



# LOWER PLATTE SOUTH natural resources district

3125 Portia Street | P.O. Box 83581 • Lincoln, Nebraska 68501-3581  
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Agenda Item #7

## Memorandum

**Date:** July 14, 2023  
**To:** Each Director  
**From:** Paul D. Zillig, General Manager  
**Subject:** Executive Subcommittee Meeting Minutes

The Executive Subcommittee met at Noon on Friday, July 14, 2023 in the NRD Large Conference Room. Directors in attendance were David Landis, Bob Andersen, Lisa Lewis, Chelsea Johnson, and Deborah Eagan. Others attending included Corey Wasserburger, Steve Seglin, Kristin Buntmeyer, Mike Sousek, and myself.

Chair Landis called the meeting to order at Noon, made introductions, and welcomed those in attendance. The first item was for the Subcommittee to consider improvements to the process to approve license agreements with landowners who are typically using the NRD easement area in a manner contrary to the easement (boat docks, sheds, gazebos, buildings, etc). The Subcommittee discussed the attached memo.

There was concern about there not being a clear method of determining which violations were “minor/De Minimis” in nature and could be handled by staff compared to all others that should be considered by the Board. I reported that originally it was the Board’s authority to act on all requests for a license agreement, since that time the Board delegated that authority to the Executive Subcommittee. The Subcommittee felt the current process was appropriate and was not in favor of making any changes, there was not a motion for action.

The next item on the agenda was to recommend the Board approve a number of appointments and authorities for the District after my retirement August 31<sup>st</sup>. I reviewed the attached list. It was moved by Andersen, seconded by Eagan, and unanimously approved by the Subcommittee to **recommend the Board of Directors approve the following authorizations and appointments,**

1. **Financial Institution authorization for Assistant Treasurer/General Manager Mike Sousek as of September 1, 2023.**
  - **Union Bank & Trust**
  - **NPAIT (Nebraska Public Agency Investment Trust)**
  - **Nebraska CLASS**
2. **Lower Platte River Consortium – Mike Sousek – Representative.**
3. **Nebraska Land Trust – Will Inselmann – Alternate.**

- 4. Solidago Conservancy Board – Mike Sousek (ex officio).**
- 5. Lower Platte River Basin Water Management Coalition – Mike Sousek Alternate.**
- 6. Federal Grants, including but not limited to, FEMA DR-4225, EPA/NDEE Section 319, USDA/NRCS WFPO (Watershed Flood Prevention & Operations). -Mike Sousek.**

Landis then reported that NARD had prepared a draft Director Code of Conduct for use by any of the NRDs. The Subcommittee discussed the draft and also discussed the current LPSNRD Code of Conduct (Operating Policy C-22). The Subcommittee felt the current LPSNRD Code of Conduct was appropriate for LPSNRD.

There several reports and updates, there being no further business the meeting adjourned at 1:20 pm.

PDZ/pz

Encl. 1

pc: Steve Seglin  
Corey Wasserburger



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## Memorandum

**Date:** July 11, 2023  
**To:** Executive Subcommittee  
**From:** Paul Zillig  
**Subject:** License Agreements

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The LPSNRD holds hundreds of easements that grants the NRD some authority for a project and/or places a limitation on the owner to do actions that might negatively impact the NRD's interests. The most common scenario is where a landowner's property includes an NRD flood control dam and the NRD easement prohibits "structures". The NRD doesn't want occupied dwellings being constructed in a flood storage easement or any building located on the dam or spillway, violations of this nature would result in the NRD requiring the removal of the building.

We are finding many landowners are building boat docks, fishing piers, gazebo's, small sheds, and other structures that pose minimal potential problems to the NRD's interests but enforcing the legal provisions to, what we feel, is the letter of the law, is viewed as unnecessary by the landowner and in many cases will require the NRD to file a lawsuit to persuade the courts to require the landowner's compliance with our easement.

NRD staff has brought these minor violations to the Board for consideration. After doing so in 2017 the Board decided it would be best to grant the authority to enter into license agreements to the Executive Subcommittee (see attached Board action from May 2018). This authorization has ran into problems with defining a "temporary structure" and open meeting requirements for the Executive Subcommittee to take action on behalf of the Board. A list of current license agreements is attached.

I believe the license agreements are beneficial to the NRD. It limits the liability of the NRD, saves us from spending way too much staff and Director time and resources trying to enforce minor easement violations, and allows for a reasonable solution with the landowner. The best way to deal with these minor violations is for the Board of Directors to authorize management to enter into license agreements. I would recommend the Subcommittee recommend the Board of Directors authorize the General Manager, with NRD Legal Counsel approval, to prepare and approve temporary license agreements with landowners to address actions occurring in the NRD's easement that pose a De Minimis threat to the public, landowner, or NRD's infrastructure, and reduces liability of the NRD. All approved temporary license agreements will be reported to the Board of Directors.

PDZ/pz

AYE: Amen, Andersen, Barrett, Bolte, DeKalb, Eagan, Hellerich, Jacobson, B. Johnson, C. Johnson, Landis, Osborn, Ruth, Schmidt, Steinkruger, Stevens, Svoboda and Wilson

NAY: None

NOT VOTING: Aldridge

NOT PRESENT: Spangler

Stevens moved the Executive Subcommittee's recommendation that the Board of Directors approve the 2019 Operational Agreement with the USDA Natural Resources Conservation Service. The motion was approved.

AYE: Aldridge, Amen, Andersen, Barrett, Bolte, DeKalb, Eagan, Hellerich, Jacobson, B. Johnson, C. Johnson, Landis, Osborn, Ruth, Schmidt, Steinkruger, Stevens, Svoboda and Wilson

NAY: None

NOT PRESENT: Spangler

Steve Seglin, Legal Counsel answered questions of the Board.

Stevens moved the Executive Subcommittee's recommendation that the Board of Directors approve the draft License Agreement, incorporating the suggested changes to be completed by Steve Seglin, Legal Counsel, and authorize the Executive Subcommittee to enter into License Agreements with landowners to allow certain minor temporary structures to be located in NRD flood pool easements. The motion was approved.

AYE: Aldridge, Amen, Andersen, Barrett, Bolte, DeKalb, Eagan, Hellerich, Jacobson, B. Johnson, C. Johnson, Landis, Osborn, Ruth, Schmidt, Steinkruger, Stevens, Svoboda and Wilson

NAY: None

NOT PRESENT: Spangler

Stevens moved the Executive Subcommittee's recommendation that the Board of Directors approve Anthony Schutz to fill the Subdistrict #6 vacancy on the NRD Board of Directors.

It was moved by Aldridge to nominate Maggie Squires to the vacancy. Aldridge withdrew his nomination.

Anthony Schutz addressed and answered questions of the Board.

The motion to approve Anthony Schutz to fill the Subdistrict #6 vacancy on the NRD Board of Directors was approved.

AYE: Aldridge, Amen, Andersen, Barrett, Bolte, DeKalb, Eagan, Hellerich, Jacobson, B. Johnson, C. Johnson, Landis, Osborn, Ruth, Schmidt, Steinkruger, Stevens, Svoboda and Wilson

NAY: None

NOT PRESENT: Spangler

#### ITEM 10. REPORT OF THE URBAN SUBCOMMITTEE AND CONSIDERATION OF RECOMMENDATIONS

Bruce Johnson stated that the Urban Subcommittee met on May 10, 2018.

**NRD Dams**

**REAL ESTATE LICENSE AGREEMENTS**

<b><u>STRUCTURE</u></b>	<b><u>DATE LANDOWNER W/AGREE.</u></b>	<b><u>LICENSED STR/FILL/ETC.</u></b>	
<b>Stevens Creek A9-6</b>	<b>June 2017</b>	<b>Prairie Creek Estates HOA</b>	<b>dock, shelter</b>
<b>Stevens Creek A5-1</b>	<b>Sept 2018</b>	<b>James Pentermann</b>	<b>shed</b>
<b>North Oak 2-C</b>	<b>Dec 2018</b>	<b>Dustan Biegler</b>	<b>observation platform</b>
<b>Magee Dam</b>	<b>Mar 2023</b>	<b>Todd &amp; Tammy Magee</b>	<b>greenhouses &amp; fill</b>