

**MINUTES OF
LOWER ELKHORN NATURAL RESOURCES DISTRICT
BOARD OF DIRECTORS MEETING**

7:30 p.m., Thursday, August 27, 2020
Lower Elkhorn NRD
1508 Square Turn Blvd, Norfolk, Nebraska

The Board of Directors Meeting of the Lower Elkhorn Natural Resources District was called to order by Chairman Gary Loftis on Thursday, August 27, 2020 at the Lower Elkhorn Natural Resources District, 1508 Square Turn Blvd., Norfolk, Nebraska. Chairman Loftis informed the Board and those attending of the Publication of Meeting Notice in the Norfolk Daily News on August 20, 2020.

Roll call was taken by Administrative Supervisor Vickie DeJong with 15 of 15 Directors present. Present: Allemann, Clausen, Gustafson, Hall, Hansen, Huntley, Janke, Kathol, Korth, Noonan, McHenry, Schultz, Steffen, Zimmerman, Loftis. Absent: None.

Motion was made by Schultz and seconded by Janke *to adopt the agenda*. Aye: Allemann, Clausen, Gustafson, Hall, Hansen, Huntley, Janke, Kathol, Korth, McHenry, Noonan, Schultz, Steffen, Zimmerman, Loftis. Nay: None. Absent: None. Motion Carried.

The reading and/or action on the minutes of the July 23, 2020 Board of Directors meeting was next on the agenda. Motion was made by Steffen and seconded by Schultz *that the minutes of the July 23, 2020 Board of Directors meeting be approved*. Aye: Allemann, Clausen, Gustafson, Hall, Hansen, Huntley, Janke, Kathol, Korth, McHenry, Noonan, Schultz, Steffen, Zimmerman, Loftis. Nay: None. Absent: None. Motion Carried.

The Finance Subcommittee report was given by Treasurer Dennis Schultz. Motion was made by Schultz and seconded by Huntley *to approve income in the amount of \$261,529.23 and expenses in the amount of \$422,943.71*. Aye: Allemann, Clausen, Gustafson, Hall, Hansen, Huntley, Janke, Kathol, Korth, McHenry, Noonan, Schultz, Steffen, Zimmerman, Loftis. Nay: None. Absent: None. Motion Carried.

Motion was made by Schultz and seconded by Huntley *to approve income in the amount of \$104,242.03 and expenses in the amount of \$49,495.50 for the Logan East Rural Water System as printed and distributed*. Aye: Allemann, Clausen, Gustafson, Hall, Hansen, Huntley, Janke, Kathol, Korth, McHenry, Noonan, Schultz, Steffen, Zimmerman, Loftis. Nay: None. Absent: None. Motion Carried.

Motion was made by Schultz and seconded by Hansen *to approve income in the amount of \$11,146.25 and expenses in the amount of \$7,664.95 for the Wau-Col Regional Water System*. Aye: Allemann, Clausen, Gustafson, Hall, Hansen, Huntley, Janke, Kathol, Korth, McHenry, Noonan, Schultz, Steffen, Zimmerman, Loftis. Nay: None. Absent: None. Motion Carried.

A copy of the conservation cost share report is attached to the official minutes.

The Nebraska Association of Resources Districts report was given by Scott McHenry. He reported that the NARD Annual Conference will not be held, but resolution voting and board meeting will be held. A voting delegate will need to be appointed to represent the Lower Elkhorn.

No Nebraska Natural Resources Commission report was presented.

A copy of the Natural Resources Conservation Service report is attached to the official minutes.

There were no RC&D reports due to cancelled meetings, however a written report for the Nebraska Loess Hills RC&D is attached to the official minutes.

A written Bazile Groundwater Management Area report was given by Connor Baldwin, Bazile Groundwater Management Area Project Coordinator. (Copy attached to the official minutes)

The Administrative Report was given by General Manager Mike Sousek. (Copy attached to the official minutes.)

The Logan East Rural Water System report was given by Roger Gustafson and RWS Manager Shawn Blahak. Motion was made by Gustafson and seconded by Clausen to accept the Logan East Rural Water System minutes of August 10, 2020. Aye: Allemann, Clausen, Gustafson, Hall, Hansen, Huntley, Janke, Kathol, Korth, McHenry, Noonan, Schultz, Steffen, Zimmerman, Loftis. Nay: None. Absent: None. Motion Carried.

The Information, Planning, Programs, Projects, Equipment & Legislation Committee of the Whole report was given by Kurt Janke. Motion was made by Janke and seconded by Hansen to direct staff to continue to work with Douglas A. Oertwich to assemble all required documentation that will allow the staff to issue a permit for the well construction associated with the Southeast ¼ of Section 17, Township 23 North, Range 3 East, Stanton County, Nebraska. If all required documentation is provided, staff will issue that permit, but the cease and desist order shall remain in place for a period of 5 (five) years (expires July 25, 2025). The five-year limitation is consistent to the District's past enforcement of rule violations. Should the cease and desist order be violated, the District will take enforcement action, including the permanent denial of irrigation to the tract of land served by the well.

Mr. Oertwich and his attorney, Bert Lamml, spoke to the board.

Moved to amend by Clausen and seconded by Korth to allow 30 days to complete proper paperwork and vacate the cease and desist order. Aye: Allemann, Clausen, Gustafson, Hall, Korth. Nay: Hansen, Huntley, Janke, Kathol, McHenry, Noonan, Schultz, Steffen, Zimmerman, Loftis. Absent: None. Amendment Failed.

Vote on original motion: to direct staff to continue to work with Douglas A. Oertwich to assemble all required documentation that will allow the staff to issue a permit for the well construction associated with the Southeast ¼ of Section 17, Township 23 North, Range 3 East, Stanton County, Nebraska. If all required documentation is provided, staff will issue that permit, but the cease and desist order shall remain in place for a period of 5 (five) years (expires July 25, 2025). The five-year limitation is consistent to the District's past enforcement of rule violations. Should the cease and desist order be violated, the District will take enforcement action, including the permanent denial of irrigation to the tract of land served by the well. Aye: Hansen, Huntley, Janke, Kathol, McHenry, Noonan, Schultz, Steffen, Zimmerman, Loftis. Nay: Allemann, Clausen, Gustafson, Hall, Korth. Absent: None. Motion Carried.

Motion was made by Janke and seconded by Hansen to approve the existing score sheets for the Hydrologically Connected, or 10/50 Area, and the Non-Hydrologically Connected, or Non 10/50 Area in the Lower Elkhorn NRD, and to reauthorize the use of the Lower Elkhorn NRD "Conditions for Approval Policy" for new wells constructed under approved variances for the upcoming Standard Variance Sign-up.

Move to amend by Korth and seconded by Zimmerman to adjust the soil score to create a more favorable outcome for coarse textured (sandy) soils. Aye: Allemann, Clausen, Hall, Korth, Zimmerman.

Nay: Gustafson, Hansen, Huntley, Janke, Kathol, McHenry, Noonan, Schultz, Steffen, Loftis. Absent: None. Amendment Failed.

Vote on original motion: Aye: Allemann, Hall, Hansen, Huntley, Janke, Kathol, McHenry, Noonan, Schultz, Steffen, Zimmerman, Loftis. Nay: Clausen, Gustafson, Korth. Absent: None. Motion Carried.

Motion was made by Janke and seconded by Schultz to allow up to 295.00 Acre Feet of new stream water depletions for new groundwater irrigation development in the Hydrologically Connected or 10/50 Area in the Lower Elkhorn NRD under the District’s standard variance process for the upcoming sign-up period; and to allow up to 2,500 acres of new groundwater irrigation development in the Non Hydrologically Connected or Non 10/50 Area under the District’s standard variance process for the upcoming sign-up period. As a condition for approval, a minimum soil score of 90 must be met in the Soil Conservation category for any standard variance application to be considered for approval, regardless of the total score. Geographic portions of the District that are eligible to be considered for standard variances are areas that fall within the top three categories of the classification map entitled “Lower Elkhorn NRD – 2019 – Irrigation Development Areas” as presented by District staff. Also excluded from consideration for this sign-up period will be any parcel of land located in any Quantity Management Subarea or Phase 3 Area located within the Lower Elkhorn NRD. In addition, approval of this motion will authorize staff to advertise and prepare application materials for a sign-up period which would extend from October 1st through October 31st, 2020 for the receipt of standard variance requests.

Moved to amend by Hall and seconded by Korth to strike the words “or Phase 3 Area” from the motion. Aye: Allemann, Clausen, Hall, Korth. Nay: Gustafson, Hansen, Huntley, Janke, Kathol, McHenry, Noonan, Schultz, Steffen, Zimmerman, Loftis. Absent: None. Amendment Failed.

Moved to amend by Korth and seconded by Clausen *to replace the minimum required soil score of 90 with a minimum required soil score of 85.* Aye: Allemann, Clausen, Hall, Kathol, Korth, Noonan, Steffen, Zimmerman. Nay: Gustafson, Hansen, Huntley, Janke, McHenry, Schultz, Loftis. Amendment Carried.

Vote on amended motion: *to allow up to 295.00 Acre Feet of new stream water depletions for new groundwater irrigation development in the Hydrologically Connected or 10/50 Area in the Lower Elkhorn NRD under the District’s standard variance process for the upcoming sign-up period; and to allow up to 2,500 acres of new groundwater irrigation development in the Non Hydrologically Connected or Non 10/50 Area under the District’s standard variance process for the upcoming sign-up period. As a condition for approval, a minimum soil score of 85 must be met in the Soil Conservation category for any standard variance application to be considered for approval, regardless of the total score. Geographic portions of the District that are eligible to be considered for standard variances are areas that fall within the top three categories of the classification map entitled “Lower Elkhorn NRD – 2019 – Irrigation Development Areas” as presented by District staff. Also excluded from consideration for this sign-up period will be any parcel of land located in any Quantity Management Subarea or Phase 3 Area located within the Lower Elkhorn NRD. In addition, approval of this motion will authorize staff to advertise and prepare application materials for a sign-up period which would extend from October 1st through October 31st, 2020 for the receipt of standard variance requests.* Aye: Allemann, Clausen, Gustafson, Hall, Kathol, Korth, Noonan, Schultz, Steffen. Nay: Hansen, Huntley, Janke, McHenry, Zimmerman, Loftis. Amended Motion Carried.

Motion was made by Janke and seconded by Steffen *to instruct the staff to provide a letter of support to the project sponsor as part of a grant application to the Nebraska Environmental Trust (NET) for the establishment of UNL TAPs (Testing Ag Performance Solutions) demonstration site and to devote up to \$1000 in direct financial assistance to the effort – contingent on approval of the grant request.*

Aye: Allemann, Clausen, Gustafson, Hall, Hansen, Huntley, Janke, Kathol, Korth, McHenry, Noonan, Schultz, Steffen, Zimmerman, Loftis. Nay: None. Absent: None. Motion Carried.

Motion was made by Janke and seconded by Schultz to authorize an additional two acre-inches per acre for any irrigation well subject to an Annual Groundwater Allocation in a Lower Elkhorn NRD Quantity Management Subarea, under Section 17.7.2.1 of the Lower Elkhorn NRD Rules and Regulations for the Management of Groundwater. Aye: Allemann, Clausen, Gustafson, Hall, Hansen, Huntley, Janke, Kathol, Korth, McHenry, Noonan, Schultz, Steffen, Zimmerman, Loftis. Nay: None. Absent: None. Motion Carried.

Motion was made by Janke and seconded by Hansen to authorize the General Manager to sign a contract with FYRA Engineering, L.L.C. to complete the Maple Creek WFPO (Watershed Flood Prevention Operations) Watershed Plan/Environmental Assessment, not to exceed \$649,830.00. Aye: Allemann, Clausen, Gustafson, Hall, Hansen, Huntley, Janke, Kathol, Korth, McHenry, Noonan, Schultz, Steffen, Zimmerman, Loftis. Nay: None. Absent: None. Motion Carried.

Motion was made by Janke and seconded by Hansen to approve updates to the average cost dockets for the Agroforestry and Conservation Cost Share Programs, as recommended by the staff. Aye: Allemann, Clausen, Gustafson, Hall, Hansen, Huntley, Janke, Kathol, Korth, McHenry, Noonan, Schultz, Steffen, Zimmerman, Loftis. Nay: None. Absent: None. Motion Carried.

The Budget Subcommittee report was given by Treasurer Dennis Schultz. Motion was made by Schultz and seconded by Huntley to approve an additional 1% increase in Restricted Funds Authority for Fiscal Year 2021. Aye: Gustafson, Hansen, Huntley, Janke, Kathol, McHenry, Noonan, Schultz, Steffen, Zimmerman, Loftis. Nay: Allemann, Clausen, Hall, Korth. Absent: None. Motion Failed as the motion needed 75% approval or 12 aye votes.

Motion was made by Schulz and seconded by McHenry to advertise and present the proposed Fiscal Year 2021 Budget and Long Range Plan at a Public Hearing, 7:00 p.m., Thursday, September 11, 2020, at the Lower Elkhorn NRD Board Room, 1508 Square Turn Blvd., Norfolk, Nebraska. Aye: Allemann, Clausen, Gustafson, Hall, Hansen, Huntley, Janke, Kathol, Korth, McHenry, Noonan, Schultz, Steffen, Zimmerman, Loftis. Nay: None. Absent: None. Motion Carried.

Meeting adjourned at 10:08 p.m.

I, the undersigned Secretary of the Lower Elkhorn Natural Resources District hereby certify that the foregoing is a true and correct copy of the proceedings had and done by the Board of Directors on August 27, 2020, that all of the subjects included in the foregoing proceedings were contained in the agenda for at least twenty-four hours prior to said meeting, the minutes of the Chairman and the Board were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body, that all news media requesting notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Matt Steffen, Secretary

Others Present:

Doug Oertwich, Pilger

Bert Lammler, Stanton

Mark Graf, Emerson

Gerald Kratochvil, Clarkson