

March 9, 2006
Nemaha Natural Resources District
Regular Meeting
Tecumseh, Nebraska

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

Chair Jim Wirth called the three hundred seventy-first meeting of the Nemaha Natural Resources District Board of Directors to order at 7:00 p.m. Thursday, March 9, 2006, at the NRD Headquarters in Tecumseh, Nebraska.

DIRECTORS	John Albrecht	Roland Meyer	Chuck Starr
PRESENT:	Jeff Crunk*	Dave Neddenriep	Duane Sugden*
	Orval Gigstad	Gerald Royal	Bruce Walker
<i>*Left early</i>	Ted Godemann	Jim Rush	Dan Watermeier
	Ron Heskett	Steve Sherrow	Paul Weber
	David Hunzeker	Don Siske	Tom White
	Scott Kudrna	Mike Speece	Jim Wirth

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

GUESTS	Carol Sisco, <i>Pawnee Republican</i>	David Rogers, Pawnee City
PRESENT:	Wally Valasek, NRCS, Beatrice	Gerald Hopp, Falls City
	Lisa Beethe, Elk Creek	Bruce Rogers, Pawnee City
	Gary Farwell, DuBois	Lee Rottman, Pawnee City
	Bryan Mellage, Auburn	Martin Kelsey, Stella
	Richard Alden, Auburn	Randy Bennett, Auburn
	Wayne Dreessen, Kennard	Jack Lorsch, Kennard
	Mike Larimore, Bennington	Bob Harper, Kennard
	Dwaine Rogge, Lincoln	Janyce Kirkendall, Falls City
	Mona Godemann, Falls City	Teresa Walker, Brownville
	Shirley Oenbring, Pawnee City	Mike Schilling, Pawnee City
	Bob Engles, Auburn	Ron Kostecka, Table Rock
	Rod Vandeberg, Falls City	John Huber, Falls City
	Richard Heft, Nebraska City	Linda Rogers, Pawnee City
	Lewis Rogers, Pawnee City	Nick Rogers, Pawnee City
	Leon Bohm, DuBois	Dennis Wittman
	Dick Droge, Pawnee City	Diane Droge, Pawnee City
	William Reed, Falls City	Bill Straw, Humboldt
	Ron Kling, Jr., Auburn	Debbie Bean, Auburn
	Alan Richard, Pawnee City	Sharon Schilling, Pawnee City
	Chris Godemann, Lincoln	Luella Rogers, Pawnee City
	Darren Elliott, Lincoln	Judy Straw, Humboldt
	Paul Hammel, <i>Omaha World Herald</i>	Lynn Binder, Table Rock

Jack Cooper, Humboldt
Harold Campbell, *Beatrice Daily Sun*

Elaine Binder, Table Rock
Steve Glenn, Pawnee City

Following the Pledge of Allegiance, a moment of silence was observed.

2. **PROOF OF PUBLICATION**

Proof of Publication was presented and is on file.

3. **EXCUSED ABSENCES**

None.

4. **OPEN FORUMS**

All directors, NRD staff, and NRCS staff introduced themselves. During the open public comment period, the following guests made comments regarding the proposed Pawnee County Lake project: Bob Engles, Ron KostECKA, Richard Heft, William Reed, Bill Straw, Ron Kling, Bryan Mellage, Martin Kelsey, Mike Larimore, Bob Harper. Steve Glenn provided comments following the staff report.

5. **MINUTES**

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

6. **TREASURER'S REPORT**

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

7. **STAFF REPORT**

Hilske reviewed his written report. Starr questioned the report on the Pawnee County Lake steering committee meeting. His understanding was that staff would work on identifying potential partners for an agreement. He questioned why there was a different interpretation of that meeting and why selected members of the committee were at the meeting and asked what materials had been provided to the Stinson, Morrison, Hecker law firm as indicated in a letter from them. Nelson replied that he had provided some steering committee minutes from a meeting a couple of months ago to the law firm. Sherrow referred to the minutes from the February 7 steering committee meeting and that they indicated that to negotiate an interlocal agreement and put it in place were the next steps. He added that he as the Chair and Ted Godemann as the Vice-Chair of the Steering Committee attended the meeting along with staff in Pawnee City. Starr felt the Committee had only decided to identify potential partners for an inter-local agreement, and Crunk agreed that staff was only to make some contacts in order to move that process forward. Kudrna admitted he had left the meeting early, but that the committee had agreed to move forward with an inter-local agreement after having met with legal counsel.

Starr moved, seconded by Rush, that the staff correct the Manager's Report for March 9, 2006. Some directors questioned what correction Starr was asking for, and he replied that it would correct what the minutes of the meeting were. After some additional discussion, **motion failed.**

AYE: Crunk, Hunzeker, Rush, Starr, Weber

NAY: Albrecht, Gigstad, Godemann, Heskett, Kudrna, Meyer, Neddenriep, Royal, Sherrow, Siske, Speece, Sugden, Walker, Watermeier, White, Wirth

Nelson then reviewed his written report.

8. AGENCY/ASSOCIATION REPORTS

A. Natural Resources Conservation Service

Wally Valasek reported on the budget shortage and EQIP contract provisions. He added that the announcement for the DC position in Tecumseh would be advertised again soon and hopefully filled in the next couple months. The EQIP allocation is \$769,000 for the entire District. Iron Horse received a little over \$100,000 for TSP.

B. Five Rivers RC&D

Kudrna stated their meeting was held February 16. Because their budget was cut in half, a letter writing campaign to Congressional representatives had been initiated. He also reported on some awards the Council and member, Mary Krueger, had received.

C. Nebraska Association of Resources Districts

Gigstad stated their next meeting would be the following week. Though some money may be available from the Legislature for water issues this year, there is still no consistent answer on how to fund the water problems.

D. Nebraska Natural Resources Commission

Watermeier stated no meeting had been held since January. However, he had organized a tour on March 22 in our District for Commission members and Tom Pesek and Gayle Starr.

E. Water Policy Task Force Report

Sugden reported not much was going on now except for an effort by Chris Beutler to get fees from irrigation water.

F. Pawnee County Lake Steering Committee

Sherrow reviewed the results of the meeting held with Pawnee City and Pawnee County regarding the possibility of negotiating an inter-local agreement.

Sherrow moved, seconded by Sugden, to authorize the NRD to negotiate with Pawnee City and Pawnee County to develop an inter-local agreement for the Pawnee County Lake Project.

Starr moved, seconded by Royal, to postpone action on the motion until after the Executive Committee Item 2 and to move that item next on the agenda. Godemann felt there was no reason to postpone this action because voting on this motion will take care of the other one. Sherrow pointed out that this item was in the appropriate place on the agenda because the Steering Committee is the Board authorized committee to deal with lake issues. Royal felt that our attorney gave him the opinion that we were getting the horse before the cart, and we needed to contact the County to determine whether they would close the roads before forming any other entity. Starr felt this agenda item did not come out of the Pawnee County Lake Committee and was only placed in this position to be ahead of White's motion. Hunzeker agreed that he thought White's motion would have been first. Sherrow pointed out that any director can ask for an item to be put on the agenda; and as a member of the board that has been concerned with moving forward with the Pawnee County Lake project, to deny him the opportunity to act in his capacity as Chair of the Committee and a member of the Board would be unfair. **Motion failed.**

AYE: Crunk, Hunzeker, Meyer, Royal, Rush, Starr, Weber, White

NAY: Albrecht, Gigstad, Godemann, Heskett, Kudrna, Neddenriep, Sherrow, Siske, Speece, Sugden, Walker, Watermeier, Wirth

Lisa Beethe commented that she had sat in on the Executive Committee meeting and was assured that the language was put together very carefully for this motion; however, she felt it was allowing an agreement to be developed instead of just authorizing staff to move forward to discuss whether the County and City were interested at all. She felt the wording went beyond the intent stated in the Executive Committee. Siske stated he had talked to two of the three Pawnee County Commissioners, and one guaranteed that he would vote against closing roads; the other would not comment; and the third Commissioner did not get back to him. Godemann felt we should concentrate on what the NRD can do since we cannot control what the County or City does. Sherrow stated it is time to say that the public agencies here can best look after the public's interest and to work cooperatively is better than the three working independently and not coordinating. Rush questioned if the entire board would have the opportunity to vote on the agreement or make changes, and Wirth assured that the final agreement would have to come back for board approval and that this was not authority for a group to come back and say we formed an inter-local agreement. This is a motion to authorize to begin discussions. Sherrow further clarified that this is an authorization to negotiate an agreement and not to

accept an agreement that comes out of that negotiation. Starr still felt this motion was authorizing entering into an agreement regardless of how it is stated and that it would be totally irresponsible to vote to proceed with discussing an inter-local agreement and then come back and decide not to enter into an inter-local agreement. He and many of the landowners have been concerned that there has been little participation from all the board members on this project. Starr added that flood control, recreation, or water supply cannot stand alone as reasons to do the project. There is no flood control benefit for Nebraska, and there has been very little interest shown in water supply. Therefore, the only thing left is recreation, but he expressed concern that we had not yet received a copy of the completed recreation study. He felt that economic benefit is what is actually driving this project. Starr stated he had testified on an eminent domain bill in the legislature. He expressed concern that some landowners had been harmed through this process and had been prohibited from some federal programs because of this pending project. Starr felt no benefit to the NRD had been defined, and he questioned why there was such a rush to vote on this inter-local agreement. Hilske announced that he had received a copy of the recreation study late that afternoon and that he would be reviewing it and hoped to have it sent to board members within the next 7-10 days. Hilske added that this inter-local agreement process would force everyone to make a decision as to whether they want to participate or not. He reminded the board that the idea for an inter-local agreement had surfaced several years ago. Rush questioned why other cities and counties were not being included in this agreement. Wirth replied more could be added later. Starr again stated that identifying potential partners was addressed in the steering committee meeting but what came out of the meeting was not the same. Sherrow stated that this was not unlike the way we go out after proposals for engineering services and felt this is the next logical step to take. Kudrna added that the agreement would be brought back to the board with specific details about exactly what would be expected of the NRD and exactly what the city and county would do. He felt it had to start with the local people. Speece agreed that this is a practical approach to take and that other entities that may want to join would then be contacted. Speece added that though some don't feel there is a water problem in southeast Nebraska, he disagreed and further felt it would be a savings account for water. Upon roll call vote, **motion carried.**

AYE: Albrecht, Gigstad, Godemann, Heskett, Kudrna, Neddenriep, Sherrow, Siske, Speece, Sugden, Watermeier, Wirth

NAY: Crunk, Hunzeker, Meyer, Royal, Rush, Starr, Walker, Weber, White

9. STANDING COMMITTEES

C. Executive Committee

1. *Update on Washington, DC, Trip:* Godemann reported Roland Meyer and Mike Speece would be accompanying the Manager and Assistant Manager. Hilske reported on some of the meetings scheduled and some that he was still hoping to set up. Sugden stated he would be leaving yet that night to go to Washington and would be meeting with some of the Congressmen.

2. *Action/Discussion on District's Continued Participation in the Pawnee County Lake Project – Tom White:*
White moved, seconded by Rush, not to proceed with this lake project. Crunk questioned whether the board had already voted on this. He questioned Kudrna about his conflict and whether he felt he should still be voting. Kudrna acknowledged that his wife owns 80 acres down there and that he was proceeding based on the advice of his attorney and knew at what point he would have to abstain from voting. Crunk also questioned whether any members of the board were investors in the project and, if so, suggested that they quit voting. He felt we could be building a big frog pond and did not want to see another mistake made. He compared the project to Beaver Lake and pointed out their lack of economic development. He also expressed concern about the increase in the cost of the project from \$38 million to \$80 million. Crunk stated he had talked with Congressman Osborne who indicated he is not in favor of eminent domain for economic development. Godemann pointed out that we had received reports and opinions from experts in the areas of water, engineering, economics, and recreation and that we paid for this data for a reason. Royal was concerned that we had paid our attorney for advice, but were not taking it. Watermeier stated he has questioned the economic development and agrees with Congressman Osborne's views on eminent domain. However, he did not want to stop this project if there is some part of this water reservoir that could be a benefit to the people of the community or state in general. He felt we need to know if the Commissioners and the City are willing to go forward. He admitted that there are a lot of reasons to think that the lake is not justified, but he would not feel right stopping it at this time until every opportunity has been looked into. If the agreement has something in it that the board can't agree to, Watermeier stated he then would vote against it. He knew of no other way for the board collectively to do that. Starr did not agree that this motion stops the project because Mr. Reed indicated his group intended to move forward and that the NRD was a minor partner. He felt the NRD needed to stop leading the project and that this motion puts the project where it belongs, with the developers and with local government. Watermeier clarified that anything the board had done previously would stop. Wirth agreed that passing this motion would rescind the previous motion by Sherrow. Upon roll call vote, **motion carried.**

AYE: Albrecht, Crunk, Hunzeker, Meyer, Royal, Rush, Siske, Starr, Walker, Weber, White

NAY: Gigstad, Godemann, Heskett, Neddenriep, Sherrow, Speece, Sugden, Watermeier, Wirth

ABSTAINING: Kudrna

3. Discussion/Action to Remove from the Table Starr Motion to Rescind the Manager's Authorization to Pursue the Pawnee County Lake Project Without Prior Authorization of the Board:

Starr moved, seconded by Watermeier, to take from the table the motion to rescind the Manager's authorization to pursue the Pawnee County Lake Project without prior authorization of the board. Motion carried.

AYE: Albrecht, Crunk, Gigstad, Heskett, Hunzeker, Kudrna, Meyer, Neddenriep, Royal, Rush, Sherrow, Siske, Speece, Starr, Sugden, Walker, Watermeier, Weber, White, Wirth

NAY: Godemann

The motion was as follows:

Starr moved, seconded by Rush, that the board remove any previous authorization given to the NRD Manager to pursue the Pawnee County Lake Project without authorization of the Board. Upon roll call vote, **motion failed.**

AYE: Crunk, Hunzeker, Kudrna, Meyer, Royal, Rush, Starr, Weber

NAY: Albrecht, Gigstad, Godemann, Heskett, Neddenriep, Sherrow, Siske, Speece, Sugden, Walker, Watermeier, White, Wirth

A. Programs & Projects Committee

1. Discussion/Action on JEO Contract for Survey/Design/Inspection of Dams in Iron Horse Watershed:

Sherrow moved, seconded by Meyer, to approve the contract presented by JEO Consulting Group and authorize the Chair to sign it. Sherrow stated the total amount of the contract was estimated at \$49,602. **Motion carried.**

AYE: Albrecht, Crunk, Gigstad, Godemann, Heskett, Hunzeker, Kudrna, Meyer, Neddenriep, Royal, Rush, Sherrow, Siske, Speece, Starr, Walker, Weber, White, Wirth

ABSTAINING: Watermeier

NOT PRESENT: Sugden

2. **Action/Discussion on Thomas and Phillips Small Dam Bids:** The following bids were received for each project:

Dennis Thomas Structure	
Contractor	Bid
Broening Construction	\$38,188.35
Malone Construction	\$42,886.76
Gyhra Construction	\$55,000.00
<i>Engineer's Estimate:</i>	<i>\$37,389.00</i>

Paul Phillips Structure	
Contractor	Bid
Gyhra Construction	\$31,973.00
Lottman Carpenter	\$41,854.88
Glathar Dozing	\$52,011.62
<i>Engineer's Estimate:</i>	<i>\$30,810.00</i>

Sherrow moved, seconded by Neddenriep, to approve the bid of \$38,188.35 submitted by Broening Construction for the Dennis Thomas structure; however, staff is authorized to contract with Malone Construction in the event Broening Construction is unable to become bonded. Sherrow explained that though Broening was not bonded at the time he submitted his bid, he expected to be bonded very soon.
Motion carried.

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

Sherrow moved, seconded by Walker, to approve the bid of \$31,973.00 submitted by Gyhra Construction for the Paul Phillips structure. Motion carried.

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

3. *Action on Krause Irrigation Permit Renewal:*

Sherrow moved, seconded by White, to approve the irrigation agreement with Kent Krause to irrigate from Upper Big Nemaha 18-B and authorize the Chair to sign the agreement. Motion carried.

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

NOT PRESENT: Sugden

4. *Discussion on Recommendation from the Groundwater Management Plan Subcommittee to Adopt a Temporary Suspension on Issuing Well Permits; Set a Public Hearing to Receive Testimony on the Recommendation to Revise Groundwater Rules to Include a Temporary District-wide Suspension on Issuing Well Permits:*

Sherrow moved, seconded by White, that the Nemaha NRD conduct a public hearing at the earliest date permitted by statute to receive testimony on the recommended revisions to the groundwater rules to include a temporary suspension on issuing well permits. Some discussion was held on the timing of the hearing and the proposed map to be used. After further discussion, **motion carried.**

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

NOT PRESENT: Sugden

B. Operations & Education Committee

1. *Action/Discussion on Kirkman's Cove Boat Dock Proposals:*

White moved, seconded by Siske, to approve the purchase of a 50-foot EZ Dock for Kirkman's Cove at an estimated cost of \$11,829.55. Motion carried.

AYE: Albrecht, Gigstad, Godemann, Heskett, Hunzeker, Kudrna, Meyer, Neddenriep, Royal, Rush, Sherrow, Siske, Speece, Starr, Walker, Watermeier, Weber, White, Wirth

NOT PRESENT: Crunk, Sugden

2. **Action/Discussion on Kirkman’s Cove and Iron Horse Hay Bids:** Bids received were as follows:

Bidder	Kirkman’s Cove	Iron Horse
Leonard J. Casey	\$1,406.05	
R.C. Burns	\$1,395.91	
Gary Kuhl	\$1,392.00	
Todd Mayer	\$1,100.00	
Gary Whitney	\$1,050.00	
Vaughn Koester		\$100.00

White moved, seconded by Siske, to accept the bid of \$1,406.05 from Leonard J. Casey for the hay at Kirkman’s Cove and the bid of \$100.00 from Vaughn Koester for the hay at Iron Horse Trail Lake. Sherrow questioned if it was worth cutting the hay at Iron Horse; control of volunteer trees, fire control, and wildlife value were cited as reasons to harvest the hay. **Motion carried.**

AYE: Albrecht, Gigstad, Godemann, Heskett, Hunzeker, Kudrna, Meyer, Neddenriep, Royal, Rush, Sherrow, Siske, Speece, Starr, Walker, Watermeier, Weber, White, Wirth

NOT PRESENT: Crunk, Sugden

3. **Action/Discussion to accept Quote on Providing Chemicals Needed for Watershed and Recreation Maintenance:** Bids received were as follows:

	JT Farm Service, Verdon	Farmers Co-op, Tecumseh
30 gallon drum Glystar Plus	\$375.00	\$448.50
1 gallon Remedy	\$95.10	\$107.60
2 ½ gallons Grazon P+D	\$79.38	\$81.60
5 gallons Activator 90	\$78.00	\$94.75
5 Gallons Pathway	\$147.50	\$160.45
Total Bid	\$774.98	\$892.90

White moved, seconded by Siske, to approve the bid of \$774.98 from JT Farm Service for chemicals. Motion carried.

AYE: Albrecht, Gigstad, Godemann, Heskett, Hunzeker, Kudrna, Meyer, Neddenriep, Royal, Rush, Sherrow, Siske, Speece, Starr, Walker, Watermeier, Weber, White, Wirth

NOT PRESENT: Crunk, Sugden

10. ANNOUNCEMENTS, APRIL MEETING DATE/TIME & AGENDA ITEM REQUESTS

Wirth reminded directors that the next meeting would be April 13 and would return to 7:00 p.m. for committees and 8:00 p.m. for the full board meeting.

11. CONSENT AGENDA

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

AYE: Albrecht, Gigstad, Godemann, Heskett, Hunzeker, Kudrna, Meyer, Neddenriep, Royal, Rush, Sherrow, Siske, Speece, Starr, Walker, Watermeier, Weber, White, Wirth

NOT PRESENT: Crunk, Sugden

12. ADJOURNMENT

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

AYE: Albrecht, Gigstad, Godemann, Heskett, Hunzeker, Kudrna, Meyer, Neddenriep, Royal, Rush, Sherrow, Siske, Speece, Starr, Walker, Watermeier, Weber, White, Wirth

NOT PRESENT: Crunk, Sugden

The meeting adjourned at 9:37 p.m. The next regular meeting of the board of directors will be Thursday, April 13, 2006, at 8:00 p.m. at the NRD headquarters at 62161 Hwy 136 in Tecumseh.

(Approved 4/13/06)

Secretary, Nemaha Natural Resources District