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Niobrara Council MINUTES from the January 20, 2011 meeting

1. **Call to Order / Excused Absences.** Chair Tuerk called the Niobrara Council meeting to order at 1:05 p.m. The meeting was held at Cedar Canyon Restaurant, 112 North Main Street, Valentine, Nebraska.
Present: Mark Adamson, Jason Appelt, Dallas Dodson, Dan Foster, Twyla Graham, Betty Hall, Steve Hicks, Dennis Jilg, Kerry Krueger, Mike Murphy, Buddy Small, Clayton Stalling, Mike Tuerk.
Not Present (Excused Absent): Larry Baumeister, Lance Kuck, Pete Sawle.
Not Present (Un-Excused Absent): NONE.
2. **Public Meeting Business.**
 - A. **Statement regarding Open Meetings Act.** Chair Tuerk pointed out the posted Nebraska Open Meetings Act.
 - B. **Adoption of January 20, 2011 Agenda.** Small motioned to adopt the January 20, 2011 agenda. Jilg second.
Roll Call Vote: 11 Ayes – Appelt, Dodson, Graham, Hall, Jilg, Krueger, Murphy, Small, Stalling, Tuerk, Adamson.
3 Not Present – Baumeister, Kuck, Sawle.
Motion carried: 11 ayes to 0 nays and 3 not present.
 - C. **Statement of Publication for January 20, 2011 meeting.** Kieborz stated the public meeting notices were published in four area newspapers. Copies of the affidavit/proof of publications were available for verification.
 - D. **Incorporation of Affidavit/Proof of Publication into December 16, 2010 Minutes.** Chair Tuerk directed incorporation of the original affidavit/proof of publications into minutes from the December 16, 2010 meeting.
 - E. **Approval of December 16, 2010 Minutes.** There was brief discussion regarding the minutes. Small motioned to approve the December 16, 2010 minutes. Adamson second.
Roll Call Vote: 8 Ayes – Dodson, Graham, Hall, Murphy, Small, Stalling, Tuerk, Adamson.
3 Abstain – Jilg, Krueger, Appelt.
3 Not Present – Baumeister, Kuck, Sawle.
Motion carried: 8 ayes to 0 nays with 3 abstains and 3 not present.
 - F. **Incorporation of Affidavit/Proof of Publication into January 13, 2011 Minutes.** Kieborz stated the originals are not available at this time. This item will be tabled until the February 17, 2011 meeting.
 - G. **Approval of January 13, 2011 Minutes.** There was brief discussion regarding the minutes. It was noted that the meeting location needed to be amended to the Valentine Public Library Meeting Room. It was also suggested that under agenda item 3, legislative issues, that a “(2)” be added to clarify the paragraph location for striking “preferably once a month” in the suggested changes to 72-2007. Dodson made a motion to approve the minutes as amended. Small second.
Roll Call Vote: 8 Ayes – Dodson, Hall, Murphy, Small, Stalling, Tuerk, Adamson, Appelt.
3 Abstain – Graham, Jilg, Krueger.
3 Not Present – Kuck, Sawle, Baumeister.
Motion carried: 8 ayes to 0 nays with 3 abstains and 3 not present.
 - H. **Discussion/action/update regarding Niobrara Council Audit Contract.** Kieborz discussed the advertisement requesting services for the compilation engagement. She also contacted all the firms that previously submitted a bid for the regular audit process. The most competitive bid for the engagement was from Ted J. Ormesher, CPA, in the amount of \$825.00 and it is for a three year term. Hall motioned the Niobrara Council accept the bid (from Ted J. Ormesher). Small second.
Roll Call Vote: 11 Ayes – Graham, Hall, Jilg, Krueger, Murphy, Small, Stalling, Tuerk, Adamson, Appelt, Dodson.
3 Not Present – Kuck, Sawle, Baumeister.
Motion carried: 11 ayes to 0 nays and 3 not present.
 - I. **Discussion/action/update regarding open board position – Timber Industry Representative.** Kieborz stated that in her discussions with the representative for the Governor regarding appointments to boards and commissions, it is unlikely the Niobrara Council will have an appointment to their Timber Industry representative position prior to their next meeting. It is likely the appointment won't be made until all current legislative issues with the Niobrara Council statute are settled. Kieborz appealed to the Governor's office, stating that there aren't any proposed changes to this particular position description, but still hasn't heard back regarding the appointment.

J. Discussion/action regarding official correspondence and comments from Niobrara Council. There was a brief discussion regarding our society being free and open with speech. It was also discussed that if a board member or staff contacts anyone, including a Senator, that the conversation needs to be clarified with a clear statement on whether that specific conversation is personal or as a representative from the board.

3. Annual Organizational Business.

A. Introduction of New Council Members. Chair Tuerk welcomed Larry Baumeister, representative from the Lower Niobrara NRD Board to the Niobrara Council. Mr. Baumeister will replace Dave Beck in that position. The board is still awaiting an appointment for the Timber Industry representative position.

B. Election of Officers.

1. Chair. Small moved to elect Mike Tuerk as Chair. Jilg second.

Roll Call Vote: 11 Ayes – Hall, Jilg, Krueger, Murphy, Small, Stalling, Tuerk, Adamson, Appelt, Dodson, Graham.
3 Not Present – Kuck, Sawle, Baumeister.

Motion carried: 11 ayes to 0 nays and 3 not present.

2. Vice Chair. Small moved to elect Betty Hall as Vice Chair. Jilg second.

Roll Call Vote: 11 Ayes – Jilg, Krueger, Murphy, Small, Stalling, Tuerk, Adamson, Appelt, Dodson, Graham, Hall.
3 Not Present – Kuck, Sawle, Baumeister.

Motion carried: 11 ayes to 0 nays and 3 not present.

3. Secretary. Small moved to elect Jason Appelt as Secretary. Hall second.

Roll Call Vote: 10 Ayes – Krueger, Murphy, Small, Stalling, Tuerk, Adamson, Dodson, Graham, Hall, Jilg.
1 Abstain - Appelt

3 Not Present – Kuck, Sawle, Baumeister.

Motion carried: 10 ayes to 0 nays with 1 abstain and 3 not present.

4. Treasurer. Murphy moved to elect Buddy Small as Treasurer. Appelt second. Small voiced his disinterest in being nominated for the position. Appelt withdrew his second. Murphy withdrew his motion. Hall moved to elect Krueger as Treasurer. Small second.

Roll Call Vote: 10 Ayes – Murphy, Small, Stalling, Tuerk, Adamson, Appelt, Dodson, Graham, Hall, Jilg.
1 Abstain – Krueger.

3 Not Present – Kuck, Sawle, Baumeister.

Motion carried: 10 ayes to 0 nays with 1 abstain and 3 not present.

5. Recording Secretary. Chair Tuerk appointed Kieborz as the recording secretary for the Niobrara Council.

C. Committee and Advisory Position Appointments by Chair. There were no changes discussed to the committee and advisory positions for board members. Tuerk stated that Baumeister will replace Beck for his positions.

D. Discussion/action regarding official meeting dates/times/places for 2011. The meeting calendar for 2011 was discussed. There was discussion regarding a board meeting in Lincoln that the Niobrara Council talked about setting up for 2011. There was additional discussion about the budget. **Hall motioned to not have a full Niobrara Council board meeting in Lincoln (as previously discussed).** Appelt second.

Roll Call Vote: 11 Ayes – Murphy, Small, Stalling, Tuerk, Adamson, Appelt, Dodson, Graham, Hall, Jilg, Krueger.
3 Not Present – Sawle, Baumeister, Kuck.

Motion carried: 11 ayes to 0 nays and 3 not present.

Setting up the meeting calendar for 2011 was discussed further. Budget concerns were voiced. It was stated that less meetings would mean less mileage claims, copies, and other meeting related expenses all around for the Council budget. The Council is bound in their statute to meet a minimum of six times per year. **Murphy motioned the Niobrara Council meet seven times for 2011 (first meeting being today, January 20 in Valentine) with February 17 (Ainsworth); April 21 (Springview); June 16 (Bassett); August 18 (Valentine); October 20 (Ainsworth); December 15 (Valentine); and January 19, 2012 (Valentine) being set for the times and places.** Dodson second.

Roll Call Vote: 10 Ayes – Small, Stalling, Tuerk, Adamson, Appelt, Dodson, Hall, Jilg, Krueger, Murphy.
1 Abstain – Graham.

3 Not Present – Sawle, Baumeister, Kuck.

Motion carried: 10 ayes to 0 nays with 1 abstain and 3 not present.

E. Discussion/action regarding designated method of publicized notice for meetings. There was discussion about the method of publicized notice for Council meetings. **Adamson motioned the Council publish notice in the Valentine Midland News and as a courtesy, publish in the Ainsworth Star-Journal, Rock County Leader and the Springview Herald; a notice will also be posted at the Council office in Valentine.** Jilg second. There was discussion about posting the notice on the Council website and on their Facebook page.

Roll Call Vote: 11 Ayes – Small, Stalling, Tuerk, Adamson, Appelt, Dodson, Graham, Hall, Jilg, Krueger, Murphy.
3 Not Present – Baumeister, Kuck, Sawle.

Motion carried: 11 ayes to 0 nays and 3 not present.

- F. **Discussion/action regarding local financial institution.** There was brief discussion. **Hall motioned the Niobrara Council continue their banking with the Union Bank and Trust. Jilg second.**
Roll Call Vote: 11 Ayes – Stalling, Tuerk, Adamson, Appelt, Dodson, Graham, Hall, Jilg, Krueger, Murphy, Small.
3 Not Present – Baumeister, Kuck, Sawle.
Motion carried: 11 ayes to 0 nays and 3 not present.
- G. **Discussion/action regarding insurance carriers.** Kieborz stated this is a service that was recently bid out secured with North Central Insurance Agency, Ainsworth. **Jilg motioned the Council remain with North Central Insurance Agency, Ainsworth. Adamson second.**
Roll Call Vote: 11 Ayes – Tuerk, Adamson, Appelt, Dodson, Graham, Hall, Jilg, Krueger, Murphy, Small, Stalling.
3 Not Present – Baumeister, Kuck, Sawle.
Motion carried: 11 ayes to 0 nays and 3 not present.
- H. **Discussion/action regarding Niobrara Council Attorney.** Small motioned the Niobrara Council remain with Arganbright Law Office for attorney services. **Appelt second.**
Roll Call Vote: 11 Ayes – Appelt, Dodson, Graham, Hall, Jilg, Krueger, Murphy, Small, Stalling, Tuerk, Adamson.
3 Not Present – Baumeister, Kuck, Sawle.
Motion carried: 11 ayes to 0 nays and 3 not present.
- I. **Discussion/action regarding Niobrara Council Audit Contract.** The Niobrara Council audit contract was handled in agenda item 2(H) regarding securing the services of Ted J. Ormesher for a compilation engagement. No action was taken on this item.
- J. **Discussion/action regarding Niobrara Council bylaws.** No action was taken on this item.
- K. **Discussion/action regarding Niobrara Council Statute.** The Niobrara Council statute and changes suggested to it will be discussed later in the meeting under agenda item 7(B). No action was taken on this item.

Chair Tuerk called for a meeting break at 2:23 p.m. and the meeting resumed at 2:32 p.m.

4. **Treasurer's Report and Claims. Discussion/action regarding monthly claims for January 20, 2011.** The Revenue and Budget Committee reviewed the claims ahead of the meeting today. There was brief discussion regarding the claims. **Hall motioned to approve the claims for January 20, 2011 in the amount of \$13,633.30. Adamson second.**
Roll Call Vote: 11 Ayes – Dodson, Graham, Hall, Jilg, Krueger, Murphy, Small, Stalling, Tuerk, Adamson, Appelt.
3 Not Present – Baumeister, Kuck, Sawle.
Motion carried: 11 ayes to 0 nays and 3 not present.
5. **Agency/Organization Reports.**
- A. **NPS - Visitor Management & Project Updates.** Foster gave the NPS report. He discussed the River Management Plan stating they are expecting it to be an eighteen month to two year process. The alternatives for the plan will come to the Niobrara Council, and they would also have the right to develop their own alternatives.
- B. **USF & WS - Visitor Management & Project Updates.** Hicks gave the USF&WS report. Some items discussed included him being in the process of reviewing replacement candidates for Frerichs as Deputy Project Leader, and that the bison are utilizing the new overlook.
- C. **NG&PC – Update (Niobrara River - Instream flow process).** Stalling discussed the internal re-structuring going on at the Nebraska Game and Parks Commission. Re-alignment of areas served by field staff has taken place, and there could possibly be a reduction of areas.
- D. **NRD – Middle Niobrara and Lower Niobrara Updates.** Mike Murphy, MNNRD, discussed following some current legislative issues and their NARD meeting coming up in Lincoln. No report was given from LNNRD.
- E. **Niobrara Council Monthly Staff Report.** Kieborz stated that the staff report was available in the meeting folders. She discussed a couple highlights from the report.
6. **Resources Management.**
- A. **Discussion/action on Niobrara Council resolution regarding airboat use on the Niobrara River and related letter to the Department of Interior Solicitor General.** There has been no response received from the Solicitor General. No action was taken on this item.
- B. **Discussion/action regarding determination of consistency for TNC (by Jim Luchsinger) burn permit application number 11-NCBURN-BR001; C. Discussion/action regarding determination of consistency for TNC (by Jim Luchsinger) burn permit application number 11-NCBURN-BR002; D. Discussion/action regarding determination of consistency for TNC (by Jim Luchsinger) burn permit application number 11-NCBURN-BR003; E. Discussion/action regarding determination of consistency for TNC (by Jim Luchsinger) burn permit application number 11-NCBURN-BR004.** Some discussion took place regarding the projects. Adamson motioned that **11-NCBURN-BR001, 11-NCBURN-BR002, 11-NCBURN-BR003, and 11-NCBURN-BR004 are all consistent with the desired future conditions for the Niobrara National Scenic River. Jilg second.**

Roll Call Vote: 10 Ayes – Dodson, Hall, Jilg, Krueger, Murphy, Small, Stalling, Tuerk, Adamson, Appelt.

1 Abstain – Graham.

3 Not Present – Kuck, Sawle, Baumeister.

Motion carried: 10 ayes to 0 nays with 1 abstain and 3 not present.

F. Discussion/action regarding NPS Request for Kieborz to attend the Internal Scoping Meeting for Niobrara National Scenic River – River Management Planning Process on February 1 – 3, 2011, to be held in Valentine, Nebraska.

Tuerk directed Kieborz to attend the above mentioned meeting.

7. Legislative Issues.

A. Discussion/action regarding LR 542 (provide the standing committees and Executive Board shall review programs within the agencies under their subject-matter jurisdiction to identify services, programs, and obligations that may be reduced or eliminated during the 2011 session). There was discussion that Kieborz should have a report prepared to submit to the legislature if something were to move forward regarding LR542. The Council should be prepared to respond. **Hall motioned Kieborz prepare a report of information supporting the Niobrara Council mission, and that permission and discretion be given to Chair Tuerk to designate a representative of the Niobrara Council to attend any necessary hearings in regards to LR542. Hicks second.**

Roll Call Vote: 11 Ayes – Graham, Hall, Jilg, Krueger, Murphy, Small, Stalling, Tuerk, Adamson, Appelt, Dodson.

3 Not Present – Kuck, Sawle, Baumeister.

Motion carried: 11 ayes to 0 nays and 3 not present.

B. Discussion/action LB 533 (change membership of the Niobrara Council). The Niobrara Council Legislative Committee reviewed LB533. The changes suggested to the Niobrara Council statute were discussed. **Adamson motioned the Niobrara Council support LB533 and document that support to the appropriate committee (in the Legislature). Jilg second.**

Roll Call Vote: 11 Ayes – Hall, Jilg, Krueger, Murphy, Small, Stalling, Tuerk, Adamson, Appelt, Dodson, Graham.

3 Not Present – Kuck, Sawle, Baumeister.

Motion carried: 11 ayes to 0 nays and 3 not present.

C. Discussion/action regarding LB 229 (Transfer funds from the Nebraska Environmental Trust Fund to the Water Resources Cash Fund). No action was taken on this item.

D. Discussion/action regarding LB 529 (Change provisions relating to conservation and preservation easements and the Nebraska Environmental Trust). The Council discussed monitoring this bill. No action was taken on this item.

Board member Krueger was excused from the Niobrara Council meeting at 3:38 p.m.

8. Infrastructure Issues.

A. Discussion/action report from the Road and Bridge Committee; B. Discussion/action regarding Niobrara River Corridor Road Project. The Niobrara River Corridor road project was discussed. The Niobrara Council Road and Bridge Committee presented a related resolution and it was discussed. **Adamson motioned the Niobrara Council approve the resolution (The Niobrara Council Resolution #11-01). Jilg second.**

Roll Call Vote: 9 Ayes – Jilg, Small, Stalling, Tuerk, Adamson, Appelt, Dodson, Graham, Hall.

1 Abstain – Murphy.

4 Not Present – Krueger, Kuck, Sawle, Baumeister.

Motion carried: 9 ayes to 0 nays with 1 abstain and 4 not present.

Adamson motioned the Niobrara Council request a letter of support from the National Park Service for this specific project. Jilg second.

Roll Call Vote: 9 Ayes – Small, Stalling, Tuerk, Adamson, Appelt, Dodson, Graham, Hall, Jilg.

1 Abstain – Murphy.

4 Not Present – Krueger, Kuck, Sawle, Baumeister.

Motion carried: 9 ayes to 0 nays with 1 abstain and 4 not present.

It was discussed that this information needs to go out to Senator Ben Nelson, Senator Deb Fischer and Governor Dave Heineman.

9. Development Issues. Discussion/action on Niobrara Council complaint to Cherry County Zoning Administrator regarding two additional landings on banks of the Niobrara River within the boundary of the Niobrara National Scenic River. No action was taken on this item.

10. Conservation Easements. Discussion/action/report on current conservation easement project. The Brown County Commission did not make a decision at their January 18, 2011 meeting and the issue will be on their February 15, 2011 meeting agenda. Kieborz and Arganbright are planning on attending.

11. Education. No action was taken on this item.

12. Personnel Issues.

A. Discussion/action regarding Program Assistant position (Garwood). Kieborz stated that Garwood is currently on

maternity leave until March 1, 2011. The Personnel Committee recommended keeping her on staff at 20-25 work hours per week and reviewing the budget and Garwood prior to the new fiscal year.

B. Discussion/action regarding Executive Director position (Kieborz). The Personnel committee is requesting that Arganbright draft an amendment to the Kieborz employment contract allowing them the ability to review her more in alignment with the budget process and their fiscal year. No action was taken on this item.

13. Public Comment. There was no action taken on this item.

14. Suggestions for February 17, 2011 Niobrara Council meeting (TBD). There was no action taken on this item.

15. Adjourn. The Niobrara Council meeting was adjourned at 3:52 p.m.

I, the undersigned Secretary of the Niobrara Council hereby certify the foregoing is a true and correct copy of the proceedings conducted by the Niobrara Council on January 20, 2011. 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 were in written form and available for public inspection within ten working days or prior to the next convened meeting of said body, whichever occurs earlier. All news media requesting notification of the time and place of said meeting and the subjects to be discussed at said meeting were notified.

Jason Appelt (Secretary)