




LOWER PLATTE SOUTH natural resources district

3125 Portia Street | P.O. Box 83581 • Lincoln, Nebraska 68501-3581
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Memorandum

Date: June 10, 2022
To: Each Director
From: Paul D. Zillig, General Manager 
Subject: Executive Subcommittee Meeting Minutes

The Executive Subcommittee met at 5:30 pm on Thursday, June 9, 2022 in the NRD Large Conference Room. Directors in attendance were Deborah Eagan, Bob Andersen, and Chelsea Johnson (there was not a quorum). Others attending included Steve Seglin, Corey Wasserburger, Dave Potter, Kristin Buntmeyer, and myself.

Chair Eagan called the meeting to order and welcomed those in attendance.

The first item was for Wasserburger to update the Subcommittee on the LPSNRD vs PWH Land LLC etal (lawsuit concerning damage to the Deadmans Run streambank/gabions @ 70th & O/Tommy's). He reported on today's mediation session.

Eagan then reported on the proposed code of conduct for the Directors. Eagan reported that input was obtained from several sources and that she asked Wasserburger to prepare the attached Operating Policy "C-22: Code of Conduct". The Subcommittee discussed the document and it was moved by Andersen, seconded by C. Johnson, and later in the meeting unanimously approved by those Subcommittee members present to **recommend the Board of Directors approve Operating Policy C:22 Code of Conduct.**

The next item on the agenda was to consider approval of the attached Consent to Contract Assignment due to the acquisition of FYRA Engineering, LLC by Houston Engineering, Inc. of Fargo, ND. It was moved by Andersen, seconded by C. Johnson, and later in the meeting unanimously approved by those Subcommittee members present to **recommend the Board of Directors approve the Consent to Contract Assignment from FYRA Engineering, LLC to Houston Engineering, Inc.**

The next item on the agenda was to consider the attached Resolution and Participation Agreement to restate the NARD 414(h) "retirement" plan. It was moved by Andersen, seconded by C. Johnson, and later in the meeting unanimously approved by those Subcommittee members present to **recommend the Board of Directors approve the Resolution and Participation Agreement to restate the NARD 414(h) "retirement" plan.**

The next item on the agenda was to consider the attached Resolution and Participation Agreement to restate the NARD 457 “deferred compensation” plan. It was recommended by Andersen, seconded by C. Johnson, and unanimously approved by those Subcommittee members present to **recommend the Board of Directors approve the Resolution and Participation Agreement to restate the NARD 457 “deferred compensation” plan.**

The next item on the agenda was to further discuss and consider additional staff compensation. The Subcommittee reviewed last months action to approve a 4% increase and \$30,000 for merit, they also discussed the other proposed increases which were not approved.

Additional information was provided (attached) including a 5/30 email on NRD Staff Salary Thoughts by Zillig, 6/2 email on bonuses from Seglin, 5/28 OW-H article on bonuses at Hawkins Construction, and a 6/7 memo to reconsider cost of living adjustments from Vogel. The Subcommittee further discussed option of considering bonuses or reconsidering the increase. The Subcommittee discussed a variety of options and decided they preferred a one-time inflation adjustment.

It was moved by C. Johnson, seconded by Andersen, and unanimously approved by those Subcommittee members present to **recommend the Board of Directors approve a one-time \$2,000 inflation adjustment payment to all full-time employees and \$1,000 payment to all part-time employees, to be paid in July 2022.**

The last agenda item was to consideration of an Employment Agreement with Paul Zillig as General Manager. The Subcommittee discussed the existing Employment Agreement which expires June 30th. It was moved by Andersen, seconded by C. Johnson, and unanimously approved by those Subcommittee members present to **recommend the Board of Directors authorize the Chair to enter into an amendment to the current Employment Agreement with the General Manger to extend the agreement for an additional 3 years, increase the salary \$6,000 per year, and require a 6 month notice to the District to terminate the agreement.**

There being no further business the meeting adjourned at 7:05 pm.

PDZ/pz

pc: Steve Seglin
Corey Wasserburger

C-22: CODE OF CONDUCT

Adherence to high ethical standards by Directors is central to the maintenance of public trust and confidence in government. The ethical Director accepts the responsibility that the Director's mission is that of servant and steward to the public.

The ethical Director should:

- Pursue decisions which benefit the public interest.
- Make decisions that enhances public confidence in government.
- Maintain a positive image to pass constant public scrutiny.
- Avoid conflicts of interest with respect to District matters where possible and timely disclose such conflicts of interest when avoidance is not possible. If a conflict of interest is unavoidable, a Director shall recuse one's self from participation and voting on the matter giving rise to the conflict.
- Maintain the confidentiality of any information shared with Directors which is confidential or privileged, including information discussed within the confines of closed sessions.
- Maintain a respectful attitude toward the public, District employees, fellow Directors, and other agencies, businesses, and organizations.
- Avoid conduct that discriminates against or harasses an individual based upon the individuals' race, color, religion, age, sex, sexual orientation, genetic information, national origin, disability, familial status, veteran status, marital status or other illegal grounds.
- Effectively and efficiently work with governmental agencies, political subdivisions and other organizations in order to further the interest of the District.
- Faithfully comply with all laws and regulations applicable to the District and to Directors individually.

Should a Director violate one or more of these provisions, then remedial action may be imposed by the Chair, including removal of the Director from Subcommittee assignment(s), and public reprimand may be imposed by the Board, including disqualification of the Director from an officer position and formal censure.



May 31, 2022

Paul Zillig
Lower Platte South NRD
3125 Portia Street
Lincoln, NE 68521

**Subject: Consent to Assign a Contract
Acquisition of FYRA Engineering, LLC**

Dear Paul:

As you may recall from an earlier communication, FYRA Engineering, LLC (FYRA) was acquired by Houston Engineering, Inc. (HEI) on May 1st, 2022. All FYRA's employees were hired by HEI at that time and are no longer employed by FYRA Engineering, LLC.

An important part of the change is assigning FYRA's contracts to HEI. In order to complete the assignment, we need your consent to do so.

Please review the attached consent form and return it via email to Houston Engineering, Inc. at ContractNotices@houstoneng.com at your earliest convenience. Ideally, we would like the consent returned by June 15, 2022, but understand there may be circumstances where additional time is needed.

Despite the contract assignment, the same team from FYRA will continue to serve you as HEI employees. Also, the FYRA name will continue to be used by HEI during a 12-to-18-month transition period.

If you have any questions regarding this request, please reach out to one of us.

Sincerely,

HOUSTON ENGINEERING, INC.

Cody Eilertson
Director of Operations
Direct: 701.499.9463
ceilertson@houstoneng.com

Mike Sotak
Senior Consultant
(Formerly Owner of FYRA Engineering, LLC)
Direct: 402.934.8328
msotak@houstoneng.com

Enclosures

CONSENT TO CONTRACT ASSIGNMENT

Lower Platte South NRD (the "Client") consents to the assignment by FYRA ENGINEERING, LLC (the "Assignor") to HOUSTON ENGINEERING, INC. (the "Assignee") of all of Assignor's right, title, and interest in and to the following certain contracts (the "Agreement(s)"), by and between the Assignor and the Client:

| Contract ID | Contract Name (Project Name) | Contract Date |
|-------------|---|---------------|
| 002-20-02 | Deadmans Run Detention Basins - Additional Project Modeling | 7/31/2020 |
| 002-21-01 | Deadmans Run - USACE WIK Modeling | 1/30/2022 |
| 002-21-03 | Sta 103+65 R - Salt Creek Slide Gate Repairs | 8/26/2021 |
| 002-21-04 | Antelope Creek Pipe Rehabilitation | 5/20/2021 |
| 002-21-05 | Upper Salt Dam 5-7 Spillway Replacement | 8/26/2021 |
| 002-21-06 | Inspection of Salt Creek Levee Drainage Structures | 11/17/2021 |
| 002-22-01 | 2022 Upper Salt Dam Rehabs | |

Assignee agrees to perform the obligations of FYRA under the above contracts.

Dated: May 31, 2022

Houston Engineering

By:  _____

Name: Cody Eilertson

Title: Director of Operations

Dated: _____

Lower Platte South NRD

By: _____

Name: _____

Title: _____

From: Dean Edson <dedson@nrdnet.org>
Sent: Thursday, June 2, 2022 5:00 PM
Subject: NARD 414 (h) and 457 Plan Restatement -- ACTION REQUIRED
Importance: High

Caution: This email originated from OUTSIDE the organization. Do not open suspicious links or attachments. Contact IT for assistance.

NRD Managers-

As a follow-up to the NRD Managers Meeting yesterday, attached are the documents you will need to have your board act on to restate the NARD 414(h) and NARD 457 Retirement Plans. We need to have a copy of the resolution and participation agreement back by July 31, 2022.

We will have the NARD Board adopt the resolutions and participation agreement at the June 6th NARD Board Meeting.

Sorry for the urgency on this notice. It was my understanding the current administration delayed final action on this restatement issue until last week. They also imposed a short deadline for adoption. Both the 414(h) Plan and 457 Deferred Compensation Plan are required to be updated to a more modernized platform. These are not being updated for legislation and no changes have been made to design.

Below is the important information needed.

WHAT IS ATTACHED IN THIS PACKET?

414 (h) and 457 Resolutions and Participation Agreement - The resolutions and participation agreements are in a Word File with the highlighted areas that you need to fill in for your district board meeting. You can eliminate the highlight as you fill in the required information. Once you have taken action, send an email to Jeanne Dryburgh @ jdryburgh@nrdnet.org and Jodi Rieser @ jodir@bpiomaha.com **with the attached signed resolutions and participation agreements by July 31, 2022. Please save a copy for your records.**

- Page 1 Resolution adopting the 414(h) at a district level - enter district name in highlighted areas; sign and date
- Page 2 Participation Agreement – this allows each District to participate in the 414(h) Plan – enter district name in highlighted areas; sign and date
- Page 3 Resolution adopting the 457 at a district level - enter district name in highlighted areas; sign and date
- Page 4 Participation Agreement – this allows each District to participate in the 457 Plan – enter district name in highlighted areas; sign and date

When we get all 23 signed documents, we will provide you a file with all signed documents and a Summary Plan Description for your records.

In advance, thanks!

If you have questions, you can contact me or Jeanne.

You can also contact Jodi Reiser (jodir@bpiomaha.com) or Stacie Becker (stacieb@bpiomaha.com) at Benefit Plans, Inc. via email. They are also courtesy copied on this email

Dean E. Edson
Executive Director
Nebraska Association of Resources Districts
Protecting Lives, Protecting Property and Protecting the Future!



FOR INSERTION INTO THE
RESOLUTIONS OF THE BOARD OF DIRECTORS OF THE
LOWER PLATTE SOUTH NRD

For the Minutes of the June 15, 2022 Board Meeting

Resolved, that the District Office, as a Participating Employer in the Plan, hereby consents to the adoption of the Amendment and Restatement of the Nebraska Association of Resources Districts 414(h) Plan (the "Amendment and Restatement") to bring the Plan into compliance with the Cycle 3, other applicable law and guidance and to make certain other adjustments, is hereby authorized and approved;

Resolved Further, that the officers and management of the District office be, and they hereby are, authorized and directed to take whatever actions may be necessary to effectuate the foregoing Resolutions including, but not limited to, execution of the restated Plan and the Consent to the Amendment and Restatement, notification of employees and participants of the Plan, and the preparation and distribution of explanatory booklets and materials as necessary; and

Resolved Further, that any and all action taken and documentation executed by management or the officers of the District Office to effectuate the foregoing Resolutions and the transactions described therein be, and they hereby are, approved and ratified.

Dated this the 15th day of June, 2022.

Lower Platte South NRD,
Participating Employer

By: _____

Title: General Manager

**NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS
414(H) PLAN**

PARTICIPATION AGREEMENT

(Note: Each Participating Employer must execute a separate Participation Agreement, the terms of which control as to that Participating Employer. If the Plan is a Multiple Employer Plan under Article XI, a Participating Employer may be a Related Employer or an Employer which is not a Related Employer. Under a Multiple Employer Plan, the Lead Employer may execute a Participation Agreement with regard to its own Employees. See Section 11.2(b).)

Agreement as to Signatory/Lead Employer control. The undersigned Related Employer (or non-Related Employer if this Plan is a Multiple Employer Plan), by executing this Participation Agreement, elects to become a Participating Employer in the Plan identified in the foregoing Adoption Agreement. The Participating Employer accepts, and agrees to be bound by, all of the Elections as made by the Signatory/Lead Employer except as otherwise indicated below. *The Participating Employer also hereby consents to the Signatory/Lead Employer's sole authority (without further signature or other action by the Participating Employer) to amend, to restate or to terminate the Plan, to terminate the Participating Employer's participation in the Plan, and to take certain other actions, in accordance with Sections 11.2(b) and 11.8 as applicable.*

A. PARTICIPATING EMPLOYER INFORMATION

a. Lower Platte South NRD

B. PLAN STATUS

b. Modification of existing Participation Agreement/Plan Restatement

C. EFFECTIVE DATE(S)

c. **Initial Effective Date of Plan** January 1, 1998 (enter month day, year)

d. **Modification/Restatement Effective Date.** January 1, 2022 (enter month day, year)

By: _____

Date: June 15, 2022

Title: General Manager

FOR INSERTION INTO THE
RESOLUTIONS OF THE BOARD OF DIRECTORS OF THE
LOWER PLATTE SOUTH NRD

For the Minutes of the June 15, 2022 Board Meeting

Resolved, that the District Office, as a Participating Employer in the Plan, hereby consents to the adoption of the Amendment and Restatement of the Nebraska Association of Resources Districts 457 Deferred Compensation Plan (the “Amendment and Restatement”) to bring the Plan into compliance with the Cycle 3, other applicable law and guidance and to make certain other adjustments, is hereby authorized and approved;

Resolved Further, that the officers and management of the District office be, and they hereby are, authorized and directed to take whatever actions may be necessary to effectuate the foregoing Resolutions including, but not limited to, execution of the restated Plan and the Consent to the Amendment and Restatement, notification of employees and participants of the Plan, and the preparation and distribution of explanatory booklets and materials as necessary; and

Resolved Further, that any and all action taken and documentation executed by management or the officers of the District Office to effectuate the foregoing Resolutions and the transactions described therein be, and they hereby are, approved and ratified.

Dated this the 15th day of June, 2022.

Lower Platte South NRD,
Participating Employer

By: _____

Title: General Manager

**NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS
457 DEFERRED COMPENSATION PLAN
PARTICIPATION AGREEMENT**

A. PARTICIPATING EMPLOYER INFORMATION

a. Lower Platte South NRD

B. PLAN STATUS

b. Modification of existing Participation Agreement/Plan Restatement

C. EFFECTIVE DATE(S)

c. **Initial Effective Date of Plan** January 1, 1991 (enter month day, year)

d. **Modification/Restatement Effective Date.** January 1, 2022 (enter month day, year)

By: _____

Date: June 15, 2022

Title: General Manager

Paul Zillig

From: Paul Zillig
Sent: Friday, May 20, 2022 11:57 AM
To: Deborah Eagan
Subject: NRD Staff Salary thoughts

Deborah:

I've been giving some more thought to the discussion at the Board Meeting on Staff salaries. We haven't had a 9-10^{!!} vote for some time and we had a lot of good discussion from all sides of the issue. The main points I heard were:

- staff's doing a good job,
- inflation is causing financial problems,
- the CPI provides information on the past but isn't a reliable forecast for the future,
- there are concerns about adjusting salaries upward beyond 4% due to an anticipated reduction in the CPI/inflation,
- staff isn't being impacted by all of the CPI's 8.6%,
- don't anticipate many staff leaving, and
- the Board can re-visit this action in the future (maybe 6 months).

I'm dealing with a wide range of feelings from staff, saying the Board will re-visit this in 6 months doesn't help staff sleep better at night. The discussion at the meeting was good but isn't easy for staff to listen to. I have some staff that can make 4% work, they still won't keep pace with the inflation that's been happening since last year. I have some staff (usually lower wage staff early in their career) that are still close to living paycheck to paycheck, seeing rent increase multiple times and still trying to buy a house, they are seeing the cost of everything go up, have been in the pandemic funk for 2 years and they are just hopeful to get their lives back to normal. A short-term fix of a less desired but higher paying job might be required for their family. The 2.5% wouldn't have fixed everything but would have helped.

I am selfish, but I don't want to lose staff. I don't want to gamble on that happening, I'm the one that will have to deal with that mess! I need to do everything I can to not let that happen.

So, I go back to the 2.5% and think of other options. I sure understand the concern about things turning around and the Board/NRD being locked into the 6.5% forever. The additional 2.5% is really \$60,000 (\$2.4M in salaries x 2.5% = \$60,000). My thought is we take that amount and use it for "bonuses" to each employee (\$2,000 each) vs a 2.5% increase that would be "loaded" more for the higher waged employees. This would really help the lower wage employees who, I feel, are more negatively impacted by this economy than the higher waged employees. The bonuses would be a one-time payment, this would not be added to their future annual salary. We haven't used bonuses in the past but legal counsel has said that is an option. We would want to make sure the bonus is tied to the employee staying at LPSNRD.

I want you to think this over, we can discuss it, and please let me know your thoughts.

Paul

Paul Zillig

From: Seglin, Steven <sseglin@johnsonflodman.com>
Sent: Thursday, June 2, 2022 5:08 PM
To: Paul Zillig
Cc: Corey Wasserburger
Subject: Re: Bonuses

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Will do. I saw the article. Something like "inflation fighting payment"
Steve

On Thu, Jun 2, 2022 at 4:03 PM Paul Zillig <pzillig@lpsnrd.org> wrote:
Steve:

During/after the discussion on bonuses for NRD employees you mentioned that there might be a better/more appropriate term for it. I imagine this discussion will come up next week, please let me know your ideas?

I've also attached the article from over the weekend on Hawkins Constructions to provide (private sector) bonuses to their hourly wage earners.

Paul

--

Best regards,

Steven G. Seglin
Johnson Flodman Guenzel & Widger Law Firm
1227 Lincoln Mall ([Map](#))
Lincoln, NE 68508
sseglin@johnsonflodman.com
Office: (402) 475-4240
Fax: (402) 475-0329
Website: www.johnsonflodman.com

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Bonuses of \$2,000 ease inflation for employees

The 350 hourly workers at Omaha's Hawkins Construction will benefit

DAN CRISLER
World-Herald Staff Writer

In an attempt to mitigate the effects of inflation, Omaha-based Hawkins Construction announced this week that it will give \$2,000 to each of its 350 hourly employees.

The company said it will disburse the payments out of its newly created inflation protection fund for employees.

The Consumer Price Index rose 8.3% for the 12 months ending in April.

"We see rising costs across the supply chain and recognize this volatility is affecting our employees' bottom lines as well," said Chris Hawkins, president and CEO of Hawkins Construction. "Through this fund, we aim to cover the unavoidable gaps created by increased prices at the gas pump, grocery store and other bills."

The company made the \$2,000 calculation based on an estimate that basic household expenses have been increasing by about \$2,000 over the past year. The company said the payments made from the inflation protection fund are in addition to the total of \$7.2 million in performance bonuses awarded to field employees, support staff and project managers in 2021.

Earlier this spring, Hawkins Construction issued hourly wage increases ranging from 5% to 12%.

The company also previously announced a pilot program offering classes in English as a second language at no cost to employees. Hawkins' workforce is approximately 40% Latino.

The family-owned construction company traces its origins to 1922 when, according to the company's website, brothers Kenneth and Earl Hawkins were granted the construction contract for Memorial Stadium in Lincoln.

The company has been involved in building such projects as the Tecumseh State Prison, the West Dodge Expressway and improvements at Eppley Airfield.

June 7, 2022

To: Lower Platte South NRD Executive Subcommittee Members

From: Ken Vogel,
LPSNRD District 3 Director

Subject: Reconsideration of the COLA for LPSNRD staff.

At the May 18 LPSNRD Board Meeting, there was considerable discussion on the appropriate Cost-of-Living - Adjustment (COLA) for LPSNRD employees. A motion was eventually passed to limit the COLA increase to 4%.

I think that this was a mistake. This 4% increase is essentially giving LPSNRD employees a pay cut. The Consumer Price Index increase was 8.3% for the 12 months ending in April, 2022. The Cost of Living (COLA) Increase for Social Security was 5.9% for 2022 which was implemented in January 2022.

I was told by a LPSNRD employee that the discussion during the meeting about limiting the COLA to 4% was dis-heartening and discouraging.

At the next full LPSNRD Board of Directors Meeting, I am going to make a motion to reconsider the COLA for LPSNRD employees. I request that this reconsideration of the COLA increase be added to the meeting agenda. I am going to propose a full 8.3% increase. Averaged over all the residents living in LPSNRD, the cost of this increase would be less than \$1 per person.

I also would like to point out that later in the May 18 Meeting, the Board of Directors approved spending \$416,500 for a contract with LRE Water to develop a 3-D Hydrogeologic Framework for LPSNRD. The bulk of the funding for this project was obtained by NPSNRD staff grant work. It pays to have good staff that feels appreciated for their work.