers RC&D

Kudrna reported they are working on their area plan. He added that they may organize a computer collection this fall with funds left over from the household waste collection.

C. Nebraska Association of Resources Districts

Gigstad reminded directors of the upcoming basin tour. He also reported on the NACD Northern Plains Region efforts to become more involved in Missouri River issues.

D. Nebraska Natural Resources Commission

Watermeier reported on the Resource Development Fund monies available from the Legislature and their struggles to determine which project to fund.

E. Water Policy Task Force Report

No report.

9. **STANDING COMMITTEES**

A. Programs & Projects Committee

4. Improper Placement of Recreation Vehicles & Other Obstructions in Wilson Creek 12-3 Emergency Spillway:

Nelson reviewed the background of this situation and events leading up to the present issue as detailed in a handout to the board.

Godemann questioned if the structure and its easements and associated liability could be sold or transferred. Nelson replied that this had been suggested but that it would probably take action from Washington, DC, to allow it. Bob Sullivan pointed out that

the NRD would have had an operation and maintenance agreement when the structure was built that would have requirements as well. Hilske felt it would require that the project was determined to have met it's life span. Craig Boldt, representing the Otoe Rod & Gun Club, told the board that RVs have been there over the past 30 or 40 years but that the State had no problem with it. Nelson clarified that DNR inspected the dam in 1994 and required the obstructions be moved at that time. Boldt asked if there were a way to get a legal waiver of liability that everyone could sign. He admitted that they should have contacted the NRD before doing the improvements but that it had been going on for so long that they did not see any problem. Beethe asked what the cost of the utilities were, and Boldt answered they spent about \$6,000.

Starr moved, seconded by Meyer, that the board send a certified letter to the landowner and Otoe Rod and Gun Club to remove the improvements from the easement area. Boldt told the board that the landowner had just recently died, which may cause some problems. Starr expressed his concern for not only this situation but also for future situations. He felt this was a pretty obvious easement situation that must be corrected and that our avenues for making exceptions are limited. Rush asked why this was not noticed earlier. Nelson stated the field staff found the utilities had been recently installed when doing their dam inspections in the fall of 2006. Boldt added that there has always been electricity with a pole in the spillway area. Godemann stated we could be held liable if we don't do anything. He stated the entire Club is covered by insurance through the NRA. Watermeier felt the board had no choice but to require removal of the obstructions since this was a PL566 project and because of the potential for damages and liability. Boldt questioned if they would have to remove everything or just unhook the power supply and leave everything in the ground so that they would not have to tear up the vegetation again.

Starr moved, seconded by Wirth, to amend the motion to add "obstructing easement" and that staff follow up and report back to the board. Kudrna felt DNR would tell us what would have to be removed from the area. Crunk asked what the timeline would be and if the road would have to be torn up and reseeded. Watermeier and Starr felt no specific timeline should be included but that the process would start immediately. Upon roll call vote on the amendment, **motion carried.**

AYE: Albrecht, Beethe, Bohling, Crunk, Gigstad, Godemann, Heskett, Hunzeker, Kudrna, Meyer, Rush, Siske, Speece, Starr, Walker, Watermeier, Weber, White, Wirth

NOT PRESENT: Sherrow, Sugden

Upon roll call vote on the main motion as amended, **motion carried.**

AYE: Albrecht, Beethe, Bohling, Crunk, Gigstad, Godemann, Heskett, Hunzeker, Kudrna, Meyer, Rush, Siske, Speece, Starr, Walker, Watermeier, Weber, White, Wirth

NOT PRESENT: Sherrow, Sugden

5. ***Retzlaff Trust Request to Extend SWCP Deadline:*** Nelson reviewed the history of this project and the extensions granted to date. Bob Retzlaff felt they would like to try to get the work done yet this spring. Nelson reported that the NRCS technician thought it could be finished in two working days but that it was too wet right now. Kudrna asked when the original deadline was, which was January 11. Bob Retzlaff said it wasn't staked out by November 28 as it was supposed to be. The deadline was first extended to May 1 by staff and then June 1 by the Board. Hilske explained the reason for this series of steps is so we don't have requests from everyone expecting to be extended.

Watermeier moved, seconded by Gigstad, to extend the deadline for the Retzlaff Trust SWCP project to July 1, 2007. Watermeier cautioned Mr. Retzlaff that should the project not be finished to specifications by July 1, regardless of whether it rains every day until then, they would not receive another extension; and the landowner would pay the entire cost of the project. **Motion carried.**

AYE: Albrecht, Beethe, Bohling, Crunk, Gigstad, Godemann, Heskett, Hunzeker, Kudrna, Meyer, Rush, Siske, Speece, Starr, Walker, Watermeier, Weber, White, Wirth

NOT PRESENT: Sherrow, Sugden

6. ***Kendall & Craig Binder Request to Assist with Drainage Below Hemje Structure:*** Nelson reviewed the situation and stated there are still some unanswered questions and some questions from the Corps of Engineers.

Watermeier moved, seconded by Rush, to approve cost-share on this tile project for 400 feet of tile at \$2 a foot. Watermeier felt if the Corps would agree that this would allow them to do it. Beethe asked how much the NRD paid toward the dam project and why the NRD would be responsible for paying the entire cost of the tile, if any. Staff responded that 25 percent was cost-shared by the NRD. Speece was concerned about participating in a tile project within an area that is under scrutiny by the Corps. Terry Newell explained that they met with the Corps, and he reviewed who has jurisdiction if the dam has failed. Newell felt we don't know for sure where the seepage could be coming from, especially considering that Hemje had altered the dam. He added that if this ground is tiled, it needs to be done correctly so as not to be in violation of the Corps. Starr was confused as to what we would be cost-sharing to do since it appears they are tiling to drain to a non-existent drainage ditch. Hilske added that he was concerned that we would cost-share on the premise that this

structure is not constructed properly when there is no proof of that. Newell felt that if Hemje had not attempted to repair but instead waited until this spring when the rains came that we would have know if the dam was at fault. Wirth agreed that since he had dug the trench, now it would be hard to prove where any seepage was coming from. Upon roll call vote, **motion failed.**

AYE: Rush, Siske, Watermeier

NAY: Albrecht, Beethe, Bohling, Gigstad, Godemann, Heskett, Hunzeker, Kudrna, Meyer, Speece, Starr, Walker, Weber, White, Wirth

NOT PRESENT: Crunk, Sherrow, Sugden

7. ***Correction of Unauthorized Alterations to Riser & Spillway on Spring Creek 9-3:*** Starr reported that the landowner had complied and removed the extension to the riser prior to the board meeting. Hilske added that we are going to try to make an effort to put together a database of the owners of all the dams in our District and send a letter to them regarding what is and is not allowed.
1. ***Proposals for Engineering/Design for Grotrian & Hartmann Small Dams:*** Three proposals were received and reviewed by staff.

Starr moved, seconded by Heskett, to approve the proposal from JEO Consulting Group, Inc., to provide engineering for the Grotrian and Hartmann small dams at an estimated cost of \$29,805.00. Motion carried.

AYE: Albrecht, Beethe, Bohling, Gigstad, Godemann, Heskett, Hunzeker, Kudrna, Meyer, Rush, Siske, Speece, Starr, Walker, Watermeier, Weber, White, Wirth

NOT PRESENT: Crunk, Sherrow, Sugden

2. ***Proposals to Provide Feasibility Analysis, Engineering, & Design for Construction of Sediment Control Structure Above Iron Horse Trail Lake:*** Five proposals were received with three firms interviewed: Olsson Associates, Flatwater Group, and EA Engineering. Starr stated the committee was making the following recommendation:

Starr moved, seconded by Siske, to direct staff to negotiate with Olsson's for Phase 1 of the Iron Horse Trail Lake sediment basin project and enter into a contract if their cost does not exceed an undisclosed amount. Starr felt the procedure used to select engineering firms is flawed and results in hiring a firm that is more expensive than necessary. Hilske reviewed how the three firms were interviewed and then narrowed down to one. He also explained that we usually choose a firm based on their qualifications and then attempt to negotiate a contract for an amount agreeable to both parties. Starr felt that Olsson's has a history of coming out high whenever an estimate has been asked for. Beethe commented that Game & Parks has used the Flatwater Group almost exclusively and has been very pleased

with them. There was some discussion about possibly obtaining estimates from all three firms. Hilske explained that this would require the staff to develop a uniform scope for each firm to use in determining their estimate. Beethe added that the State requires a scope be provided for all firms to use in providing estimates for projects such as these. Rush asked if this structure would be similar to the one at Kirkman's, but Hilske felt the project would be different because the one at Kirkman's has not always worked like we wanted. Nelson felt that we would like to have someone who knows how to design a project like this that will work so that we don't spend \$300,000 for a project that doesn't work. Upon roll call vote, **motion failed**.

AYE: Albrecht, Gigstad, Godemann, Meyer, Siske, Speece, Walker, Watermeier, Wirth

NAY: Beethe, Bohling, Heskett, Hunzeker, Kudrna, Rush, Starr, Weber, White

NOT PRESENT: Crunk, Sherrow, Sugden

Starr moved, seconded by Bohling, that staff revisit with the three engineering firms to get estimates to be brought back to the committee. Meyer felt that time was an issue and that this would take too long. Starr felt that it would not be a wise expenditure of \$300,000 to spend only 15 minutes on a topic and then vote on it. Hilske added that ultimately this needs to be accomplished by June 30, 2008, which is when the grant for the project ends. Upon roll call vote, **motion carried**.

AYE: Beethe, Bohling, Godemann, Heskett, Hunzeker, Kudrna, Rush, Starr, Watermeier, Weber, White

NAY: Albrecht, Gigstad, Meyer, Siske, Speece, Walker, Wirth

NOT PRESENT: Crunk, Sherrow, Sugden

3. *Upper Little Nemaha 31W Emergency Spillway Easement Violation Issue:*
Starr moved, seconded by Meyer, that on the NRD counter-proposal to delete everything except the first sentence, which reads as follows: "Per NRD easement restrictions, no alteration to the spillway including altering the slope or vegetative cover of the spillway will be allowed without prior consent by the NRD." Starr stated the committee is very concerned about defining how to go about altering an easement; therefore, anyone wanting to come before the board could on a case-by-case basis. **Motion carried.**

AYE: Albrecht, Beethe, Bohling, Gigstad, Godemann, Heskett, Hunzeker, Kudrna, Meyer, Rush, Siske, Speece, Starr, Walker, Watermeier, Weber, White, Wirth

NOT PRESENT: Crunk, Sherrow, Sugden

B. Water Resources Ad-Hoc Committee

1. RST Farms Request for Variance to Allow Issuance of 2 Well Permits:

Weber moved, seconded by Wirth, to deny the variance request from RST Farms for the issuance of 2 well permits to drill 2 irrigation wells 3 miles east of Brock. Weber explained that based on information provided by our consultant, the committee was concerned about the drawdown of the water table in that area. Wingert added that though there are not domestic wells in the immediate area, because of the thin aquifer in the area it would have a detrimental impact. **Motion carried.**

AYE: Albrecht, Beethe, Bohling, Gigstad, Godemann, Heskett, Hunzeker, Kudrna, Meyer, Siske, Speece, Starr, Walker, Watermeier, Weber, White, Wirth

NAY: Rush

NOT PRESENT: Crunk, Sherrow, Sugden

2. Village of Adams Request for a Variance to Allow Issuance of a Permit to Replace an Expired Permit:

Weber moved, seconded by White, to approve the variance request from the Village of Adams for the issuance of a well permit to replace an expired permit to drill a well on the northwest edge of Adams. Wingert explained that they just didn't get everything done in time and planned to drill the well August. **Motion carried.**

AYE: Albrecht, Beethe, Bohling, Gigstad, Godemann, Heskett, Hunzeker, Kudrna, Meyer, Rush, Siske, Speece, Starr, Walker, Watermeier, Weber, White, Wirth

NOT PRESENT: Crunk, Sherrow, Sugden

3. Report on June 4th Committee Meeting: Weber stated a written report was provided, and Wingert briefly reviewed some of the changes to the Groundwater Management Plan that were discussed by the committee.

D. Executive Committee

1. *Resolution to Open Money Market Account with Farmers Bank of Cook:*
Kudrna moved, seconded by Siske, to open a money market account at Farmers Bank of Cook and to authorize Duane Sugden, Ted Godemann, Scott Kudrna, and Bob Hilske to sign the signature card. Motion carried.

AYE: Albrecht, Beethe, Bohling, Gigstad, Godemann, Heskett, Hunzeker, Kudrna, Meyer, Rush, Siske, Starr, Walker, Watermeier, Weber, White, Wirth
NOT PRESENT: Crunk, Sherrow, Speece, Sugden

Kudrna moved, seconded by Wirth, to approve a resolution to deposit and withdraw funds as presented. Motion carried.

AYE: Albrecht, Beethe, Bohling, Gigstad, Godemann, Heskett, Hunzeker, Kudrna, Meyer, Rush, Siske, Starr, Walker, Watermeier, Weber, White, Wirth
NOT PRESENT: Crunk, Sherrow, Speece, Sugden

2. *Revised Resolution to Enter into an Agreement with NARD Risk Management Pool:*
Kudrna moved, seconded by Beethe, to approve the revised resolution to enter into an agreement with NARD Risk Management Pool for the administration of the NARD group health and dental insurance program. Hilske reviewed the changes that were made to the agreement. **Motion carried.**

AYE: Albrecht, Beethe, Bohling, Gigstad, Godemann, Heskett, Hunzeker, Kudrna, Meyer, Rush, Siske, Starr, Walker, Watermeier, Weber, White, Wirth
NOT PRESENT: Crunk, Sherrow, Speece, Sugden

3. *Appoint Two Members of NRD Board to Risk Management Insurance Pool Board:*
Kudrna moved, seconded by Albrecht, to appoint Orval Gigstad as delegate and Lisa Beethe as alternate to the NARD Risk Management Insurance Pool Board. After some discussion about the make up of this board, **motion carried.**

AYE: Albrecht, Beethe, Bohling, Gigstad, Godemann, Heskett, Hunzeker, Kudrna, Meyer, Rush, Siske, Starr, Walker, Watermeier, Weber, White, Wirth
NOT PRESENT: Crunk, Sherrow, Speece, Sugden

4. *FY2008 Staff Salary Schedule:* Hilske distributed a proposed salary scheduled. Kudrna explained how the benefits figured into the picture. He stated the proposal would result in a total increase of about 3.8 percent over last year.

Kudrna moved, seconded by Watermeier, to approve the staff salary schedule at a total of \$568,580 for FY2008. More discussion was held on the wages versus the property tax collections. After further discussion, **motion carried.**

AYE: Albrecht, Beethe, Bohling, Gigstad, Godemann, Heskett, Kudrna, Meyer, Rush, Starr, Watermeier, Weber, Wirth

NAY: Hunzeker, Siske, Walker, White

NOT PRESENT: Crunk, Sherrow, Speece, Sugden

10. FY2008 BUDGET REVIEW

Fisher briefly reviewed the budget process and some preliminary information that had been distributed.

11. ANNOUNCEMENTS, JULY MEETING DATE/TIME & AGENDA ITEM REQUESTS

Godemann stated the next meeting would be on July 12 at 8:00 p.m. Committees meet at 7:00 with a brief budget review prior to committee meetings. Starr asked to have the process for obtaining engineering and design proposals on the agenda.

12. CONSENT AGENDA

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

AYE: Albrecht, Beethe, Bohling, Gigstad, Godemann, Heskett, Hunzeker, Kudrna, Meyer, Rush, Siske, Starr, Walker, Watermeier, Weber, White, Wirth

NOT PRESENT: Crunk, Sherrow, Speece, Sugden

13. ADJOURNMENT

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

AYE: Albrecht, Beethe, Bohling, Gigstad, Godemann, Heskett, Hunzeker, Kudrna, Meyer, Rush, Siske, Starr, Walker, Watermeier, Weber, White, Wirth

NOT PRESENT: Crunk, Sherrow, Speece, Sugden

The meeting adjourned at 11:23 p.m. The next regular meeting of the board of directors will be Thursday, July 12, 2007, at 8:00 p.m. at the NRD headquarters at 62161 Hwy 136 in Tecumseh.

Approved 7/12/07

Secretary, Nemaha Natural Resources District