

MINUTES

LOWER LOUP NATURAL RESOURCES DISTRICT BOARD OF DIRECTORS MEETING

August 23, 2018

Ord, Nebraska

The August meeting of the Board of Directors of the Lower Loup Natural Resources District was held at the Headquarters Office, 2620 Airport Drive, Ord, Nebraska, on August 23, 2018. Chairman Citta called the meeting to order at 5:00 p.m.

CALL TO ORDER

Directors in attendance

James C. Adams
Darwin B. Anderson
Robert L. Bauer
Joseph L. Citta, Jr., Chairman
Virgil W. Gellermann
Gary A. Kruse
Larry Mohrman
Alan D. Petersen
Dean G. Thede
Rick Vlach

Rollie D. Amsberry, Treasurer
Timothy E. Bartak
Beth Boesch
Jim Eschliman, Vice Chairman
Randy Kauk
Matt Lukasiewicz
James C. Nelson
Chad J. Podolak
Henry J. Thoene, Secretary

Directors absent

N. Richard Hadenfeldt

Gerald Smith

Staff in attendance

Russell G. Callan, General Manager
Irene F. Kreifels, Administrative Assistant
Larry D. Schultz, I&E Coordinator
V. Anne Freeman, Water Programs Secretary
Cam Conrad, Water Modeling Coordinator
Jane Klanecky, Receptionist

Tylr Naprstek, Assistant General Manager
Kim A. Lyons, Financial Secretary
Cheryl Hornickel, Programs Assistant
Dell R. Harris, Water Resources Specialist
Richard L. Woollen, District Forester
Brent D. Lakin, Water Resources Tech

Guests in attendance

Bryce Bauer, LDC, NRCS, Ord
Tom Klanecky, DNR, Ord

Paul Glaser, Spalding
Mark Koch, Sargent

NOTICE OF OPEN MEETING LAW POSTING

Chairman Citta referred those in attendance to the open meeting law information posted in the Board room and that meeting material was available at the entrance to the Board room.

VERIFICATION OF MEETING NOTICE AND ADOPTION OF AGENDA

Chairman Citta asked for verification of the meeting notice. General Manager Russ Callan stated that the meeting notices were properly published in all newspapers and that the meeting notice was also posted at the NRD Headquarters office in Ord, the NRD web site, and the eight field office locations. He said the agenda was current.

EXCUSED ABSENCES AND ROLL CALL

Citta reported that Directors Hadenfeldt and Smith would not be present at the meeting and had asked to be excused.

Anderson motioned, seconded by Bauer, to approve the agenda and excuse absent directors. Motion carried by roll call vote, all present voting yes.

Roll Call – Directors Present: Amsberry, Anderson, Bartak, Bauer, Boesch, Citta, Eschliman, Gellermann, Kauk, Kruse, Lukasiewicz, Mohrman, Nelson, Petersen, Podolak, Thede, Thoene, and Vlach. Directors Absent: Adams, Hadenfeldt, and Smith.

MINUTES

Chairman Citta asked for corrections and/or additions to the July 26, 2018, Board meeting minutes. None were heard.

Boesch motioned, seconded by Anderson, to approve the July 26, 2018, Board meeting minutes as presented. Motion carried by roll call vote, all present voting yes.

TREASURER'S REPORT

Russ Callan, General Manager, highlighted expenditures to USGS for \$34,721.00 for bacterial analysis, surface water gauges, and groundwater gauges; Red Thread for \$6,297.20 for the video campaign; Phoenix Web Group for \$6,700.00 for web upgrades; JEO for 8,485.65 for the Ravenna Lake project; Village of Greeley for \$9,000.00 for participation in their swimming pool project; and HDR Engineering for \$15,590.73 for the Columbus recharge project. Boesch questioned expenses listed to Edward Reilly from Greeley. Irene Kreifels, Administrative Assistant, stated it was a replacement check for one that was lost.

Bartak motioned, seconded by Kauk, to approve the August 23, 2018, Treasurer's Report and pay all bills. Motion carried by roll call vote, all present voting yes.

The Treasurer's Report Approval Policy states that the approved expenditures are to be published and each director who has per diem and/or reimbursement of expenses included in such financial reports, abstains from voting for the approval of his or her own per diem and/or expense reimbursement.

PUBLIC COMMENTS

Citta asked for public comments. Mark Koch stated he had come to address the Board.

Koch's first comments were in regard to his 2017 Freedom of Information Act request. He informed the Directors that he had been escorted out of the NRD due to a conflict with the allotted time for him to review documents. Koch stated he was not present to argue litigation and requested that if the Directors and new manager were willing to negotiate, he was willing to drop the charges against the NRD. Koch then addressed his 2014 proposal for Bredthauer dam that was denied. He informed the Directors that the national permit was upgraded until 2022 and the other necessary permits were upgraded and approved at the Federal level. Koch stated he would like the NRD to reconsider participation in the project. Citta stated that the Board of Directors would take his requests under consideration.

Paul Glaser stated he was present for an item on the agenda and would speak then.

PUBLIC HEARING ON LLNRD FY 2019 BUDGET

Action to Adopt the FY 2019 Budget

Chairman Citta opened the public hearing on the Lower Loup NRD's FY 2019 Budget at 5:15 p.m.

Adams arrived at 5:16 p.m.

Chairman Citta asked for public comments on the Lower Loup NRD FY 2019 Budget. None were heard.

Chairman Citta asked for comments from the members of the Lower Loup Natural Resources District Board of Directors. None were heard.

Mark Koch asked about funding for flowmeters through the NRD. Callan stated that the cost-share for flowmeters had expired; however, additional funding was being applied for. He said that no new flowmeters were installed last year, but that there was maintenance done on existing ones.

With no other comments being heard, Chairman Citta closed the hearing at 5:18 p.m.

Citta introduced Resolution #2019-01: *Resolution to Adopt the Budget of the Lower Loup Natural Resources District for Fiscal Year 2018-2019*. The resolution follows.

**RESOLUTION TO ADOPT THE BUDGET
OF THE LOWER LOUP NATURAL RESOURCES DISTRICT
FOR FISCAL YEAR 2018-2019**

WHEREAS, the Lower Loup Natural Resources District, a political subdivision organized under the laws of the State of Nebraska; and

WHEREAS, said Board of Directors of the Lower Loup Natural Resources District has held two (2) Budget Work sessions to hear suggestions as to what reoccurring expenses and new projects the District will incur in the coming Fiscal Year 2018-2019; and

WHEREAS, said Board of Directors of the Lower Loup Natural Resources District has compiled a list of proposed funding sources to help cover those expenses and projects planned for Fiscal Year 2018-2019; and

WHEREAS, said Board of Directors of the Lower Loup Natural Resources District recommends a budget expenditure of \$13,861,778.04 for Fiscal Year 2018-2019; and

WHEREAS, said Board of Directors of the Lower Loup Natural Resources District has held a public hearing in compliance with the provisions of State Statute Sections 13-501 to 13-513, for the purpose to hear support, opposition, criticism, suggestions, or observations from the general public and the Board of Directors of the Lower Loup Natural Resources District relating to their proposed budget and no descending comments were heard; and

NOW THEREFORE BE IT RESOLVED, that the Board of Directors of the Lower Loup Natural Resources District assembled on this 23rd day of August, 2018, adopt Fiscal Year 2018-2019 Budget as presented.

This Resolution was adopted at a regularly scheduled Board of Directors meeting of the Lower Loup Natural Resources District held on August 23, 2018, by roll call vote, on a motion by Director _____, seconded by Director _____.

Roll Call Vote: _____ Yes _____ No _____ Absent

Joseph L. Citta, Jr.
Chairman

ATTEST:

Henry J. Thoene
Secretary

Eschliman motioned, seconded by Boesch, to adopt Resolution 2019-01: *Resolution to Adopt the Budget of the Lower Loup Natural Resources District for Fiscal Year 2018-2019.* Motion carried by roll call vote, all present voting yes.

Citta introduced Resolution #2019-01: *Resolution to Approve Additional One Percent Increase.* The resolution follows.

**RESOLUTION
TO
APPROVE ADDITIONAL ONE PERCENT INCREASE**

WHEREAS, the Lower Loup Natural Resources District has completed and approved their FY-2019 Budget; and

WHEREAS, a special public hearing was held on August 23, 2018, as required by law, to hear and consider comments concerning the property tax request; and

WHEREAS, Nebraska Revised Statute 13-519 provides a governmental unit may exceed the limit provided in subsection (1) of this section for a fiscal year by up to an additional one percent upon the affirmative vote of at least seventy-five percent of the members of the governing body constituting a quorum authorized to conduct business; and

WHEREAS, the Governing Body of the Lower Loup Natural Resources District has determined the one percent allowable increase is necessary for the financing of proposed District programs and projects;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Lower Loup Natural Resources District approves the adoption of the additional one percent increase allowed to their FY-2019 budget.

This Resolution was adopted at a regularly scheduled Board of Directors meeting of the Lower Loup Natural Resources District held on August 23, 2018, by roll call vote, on a motion by Director _____ and seconded by Director _____.

Roll Call Vote ____ Yes ____ No ____ Absent

Joseph L. Citta, Jr.
Chairman

ATTEST:

Henry J. Thoene
Secretary

Gellermann motioned, seconded by Thede, to adopt Resolution 2019-02: *Resolution to Approve Additional One Percent Increase*. Motion carried by roll call vote, all present voting yes.

PUBLIC HEARING TO SET FINAL TAX REQUEST FOR FY 2019

Chairman Citta opened the public hearing to set the Lower Loup NRD's levy for FY 2019 at 5:22 p.m.

Chairman Citta asked for public comments on setting the levy for the Lower Loup NRD FY 2019 Budget.

Mark Koch asked what was different than what Custer County recommended. Callan stated that the property tax request was lower than what was set last year.

Chairman Citta asked for comments from the Lower Loup Natural Resources District Board of Directors on setting the levy for the Lower Loup NRD's FY 2019 Budget. None were heard.

Chairman Citta closed the hearing at 5:23 p.m.

Citta introduced Resolution 2019-03: *Resolution to Set the Property Tax Request*. The resolution follows.

**RESOLUTION
TO
SET THE PROPERTY TAX REQUEST**

WHEREAS, Nebraska Revised Statute 77-1601.02 provides that the property tax request for the prior year shall be the property tax request for the current year for purposes of the levy set by the County Board of Equalization unless the Governing Body of the Lower Loup Natural Resources District passes by a majority vote a resolution setting the tax request at a different amount; and

WHEREAS, a special public hearing was held as required by law to hear and consider comments concerning the property tax request; and

WHEREAS, it is in the best interest of the Lower Loup Natural Resources District that the property tax request for the current year be a different amount than the property tax request for the prior year;

NOW, THEREFORE, BE IT RESOLVED, the Governing Body of the Lower Loup Natural Resources District, by a majority vote, resolves that:

1. The 2018-2019 property tax request be set at \$4,914,861.16.

2. A copy of this resolution be certified and forwarded to the Custer County Clerk on or before September 20, 2018.

This Resolution was adopted at a regularly scheduled Board of Directors meeting of the Lower Loup Natural Resources District held on August 23, 2018, by roll call vote, on a motion by Director _____, seconded by Director _____.

Roll Call Vote _____ Yes _____ No _____ Absent

Joseph L. Citta, Jr.
Chairman

ATTEST:

Henry J. Thoene
Secretary

Thoene motioned, seconded by Petersen, to adopt Resolution 2019-03: *Resolution to Set the Property Tax Request.* Motion carried by roll call vote, all present voting yes.

Citta introduced Resolution 2019-04: *Resolution to Set Levy for the Lower Loup Natural Resources District for Fiscal Year 2019.* The resolution follows.

**RESOLUTION
TO
SET LEVY FOR THE LOWER LOUP NATURAL RESOURCES DISTRICT
FOR
FISCAL YEAR 2019**

WHEREAS, the Lower Loup Natural Resources District has completed work on and published their Budget for Fiscal Year 2019; and

WHEREAS, said Budget calls for a property tax \$4,914,861.16; and

WHEREAS, the valuation reported to the Lower Loup Natural Resources District by sixteen (16) County Assessors within the District, shows a total valuation of \$16,674,232,629.00; and

WHEREAS, the District has by public notice stated that it will set its own levy at a figure different from what the Platte County Clerk established;

NOW, THEREFORE, BE IT RESOLVED, that the levy for Fiscal Year 2019 be established by the District at \$0.029476 per \$100.00 of valuation as is calculated by dividing the property tax requirement by the total valuation.

This Resolution was adopted at a regularly scheduled Board of Directors meeting of the Lower Loup Natural Resources District held on August 23, 2018, by roll call vote, on a motion by Director _____, seconded by Director _____.

Roll Call Vote _____ Yes _____ No _____ Absent

Joseph L. Citta, Jr.
Chairman

ATTEST:

Henry J. Thoene
Secretary

Boesch motioned, seconded by Kruse, to adopt Resolution 2019-04: *Resolution to set levy for the Lower Loup Natural Resources District for Fiscal Year 2019.* Motion carried by roll call vote, all present voting yes.

FORESTER'S REPORT

Richard Woollen, District Forester, reported that the Nebraska Statewide Arboretum tour group toured the NRD's arboretum and trail, then continued to Taylor. Woollen reported that, as part of the Great Plains Initiative II effort, he had been doing windshield inventories of ten windbreaks in each county. He stated that he noticed that, compared to what was planted now, many are mini forests and hardwoods have regenerated in most windbreaks.

NRCS REPORT

Bryce Bauer, NRCS, reported that they are still working on processing CSP renewals. Bauer also stated there had been new interest in dam repair because of the rains received this year. Bauer stated they were working on putting together a color-coded map of all completed EQIP projects in the Lower Loup NRD. Bauer said that there had been interest in WRP, and that half of the 35 applications in the state were in the Lower Loup NRD. Bauer also reported that NRCS would be advertising for a new soil conservationist in St. Paul.

PAUL AND MARK GLASER EROSION AND SEDIMENT COMPLAINT

Tylr Naprstek, Assistant General Manager, provided a background on the complaint received. He stated that, on July 7th, the NRD had received a formal complaint from Paul Glaser regarding a potential sediment violation. On July 11th, the NRD was invited out, along with the Department of Transportation and the Army Corps of Engineers to view the area. On July 16th the NRD prepared and signed the notice of complaint which was conveyed on to the neighboring landowner. He said that, in the meantime, the report from the Army Corps of Engineers came

back indicating no violation. He said that on the 18th, NRD staff delivered the notice of complaint to the landowner, and on the 25th, the investigation of the complaint was completed. Naprstek said that on August 2nd, Bryce Bauer of NRCS completed the soil loss determination, and the investigation report and notice of non-violation was delivered. Naprstek stated that a letter was received from Bryce Bauer stating that the crop had been ridge-tilled, was irrigating with surge valves, some residue was washing down, but no sediment was moving on date of inspection, and the amount of erosion was below acceptable levels. Glaser was given notice on August 8th of the findings and could address the Board to contest the findings of non-violation.

Paul Glaser, Spalding, stated that the Army Corps of Engineers didn't deny that there was a drainage issue, but just said it didn't violate the Clean Water Act. Glaser asked how the soil loss was calculated, stating he hadn't seen any explanation of the process in the NRD's Erosion and Sediment Control Rules and Regulations. Bryce Bauer stated that it was calculated using a computer program that takes into account the soil type, slope, the length of slope, and the tillage practices and crop growing.

Glaser presented Bauer, the Board, and NRD staff with pictures of the gully in concern and stated he thought the inspection was to measure soil level. Callan reviewed the pictures of the gully and stated that he didn't think the pictures were a good representation of the area. Glaser stated that the water should go into the gully and asked why it doesn't go down the ditch. Callan answered that they must look at the levels of soil that are moving downstream, and that acceptable levels are allowed. Bauer explained that they allow five ton per acre and the land in question was calculated at less than one ton per acre. Bauer said he did not see any gullies.

Glaser said that the non-violation findings showed no calculations of how the determination was made. Callan stated that there was no soil moving in the field at the time of inspection but said that NRD staff would meet with him and discuss the information collected.

INFORMATION & EDUCATION REPORT

Husker Harvest Days

Larry Schultz, Information & Education Coordinator, reported that Husker Harvest Days was coming up and Director Anderson would be helping to hand out trees on the final day of the event.

Schultz also reported that various NRD representatives would be helping with the water table presentation at the upcoming State Fair. He said the exhibit would demonstrate water pumping through the sand and show how streambeds are created and will also show the effects of erosion.

Annual NARD Conference

Schultz passed around the signup sheet for anyone interested in going to the Annual NARD Conference the end of September.

Schultz reported that he would be speaking at the Custer County Historical Museum in Broken Bow in conjunction with the Smithsonian Institute's *Water Ways* traveling exhibit. He said he would be talking about water in Custer County and the management of it through the NRD system since 1972. He said Director Adams would be talking about the Victoria Springs area.

ASSISTANT GENERAL MANAGER'S REPORT

Davis Creek – Phase II Update

Tylr Naprstek reported that the building structure was completed, and crews would be working on attaching all utilities, finishing gravel work, and completing interior construction. He said the repeater tower would be put up shortly and staff is anticipating holding meetings in the building in the next couple of months. Naprstek presented pictures of the building progress.

Pibel Lake Update

Naprstek reported that staff had been working on the 404 permitting for the tube extension and are hoping the project qualifies for a Nationwide permit under maintenance. He said there will need to be some more tree removal.

Buffalo County, Ravenna Lake Report

Naprstek reported that JEO hopes to have a draft of the recharge information by tomorrow. He said JEO had found that the lake would not work for recharge; however, there were other sites upstream and downstream that may work. He said that, despite the duckweed problem in the lake, the water quality is actually very good and doesn't meet the Public Health Service's human contaminant level.

Columbus Area Water Resources Assessment Study Update

No report.

ELM Update

No report.

WATER RESOURCES COMMITTEE

No report. There were no recommendations.

PROGRAMS/PROJECTS COMMITTEE

Weed Management District Funding - \$5,000

Kruse reported that a request for \$5,000 had come from the Platte Valley Weed Management District. Callan stated that money was in the budget to cover the request. Kruse said \$10,000 is budgeted every year for weed management. Citta said that Platte County would be making a request for funds for weed control on portions of the Loup River in Platte County.

Kruse motioned, seconded by Boesch, to approve the expenditure of \$5,000 to the Platte Valley Weed Management District. Motion carried by roll call vote, all present voting yes.

MANAGER'S REPORT

Litigation Update

To be discussed in Executive Session later in the meeting.

New Hires

No new hires.

Non-Action Reports

No non-action reports.

NARD REPORT

Director's Report

Eschliman reported that the Annual NARD Conference was coming up in September and said Governor Ricketts was having a breakfast at the State Fair on Sunday.

NRC REPORT

Commissioner's Report

Due to the absence of Hadenfeldt, Callan reported that committees were set up for the review of applications for Water Sustainability Funds.

RC&D REPORTS

Loup Basin RC&D

Thoene reported that he hadn't been able to attend the RC&D meeting. He stated there would be a tire recycling event in Loup City in January and the RC&D received a grant for Cedar River stabilization.

ANNOUNCEMENTS/FUTURE MEETING TOPICS

Adams asked that staff investigate what needs to be done for cost-share programs. Citta recommended coming up with a systematic approach to bring ideas in front of the Board. Callan said options could be discussed at any time. Bryce Bauer said that dam repair doesn't fit into any of their programs, so they are trying to work them into EQIP programs. Kauk suggested options be brought to the Committee for review.

Regarding the Columbus recharge project, Kauk asked if the elevation of Christopher's Cove lake was full or close to full, or if it had receded. Callan stated that at elevation 1425, no water would be put into it, but that lately, it had maintained a higher level because of rain received. Callan said that there was a lot of pumping going on in the area from different entities. Citta stated that the NRD wasn't doing the recharge project to maintain levels in Christopher's Cove, but rather for groundwater recharge benefits.

Adams asked about the hog confinements in Custer County and if water was allocated to them. Callan replied that there was no regulation placed on them at the current time. It was mentioned that all wells over 50 gpm were required to have a permit to construct a water well and that all permits were reviewed by staff. Dell Harris, Water Resources Specialist, stated that most of the well permits received are about 300 gallons. Naprstek stated that the NRD is applying for an Environmental Trust grant to be used to cost-share flowmeters to go on these types of wells.

Callan stated that the purpose of the Columbus recharge project was to subsidize groundwater levels. Mohrman asked about recharge for groundwater and if there might be cases where the NRD needed the water for recharge rather than for Christopher's Cove. Callan stated that the water could be managed due to the two lines that could be run separately or together. He said the triggers for when water is run is based on groundwater levels. Callan said a transducer had been installed in Christopher's Cove lake and there would be transducers in the monitoring wells that the NRD is putting in. Citta said that groundwater levels in the area would need to be monitored carefully to avoid water in basements and Callan said that top and bottom groundwater levels should be within a certain range.

Thoene asked about ADM's green credits, and Callan stated that they indicate that ADM is 'green' or working to be environmentally friendly. Bauer stated that, currently, water being discharged from the treatment plant goes to the canal and is lost from the system. He said the Columbus project would recapture that water so it could be reused, returning it to the system. Gellermann stated that the Christopher's Cove project was unique in that the NRD can regulate

when and where flows are going and whether water is held for recharge. He said the farmers would be helped by groundwater recharge and the water has an opportunity to be used. Kauk asked if a study had been conducted on where the NRD was pumping water from to prevent issues in the future. Callan stated that staff was looking at possible impacts. Anderson asked if canal water could be used and Callan answered that it could not, because of the threat of invasive species.

Eschliman motioned, seconded by Mohrman, to go into Executive Session to discuss litigation. Motion carried by roll call vote, all present voting yes.

The Board entered into Executive Session a 6:17 p.m.

The Board came out of Executive Session at 6:45 p.m.

ADJOURNMENT

With no further business before the Board, Citta declared the meeting adjourned at 6:45 p.m.

Roster for attendance of this meeting and tally of votes cast on motions at this meeting are being filed with the official minutes of this meeting at the Lower Loup Natural Resources District's Headquarters Office, 2620 Airport Drive, Ord, Nebraska. Publication notification of this meeting was made via a newspaper in each county within the District. The next Board of Directors meeting will be held September 27, 2018, at 5:00 p.m., at the Headquarters Office in Ord, Nebraska.

Henry J. Thoene
Secretary