

**LOWER NIOBRARA NATURAL RESOURCES DISTRICT
BOARD MEETING MINUTES
MAY 3, 2021**

Chairman Pavlik called the meeting to order at 7:00 P.M. at the Community Center located in Butte, Nebraska. An agenda of the minutes to be considered at such time, date, and place is kept continually current and is available for public inspection during normal business hours at the District Office in Butte. Chairman Pavlik called attention to the Open Meeting Law poster on the table. He stated notices of the meeting were published in newspapers of general circulation throughout the District.

Connell mentioned he had looked at Blankenau's bills from last month and reported on the totals for the items billed. He questioned if a new Personnel Policy is being written. Manager Julesgard indicated it was completely being rewritten. It was questioned why his travel expenses were so much to come up here. Klawitter asked if the Employee Handbook was being written for all the NRDs or just us. Manager Julesgard responded just for this NRD. Hoffman asked what the changes are. Uhlir asked if this is a total rewrite and will it fall in line with the other NRDs. Manager Julesgard responded the current Handbook is 20 years old and there have been a lot of changes in the laws and it needs to be updated. The old was probably 20 pages or so and it's closer to 60 pages now. Randa asked if this Handbook is something that needs to be approved. Manager Julesgard responded yes, it is something that will need to be approved. Engelhaupt asked if he had missed something did the Board give approval for this to be done? Manager Julesgard responded it had been discussed. Engelhaupt mentioned there is a policy that the Manager can only spend \$2,500 without going to the Board for approval and this is a long way past that. Connell commented this is very expensive \$6,840.16 for the bills paid last month. Did the Personnel Committee get a copy? Manager Julesgard responded no; the final draft should be available by the end of the month. There was considerable discussion. Manager Julesgard said the new Handbook will be a red-line version so you will be able to see the changes/updates made. Connell, Klawitter, Uhlir and Hoffman asked to be sent copies of all the bills received from Blankenau in the future.

APPROVAL OF APRIL 5, 2021 MEETING MINUTES

Motion by Randa and second by Holtgrew to approve the April 5, 2021 Meeting Minutes as circulated to the Board. Roll Call Vote, Aye: (Janzing, Kaczor, Klawitter, Mahlendorf, Morrow, Naprstek, Randa, Uhlir, Connell, Engelhaupt, Higgins, Hoffman, Holtgrew) Abstain: (Baumeister, Pavlik) Absent: (Liewer, Marcellus). MOTION CARRIED.

MANAGER'S REPORT

A copy of the Manager's Report was mailed to the Directors prior to the meeting for their review. A copy of the Bazile GWMA Minutes was mailed. The appeal to FEMA by the Rural Water System was won and the 10 stream crossings can be fixed and the cost to the RWS will be about 12%. A copy of the recent news regarding NPPD receiving 50 million to repair the Spencer Dam was in the packets. The Dam is not being repaired. This was just part of the process that had to be undertaken for funds to be reapplied for decommissioning. Uhlir questioned where we are at on the Water Rights. There is a meeting scheduled for the 20th to meet with DNR to review the application. A copy of the application was passed and those who wished to receive a copy were to indicate so on the copy. Discussion was held on the Legislation that allowed the change from manufacturing to instream water management. The application is where NPPD signs the water appropriation over to the NRBA & G & P.

WATER RESOURCES COORDINATOR REPORT

Wade's report was mailed prior to the meeting for Directors to review. Wade reported he is working on access for the test holes. In two weeks hopefully the monitoring wells will be drilled. He has completed taking the static water levels. Dedicated monitoring wells have been pumped and samples were sent to the lab. He mentioned the Groundwater Management Committee needs to meet this month to discuss allowing new irrigated acres for the June meeting. He explained the graph on the reverse side of his report. He reviewed the process that he has gone through with the Reg Green Cease and Desist Order that will be discussed later in the meeting.

PROGRAMS ASSISTANT REPORT

Connie's report was also mailed to the Directors prior to the meeting. She reported she has given a presentation to over 133 students at schools. She mentioned the schools she still would like to visit before the end of the school year. The website had 595 hits and now there are 204 followers on Face Book. She participated in the State Envirothon. PCS the firm that is developing the program has contacted her for additional information. The reverse side of her report shows a profile of the SINREC building design and educational flow.

ASSOCIATION REPORT

The NARD Basin Tour will in the Papiro NRD on June 7th & 8th. LB83 passed, which amends the Open Meeting Act allowing for virtual meetings.

AGENCY REPORTS

NRCS—Jim Mathine mailed his report to the Directors. Jim reported 10 EQIP contracts were approved which exhausted the allocated funds and he has already submitted a request for additional EQIP funds. He watched the tree planters today and they are doing a nice job of planting. In May the NRCS will be doing Compliance Reviews on HEL ground. CRP relative to the Farm Bill was discussed.

Niobrara Council—A copy of the minutes was in the packets. Connell reported Les Hall was appointed to the Council. The new Fish & Wildlife Employee was present. The NPS employee is leaving. \$50,000 in additional funds was requested from the Legislature. Prescribed burns are being done. A wolf was shot south of Bassett and they are no longer federally protected. Additional elk permits will be issued due to the numbers increasing. Jim Douglas the Director of the Game & Parks will be retiring in December. Status of Rocky Ford was questioned, and Connell gave an update.

NE RC&D—Uhlir reported the meeting was held on the 27th and he was unable to attend. He is having issues obtaining any information from the RC&D. Chairman Pavlik agreed as he was the previous representative.

NC RC&D—Connell reported tire recycling was held on April 8th & 9th. 242 ton of tires were collected with cost of disposal at \$175.00/ton there was a contribution of \$1,332.00 towards this. Electronics collection was held in Bassett, he took items and the 20' trailer was half full. Tomorrow one will be held in Springview. A paper shredding route is being scheduled. The Ranch Expo will be June 16th & 17th in Bassett. The next meeting is June 9th.

Friends of the Missouri—Manager Julesgard reported a virtual meeting was held. The Superintendent has accepted another position. An interim Superintendent will be appointed this month and 4 employees will be hired as law enforcement personnel.

Missouri Sedimentation Action Coalition—Naprstek mentioned the 20th Annual Meeting is May 11th at 1:00 P.M. with limited virtual attendance. He gave highlights of the guest speaker.

LEGAL COUNSEL FOR THE LOWER NIOBRARA NRD

This item was requested last month as there is no official legal counsel designated. It was asked what other attorney's the NRD has used. John Thomas was used by the RWS and Cathy Allen was used for hearings. Engelhaupt stated he felt using Blankenau was a conflict of interest as the Manager uses him for his personal business. Manager Julesgard said Blankenau is very cautious and will tell if there is a conflict of interest. Uhlir and Morrow commented Blankenau is a very respected water attorney and should be used for water issues. Kaczor indicated if there are no other names given more information is needed before a decision can be made. Motion by Randa and second by Kaczor to postpone definitely until information on another attorney is found to represent the NRD. Roll Call Vote, Aye: (Janzing, Kaczor, Klawitter, Mahlendorf, Morrow, Naprstek, Pavlik, Randa, Uhlir, Baumeister, Connell, Engelhaupt, Higgins, Hoffman, Holtgrew) Absent: (Liewer, Marcellus). MOTION CARRIED.

CEASE & DESIST ORDER – EVERGREEN FARMS

A copy of the Cease & Desist Order prepared by Attorney Blankenau was mailed for review. Wade again explained letters and post cards were mailed to Reg Green. He also left a message on his answering machine to call him back, which was ignored. He finally was able to talk directly to him and Reg's response was you are not getting the reports and he hung up on Wade. If he would file the Crop Reports this Order would go away. Once this Order is filed he is not allowed to irrigate, which will require a drive by several times to insure he is not violating the Order. Several NRD's have tested this in the court and won the cases each time. Naprstek presented his view the Cease and Desist Order is taking peoples freedom away – we are all gradually losing our freedom. Holtgrew mentioned we have tried to work with him. Engelhaupt mentioned it is not any different than speeding laws. It was mentioned we have a lot of paperwork requested, but has this changed the nitrate situation? Has the information been compiled into useful data? Wade responded the data has been compiled. Uhlir commented he has been made aware that absentee landowners like the high nitrates as they don't have to spend as much on fertilizer. After considerable discussion and views presented on the Cease and Desist Order Holtgrew made the motion to issue the Cease and Desist Order

on Reginald Green which was seconded by Morrow. Roll Call Vote, Aye: (Klawitter, Mahlendorf, Morrow, Pavlik, Randa, Uhlir, Baumeister, Engelhaupt, Hoffman, Holtgrew) Nay: (Higgins, Janzing, Naprstek) Abstain: (Connell, Kaczor) Absent: (Liewer, Marcellus). MOTION CARRIED.

NSWCP ACTIVITIES

A copy of the NSWCP Report was available on the reverse side of the agenda. Vivian called attention to the application, cancellations and extension submitted. Motion by Morrow and second by Uhlir to approve the application for David Cole-trees & mulch-\$2,157.83 along with the cancellations for Steve Higgins & Shaun Higgins and the extension for Theresa Henderson-Weaver. Roll Call Vote, Aye: (Janzing, Kaczor, Klawitter, Mahlendorf, Morrow, Naprstek, Pavlik, Randa, Uhlir, Baumeister, Connell, Engelhaupt, Higgins, Holtgrew) Nay: (Hoffman) Absent: (Liewer, Marcellus). MOTION CARRIED. Discussion was held on contacting the other NRCS Offices regarding utilization of NSWCP funds.

REGION 24 BILLING TABLED FROM APRIL MEETING

Motion by Randa to remove the topic from the table so action can be taken, seconded by Baumeister & Kaczor. Roll Call Vote, Aye: (Janzing, Kaczor, Klawitter, Mahlendorf, Morrow, Naprstek, Pavlik, Randa, Uhlir, Baumeister, Connell, Engelhaupt, Higgins, Hoffman, Holtgrew) Absent: (Liewer, Marcellus). MOTION CARRIED.

The one-time cost for 5 years is \$1,027.67. After discussion, a motion by made by Uhlir and second by Mahlendorf to pay the Region 24 Emergency Management Agency the \$1,027.67 and place it on the Treasurer's Report for approval. Roll Call Vote, Aye: (Janzing, Kaczor, Klawitter, Mahlendorf, Morrow, Naprstek, Pavlik, Randa, Uhlir, Baumeister, Hoffman, Holtgrew) Nay: (Connell, Engelhaupt Higgins) Absent: (Liewer, Marcellus). MOTION CARRIED.

APPROVAL OF TREASURER'S REPORT

A copy of the Treasurer's Report was available in the packets. Vivian reported the three additions to the Treasurer's Report. Motion by Uhlir and second by Holtgrew to approve the Treasurer's Report as presented with the additions of UENRD-\$600.00, Holt County Independent-\$4.71 and Butte Gazette-\$10.00 along with the Region 24 Emergency Management Agency-\$1,027.67. Roll Call Vote, Aye: (Janzing, Kaczor, Klawitter, Mahlendorf, Morrow, Naprstek, Pavlik, Randa, Uhlir, Baumeister, Connell, Engelhaupt, Higgins, Hoffman, Holtgrew) Absent: (Liewer, Marcellus). MOTION CARRIED.

COMMENT PERIOD

Holtgrew informed his fellow Directors he is experimenting with Proven Bio this year.

A Groundwater Management Committee Meeting was set for May 18th at 7:00 P.M. in the NRD Office. Also set was the annual Personnel Review Committee Meeting for May 19th at 7:00 P.M. in the NRD Office.

THE JUNE MEETING DATE WAS CHANGED TO FRIDAY JUNE 4TH AT 7:00 P.M. DUE TO THE NARD BASIN TOUR BEING JUNE 7TH WHICH IS OUR NORMAL BOARD MEETING DATE.

EXCUSE ABSENT DIRECTORS

Liewer contacted the office and since he received his second COVID shot he is visiting his daughters and grandchildren. Marcellus was having issues at his operation.

Chairman Pavlik declared the meeting adjourned at 9:21 P.M.

MEETING ATTENDEES

Directors: Larry Baumeister, Karl Connell, Jack Engelhaupt, Shaun Higgins, Linda Hoffman, Don Holtgrew, John Janzing, Brian Kaczor, Randy Klawitter, Steve Mahlendorf, Curt Morrow, Ray Naprstek, Kent Pavlik, Kevin Randa, Jeff Uhlir **Staff:** Terry Julesgard, Vivian Frasch, Wade Ellwanger, Connie McCarthy **Visitors:** Jim Mathine

I, the undersigned Secretary of the Lower Niobrara Natural Resources District hereby certify the foregoing is a true and correct copy of the proceedings had and done by the Board of Directors on May 3, 2021. That all subjects included in the foregoing proceedings were contained in the agenda for at least twenty-four hours prior to the meeting. The minutes of the Chairman and Board of Directors were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body. All news media requesting notification of the time and place of said meeting and the subjects to be discussed at said meeting were notified.

Brian Kaczor, Secretary