

MINUTES
Middle Republican Natural Resources District
Board of Directors Meeting
Tuesday, September 13, 2011 at 7:30 PM
Curtis, Nebraska

Board Members Present: Kevin Fornoff, Joe Anderjaska, Buck Haag, James Uerling, Rick McConville, Steve Cappel, Bill Hoyt, Blaine Stinson, Rick Spencer, Brad Randel, John Palic

Board Members Absent: None.

NRD Staff: Dan Smith, Bob Merrigan and Stacie Owens

NRCS Staff: Jason Kennedy

Others: Jon Swanson, Vesta Dack, Marleen Garcia, Josh Friesen, Benjie Loomis, Roger Kolbet, Brad Edgerton, Jay Schilling, Martin Sis, Jerry Calvin, Lorrie Sughroue, Brad Johnson, William Barger

Information E-mailed to Directors:

E-mail from Smith re: LRNRD dated Aug. 12, 2011

New Article August 12

Weekly Construction Updates Aug. 12, 19, 26 and Sept. 2

MRNRD Splash Electronic Bulletin

NARD News and Notes August 2011

E-mail from Smith re: Valuations dated Aug. 23

E-mail from Uerling re: NARD News and Notes August 2011

The Water and Power Report Daily 8-24-11

Email from Uerling re: Joint Directors Meeting at Keystone

Information Mailed to Directors:

Agenda – Budget Hearing

Budget

Agenda

Minutes from Regular Meeting

Financial Report

Civil Rights Handout

NARD Resolution 2011-1 and 2

I & E Report

5th Grade Conservation CrAzE handout

RRMDA Agenda

E-mail from Hoyt re: Occupation Tax & Surface Water

Information Distributed at Meeting:

SOS! Save our Swanson Letter

Letter from Larry Shields

Letter from Jarecke Re: Representation

Letter from Jarecke re: Tax Opinion

REGULAR MEETING

1. The regular monthly board meeting was called to order by Chairman Haag at 7:44 pm.
 - a. Verify Quorum.
 - b. Excused Absence – None.

2. The agenda and roster were circulated to those present.
 - a. Items added to the agenda since mailing: 12.a.1. Jerda Garey

3. Notice of the regular monthly meeting was published in the **North Platte Telegraph** and the **McCook Daily Gazette** and was posted at the **MRNRD Office** and on the **District Website** at www.mrnrd.org. As a courtesy it was also provided to local radio stations. Guests should also note the location of a current copy of the statutes dealing with public meetings and the booklet with the information provided to directors.

4. The Minutes for the August Regular Board Meeting were mailed to Directors.

♦ A motion was made by Hoyt and seconded by Uerling to approve the August Regular Board Meeting.

Ayes - 9 Nays – 0 Abstain-Randel, Palic Motion Carried

5. Open Hearing for Variance Request. NONE

6. Close Hearing.

7. CONSIDER VARIANCE REQUESTS

NONE.

8. FINANCIAL ACTIONS

a. The August Financial Report and Monthly Income and Expense Report were presented by Smith. The County Treasurers' Balance was \$5,509.79.

♦ A motion was made by Uerling and seconded by Hoyt to approve the August Financial Report as presented.

Ayes- 11 Nays- 0 Motion Carried

A copy of this report is filed with the Minutes.

Moved item 8.c.1 and 2 here.

c. Occupation Tax

1. Discussion – Hoyt.

Hoyt went over his suggested thought of excluding surface water acres from the occupation tax. An opinion letter from Jarecke which was included in the board packet was also discussed. He also read a letter from his father which suggested that ground water and surface water be managed separately. Uerling supported Hoyt's thought and went over a chart of the different irrigation districts' water deliver history. Jay Schilling, Roger Kolbet, William Barger, Jon Swanson and Josh Friesen also added comments and answered questions. Extensive discussion was held regarding option the Board could consider regarding the exclusion of surface water users from the occupation tax.

2. Set Rate at \$8.50.

b. Adopt 2011-2012 Budget.

◆ A motion was made by Anderjaska and seconded by Fornoff to adopt Resolution 256.11 which would adopt the 2011-2012 Budget as presented with the occupation tax set at \$8.50 an acre.

Discussion held.

◆ An amendment to the motion was made by Palic and seconded by Hoyt to add the stipulation to reimburse the occupation tax on surface water only acres, whether they get water or not, with paid tax receipt and documentation provided from the land owner no later than 30 days after September 1 of the tax year.

Ayes- 7 Nays- Fornoff, McConville, Randel, Anderjaska Motion Carried

Further discussion held. Anderjaska stated he did not agree with the motion as amended and Uerling stated he did not agree with the occupation tax. The amended motion stands as follows:

◆ A motion was made by Anderjaska and seconded by Fornoff to adopt Resolution 256.11 which would adopt the 2011-2012 Budget as presented with the occupation tax set at \$8.50 an acre, with stipulation to reimburse the occupation tax on surface water only acres, whether they get water or not, with paid tax receipt and documentation provided from the land owner no later than 30 days after September 1 of the tax year.

Ayes- 8 Nays- Randel, Anderjaska, Fornoff Motion Carried

9. LEGAL MATTERS

a. Occupation Tax Challenge – NE Supreme Court – Awaiting Decision.
Nothing New.

b. Kansas vs. Nebraska – Responses to Subpoena.

Smith reported that the information requested on the subpoena has been turned over to the attorney's and they have completed the final documents. We should receive a copy of what has been submitted within the next day or two.

c. Dave Jarecke – Report and Discussion.

Smith went over the letter received from Jarecke regarding whether or not there would be a conflict representing out NRD since he has taken a new position with the BW Blankenau Wilmoth LLP firm. It was stated that there should be no conflict unless the interest is adverse to State or DNR. Discussion was held.

◆ A motion was made by Uerling and seconded by Cappel to reject the engagement letter with the firm BW Blankenau Wilmoth LLP.

Ayes- 7 Nays- Randel, Spencer, Anderjaska, Fornoff Motion Carried

Further discussion held.

◆ A motion was made by Uerling and seconded by Hoyt to contact attorney Dan Linstrom to represent the MRNRD.

Ayes- 8 Nays- Randel, Anderjaska, Fornoff Motion Carried

10. OPEN FORUM

Josh Friesen, Wallace. Questioned whether there was going to be a report from the Ground Water Committee.

William Barger, Culbertson. Questioned whether we were keeping track of the water that has been banked by our NRD.

11. REPORTS – AGENCIES, ASSOCIATIONS, OTHERS

A. NRCS REPORT.

1. District Cons. Report. Kennedy stated that they were currently finishing up paperwork and payments for the fiscal year. He also requested volunteers for the Range Judging Contest that will be held Wednesday, October 21st in McCook.

B. NARD

1. Report – Anderjaska reminded everyone of Husker Harvest Days and encouraged them to stop by the NARD booth.

2. Fall Conference.
September 26th and 27th in Kearney. Stinson stated he will be unable to attend. Anderjaska will handle the voting on the resolutions.

1. Resolutions.
Smith went over the proposed resolutions and provided a copy of an e-mail he drafted with suggested new language for amendment 2011-2. Discussion was held. The Board directed Anderjaska to listen to discussions on Resolution 2011-1 at the conference.

◆ A motion was made by Uerling and seconded by Hoyt to support resolution 2011-2 as amended with our proposed language.

Ayes- 11 Nays- 0 Motion Carried

Smith also went over a draft of a new resolution to be submitted to the NARD for consideration. It will be as follows:

NARD RESOLUTION 2011 – xx

Resolution to allow for exclusion of acres from the Occupation tax.

Whereas; 2-3226.05 establishes a procedure for levying an occupation tax, and

Whereas; the provision within 2-3226.05 does not specify whether the certification for non-irrigation process can be for a temporary purpose or if this process must be a permanent, and

Whereas; a NRD levying the occupation tax may wish to exclude surface water acres for an irrigation district with no supply or limited supply, and

Whereas; landowners are reluctant to certify non-irrigation because of the potential impact to other federal or state programs,

NOW THEREFORE BE IT RESOLVED that the Nebraska Association of Resource Districts work with the legislature to develop legislation that will allow a district to exclude surface water exclusive acres from an occupation tax.

- ◆ A motion was made by Hoyt and seconded by Cappel to support resolution 2011-X.
Ayes- 11 Nays- 0 Motion Carried

C. NNRC

- 1. Report – Nelsen. None.

D. INFORMATION AND EDUCATION – LAWSON.

- 1. Reports. Lawson’s report was included in packet.

E. NE REPUBLICAN RIVER MANAGEMENT DISTRICTS ASSOCIATION.

- 1. Reports. Next meeting will be held in McCook on September 21st and an agenda was handed out.

F. OTHER AGENCIES OR ASSOCIATIONS.

- 1. RRCA Meeting August 30 and 31, Burlington, CO – Community Center. Merrigan reported on the meeting.
- 2. Pat Underwood – Dakota Study Grant. Smith reported that the grant has been completed and signed.

G. LEGISLATION.

- 1. Sustainability Task Force Report – Anderjaska/Fornoff. Last meeting held was September 7th. Anderjaska reported that Jesse Bradley from DNR presented and they broke out into their workgroups.
- 2. LR 314 Report.
Smith stated that the process was moving along.

12. GROUND WATER MANAGEMENT AREA

A. GROUND WATER MANAGEMENT AREA

1. REPORTS.

(a) WELL PERMITS.

None.

(b) SURFACE WATER.

Bureau report was not available.

(c) **METER PROGRAM**

Technicians are starting to read meters now.

(d) **AWEP.**

Smith reported that there were 3 people who have signed up from the Riverside Project area.

(e) **ARP applications – Crews, Rippen, Garey.**

Smith went over the information on Crews and Garey. He has not received all the information for consideration on the Rippen ground yet. Discussion was held.

♦ A motion was made by Fornoff and seconded by Hoyt to make an offer to Crews Farms LLC and Jerda Garey.

Ayes- 9 Nays- McConville Abstain - Cappel Motion Carried

2. TRANSFERS REQUESTS.

(a) **INITIAL REVIEW LIST – None.**

(b) **FINAL REVIEW – None.**

3. IMP DISCUSSION.

(a) **Future Revisions.**

None.

4. RULES AND REGULATIONS – GW Committee Report.

Smith went over some of the discussion held at the Ground Water Committee meeting held prior to the regular meeting. The committee would like to see all temporary transfers removed. Smith requested whether the rest of the Board wanted to keep permanent transfers in the rules and regulations and whether they should be only acres or a well and acres. Majority of the Board wanted to keep permanent transfers and acres only in the Rules and Regulations.

5. NOTICES OF NON-COMPLIANCE ISSUED.

None.

6. CEASE AND DESIST ORDER.

None.

7. RIVERSIDE BUYOUT PROGRESS AND REPORT.

Smith stated that title searches have been completed and contracts are being pulled together now.

B. GROUND WATER QUALITY MANAGEMENT AREA.

Merrigan reported that the water samples have been completed.

C. OTHER GROUND WATER.

1. Meter Grant.

Merrigan stated that he was working with the University to help them do a study on satellite meter reading. They would like to set up approximately 100 meters in the district.

There would be some time associated with the project but no other costs for the District.

2. Texaco Trust Area.

Smith reported that notices have been sent out and we have not received any calls to-date.

13. PROGRAMS

A. COST-SHARE FUNDS – LCP/NWCP.

1. Approve Applications. Smith went over the cost share report and answered questions.

♦ A motion was made by Fornoff and seconded by Hoyt to accept the Cost Share Summary as presented.

Ayes- 11 Nays- 0 Motion Carried

B. WATERSHEDS.

1. Progress on 32A.

Smith reported that everything is complete except the blue top and seeding.

C. EROSION AND SEDIMENT CONTRACT ACT - Seward.

None.

D. COMPLAINTS – REPORTS ON PREVIOUS COMPLAINTS.

None.

E. CHEMIGATION.

None.

F. TREE PLANTING.

None.

G. BUFFER STRIPS.

None.

H. LIVESTOCK WASTE CONTROL APPLICATIONS.

None.

14. GENERAL OPERATIONS.

A. PERSONNEL.

None.

B. SALES & RENTAL EQUIPMENT.

None.

C. GRAPPLE FORK.

Merrigan is still working on getting bids.

The meeting was adjourned at 10:53 pm.

The next regular meeting will be held Tuesday, October 11, 2011 at 7:30 p.m. at the Community Center at 201 Garlick Avenue in Curtis, Nebraska.

Stacie M. Owens
Board Secretary