

NORTH DAKOTA VETERANS COORDINATING COUNCIL

Minutes of the November 19, 1990 Meeting

The North Dakota Veterans Coordinating Council met Monday, November 19, 1990 at the AMVETS Club in Bismarck. The meeting was called to order at 1:08 pm by Council President Kenneth M. Evenson. The Pledge of Allegiant was recited and a moment of silence was rendered for our POW/MIAs.

No one was present from OMB to address the Council.

Roll Call

American Legion

Curtis Twete, Cmdr.
Vern Useldinger, Adj.
Earl Redlin, Rep.

Disabled American Veterans

Julius Wedman, Cmdr.
Orlando "Duke" Ellingson
for Robert Hannah, Adj.
Victor Hass for
Lloyd D. Halvorson, Rep.

Veterans of Foreign Wars

Bernard Beach, Cmdr.
Raymond Stelmachuk, Adj/QM
Richard Grenz for
Jerome Bixby, Rep.

AMVETS

Kenneth M. Evenson, Cmdr.
Elmer M. Ekern, Adj.
Vigo J. Pedersen, Rep.

Honorary Counsel and Resource Members

VVA Pres. Larry Senger, ACOVA Chair Bernie Wagner, Commissioner Milt Kane, Commandant Frank Gathman, VETS Director Leo Swenson, Jerry Ahlering representing DVA Center Director Donald Colston, PIO Dave Schmidt, and NDCVSO President John Meyer. Nancy Hildebrant represented AMVETS Auxiliary President Dotty Evenson. The other Auxiliary Presidents were absent.

Legislative Committee

Leo Swenson, Joseph T. Smith, Jr., Orlando "Duke" Ellingson, Richard D. Ryan, and Joseph J. OBrien. Gayle Syverson was absent.

Guests

Jim Coats, Dennis Berg, Chuck Godke, Al Georgeson, Dennis Moch, Joe Novak, Bob Hanson, Ron Otto

Motion by Earl Redlin to dispense with the minutes, second by Ray Stelmachuk. Larry Senger objected. Stelmachuk stated he could not object since he was no longer a voting member. Senger said he was. Ekern read the minutes where VVA had been removed for not verifying membership at the July meeting. Senger said he was not notified to report membership. Ellingson said they also had not paid their dues. Senger questioned when they were due and why he had not been billed. Ekern read from previous minutes where they were not represented in July, had one representative in March, had no representative in October but Milt Kane and Leo Swenson were named to represent them. Evenson ruled VVA was on probation and could come back in next July as voting members if they pay their dues, show 750 members, and hold a convention. Senger asked what

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he needed to show membership and was told to provide a printout.

Evenson moved on to the Treasurer's report. Ekern gave the report: Beginning balance-\$1,574.53; receipts-\$1,406.50; disbursements-\$59.86; ending balance-\$2,921.17. Motion by Stelmachuk to accept the report, second by Wedman, carried.

Ekern presented a bill from the Veterans Service Office for making copies- \$25.00, and requested to buy a box of envelopes from Valley City Times-Record for \$42.10. Motion by Pedersen to allow the bills, second by Useldinger, carried.

Communications - Evenson held off the Governor's letter awaiting the arrival of A/G Macdonald. Ekern read a letter from Dotty Evenson naming her representative to the meeting. He also passed around a sympathy card to be signed for Robert Hannah on the loss of his mother.

AGENCY REPORTS

Bernie Wagner introduced Chuck Godke, Veterans Home Chairman. Godke reported that Jim Welder had taken a position in Florida and the committee selected Frank Gathman from a field of 35 candidates to fill the position of Commandant. The committee requested \$100,000 for cost overruns on the nursing home construction from the postwar trust fund. He then introduced Frank Gathman who gave his report. He is again allowing smoking in the rec room when there is no scheduled activity such as bingo in the room. Beds are tight so if a resident goes on leave over 30 days he may have to wait for a room to open up. Construction is going well on the nursing home and they are getting it closed up for winter work.

Bernie Wagner introduced Commissioner Milt Kane who stated briefly the activity of the Veterans' Preference committee that had met in the morning. Also, they were working on their budget and asked us to work for passage from our legislators.

VETS Director Leo Swenson said they had a good budget this year and were honoring veterans' preference. They have funding for training veterans. Dennis Mock, Job Service, asked that any veteran in need of training be referred to Job Service.

Jerry Ahlering, Associate Center Director at the Fargo VA, represented Don Colston, CD, who had a heart attack but was doing well and should soon be back to work on a part time basis. The VA budget should be about \$32 million and they should be able to keep the services now provided. He spoke some on the media reports on VA care nationally and corrections being made. He said that Fargo has good workers and good care. The nursing home care unit is being remodelled at a cost of \$2 million. Patient will be housed in vacant wards during remodelling. Some reconciliation act changes: voc rehab eligibility will be 20%, a physical exam will be required for 65+ vets to qualify for pension, estates of fiduciaries will be capped at \$25,000 for single incompetent vets, income will be cross-checked with IRS on pensions, third party pay will be extended to service connected vets for non-service connected care for under 50% disabled, \$2.00 pharmacy co-payment for non service connected medicines. The Fargo VA proposal for a

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mobile clinic may become a reality with the clinic based out of Bismarck. They are seeking three to five more doctors, nurse recruiting is fair, but they are losing pharmacists and could be down four. Closed ward may be converted to long term care so 78 beds at Fargo may be reassigned in the closed wards. They have a floccitometer and are negotiating with NDSU to share its use. Labor problems seem to be resolving. He was asked about a new regional office building. We should have a building and moved in by late FY92.

John Meyer, president of the county service officers introduced the service officers present. He reported that 46 were present at their conference in Fargo. They will meet in Bismarck in March. They are interested in veterans preference and are updating their by-laws.

COMMITTEE REPORTS

The Veterans' Preference committee would report under new business. There were no other committee reports.

OLD BUSINESS - None

NEW BUSINESS

VFW Commander Bernie Beach named Aldon Georgeson and Walter Dockter as their Legislative Committee members.

Pres. Evenson asked about legal council. Kane stated that Chuck Gilje of Jamestown had been serving, charging on a case-by-case business, and was still interested in veterans concerns. Motion by Julius Wedman to retain Chuck Gilje as legal council, second by Bernie Beach, carried.

Evenson stated no names were received for Legislative Liaison Director. Joe Novak's name was mentioned. Ray Stelmachuk questioned why a director was needed. Novak was asked his interest but said it didn't appear the Council was ready. Evenson stated the position had been approved and was a part of the by-laws. Novak gave his views on the position and conceded to accepting the position rather than see it go unattended, but would like to see a young, aggressive person in the position. He asked for a listing of the Legislative Committee members which the secretary read to him. He also said he would be gone some in January and February but would serve on an interim basis and asked the Council to continue searching for a younger person. Milt Kane said he had a part time office person in Bismarck who could help in Novak's absence. Novak read some of the requirements in the job description to point out the need of someone to be on top of legislation at all times. Motion by Julius Wedman to accept Joe Novak's offer to serve as the Legislative Liaison Director, second by Vern Useldinger, carried.

President Evenson called Chairman Curt Twete to the podium to present the Veterans' Preference committee recommendations. They were to make changes in 37-19.1-04 where the committee would continue to rewrite and clarify the issue on appeals hearings when

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a veteran has not been hired. The committee suggested not making any changes in 37-14-14 since it was a law passed by referral and would require 2/3 vote to change. Rather, the changes recommended here would be added to another section, 37-18. The third change was Resolution 11 from AMVETS to change the definition of veteran for veterans' preference purposes to include all veterans but to have it as a separate bill from other veterans' preference legislation.

Chairman Twete turned the meeting back to President Evenson. He requested a trust fund report from Bob Hanson, State Treasurer. The financial statement of the trust fund showed total funds on hand of \$1,974,546.46. The fund took a hit of over \$125,000 due to the December referrals. A request has been made in the next biennium budget to replace this loss. Some of it may be restored. There was much concern that the Legislature would try to spend trust fund money on general fund budgets.

BREAK

Motion by Julius Wedman for the veterans' preference committee to stay intact until proposed rough drafts of laws are rewritten, second by Earl Redlin, carried. Evenson asked Twete to read the names of the committee members. They are Curt Twete, Vern Useldinger, Bob Hannah, Elmer Ekern, Dennis Moch and Milton Kane as voting members. Joe Novak, Bob Hanson and Dave Clinton would serve as counsel and resource.

Discussion by Bernie Wagner and Bob Hanson on funding to the Department of Veterans Affairs and Veterans Home beyond general funding and where and how to have it written. Motion by Twete that 37-14-14 be left intact and that recommended changes be incorporated into section 37-18, second by Wedman, carried.

Motion by Twete to support AMVETS Resolution 11 to include Cold War and Post Vietnam veterans for veterans preference and that this be a separate bill, second by Wedman, carried.

Ekern asked when the Veterans Preference committee would meet. They will meet Monday, November 26, at 1:00 pm, at the Fargo American Legion Club. A question was asked on who could approve the drafts after the committee is done. Swenson thought the adjutants could. Ekern suggested that the adjutants could contact the commanders and organization reps for approval. Evenson felt the committee could handle it properly.

GOOD AND WELFARE

Evenson asked how to handle Flag petitions. Before a decision was made, Joe Novak asked the committee to look at 37-19.1-02 concerning veterans' preference for long time veterans who did not have U.S. citizenship. Leo said the law as written could be struck down by the U.S. Supreme Court as now written. Much discussion about citizenship and residency by Kane, Otto, Swenson, Novak, Schmidt, others. Motion by Wedman that 37-19.1-02(1) be amended to delete U.S. citizenship for veterans' preference but be a resident. Wedman withdrew his motion.

Evenson again brought up the Flag petition. Swenson suggested

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sending them to the legislative liaison. Novak said send them to someone who would be here. Evenson decided they should all be sent to the chairman of the Legislative committee by January 10th.

Twete asked if the Flag resolution would be legislature legislation or pre-filed legislation or just what way should it be pursued? Useldinger knew some legislators who would sponsor it. He said whether it was pre-filed or introduced it should have bipartisan sponsorship. Novak was not so sure it could be pre-filed. He suggested getting it sponsored with as many bipartisan names as possible.

M/G Macdonald, Adjutant General, appeared before the Council to make his presentation concerning the state veterans' cemetery. To go into the national cemetery program for matching funds would mean having to raise \$500,000 and then applying for federal dollars. They were also concerned about environmental requirements at the federal level which would be more severe than state regulations. Thirdly, no National Guard members who were not veterans could be buried in the cemetery except in a separate section away from the national portion.

The alternate was to get a \$100,000 grant from the Guard at the national level for materials and to use the Guard for construction and archaeological work. They are planning to apply for another Guard grant. Also, they are trying to raise funds through gaming, etc. They have raised \$30,000 to date. If they wait to go into the national system they would have to stop work now and wait about two years. The federal dollars would be for construction only.

The cemetery people would like to raise money for a trust fund for perpetual care, using the interest off the trust fund. Dedication is planned for 1992, the 50th anniversary of the landing of the 164th at Guadalcanal. With a million dollar trust fund Macdonald feels they could maintain the cemetery and provide some benefits for burial.

Ron Otto had several question to ask about the cemetery such as the use of national cemetery funding, that the Davis-Bacon law would not affect the construction, and that not all the \$500,000 would have had to be raised if an estimated, proven cost could be made. He felt a decent marriage could be made between the Guard and the federal government to build the cemetery. Evenson brought the discussion to a close.

Milt Kane spoke in favor of supporting the cemetery, but that trust fund monies were not yet available. Motion by Vigo Pedersen to take the request for funding support back to each organization and local posts until such time that funds have accumulated to establish perpetual care. Second by Wedman, carried.

Motion by Earl Redlin to compensate the secretary/treasurer \$75.00 per meeting for work involved with the Council. Second by Stelmachuk. Ekern said we should first look at financing the legislative liaison director position. Stelmachuk said the secretary/treasurer duties should be compensated first. Motion carried.

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Redlin discussed the VVA situation and felt the VVA should try meet by-law requirements and get back on the Council. Evenson announced that Larry Senger, VVA president, wanted to meet with the voting members of the Council following this meeting.

Ekern read the names of the people receiving informational copies of Council meetings and correspondence. Only one name could be deleted, that of the representative in the NDSU registrars office.

Ekern asked if everyone needed the full copies of the minutes or if they could go with a one page summary. Leo Swenson said the Legislative committee needed full copies but that he could make copies. Most seemed to want the full copies.

Ekern gave the by-law requirements for the VVA to come back in as full voting members of the Council: 750 members, pay up dues.

TIME & PLACE

The next regularly scheduled meeting will be held Monday, March 11, 1991 beginning at 1:00 pm. Leo asked if we would again sponsor a Legislative dinner at this time. Cost was questioned. Ekern looked it up. \$1,045 in 1987, in 1981 it was \$595. Decision to not hold a dinner.

Motion by Stelmachuk to pay the lobbying fees and the booklet of legislators, second by Redlin, carried.

Meeting adjourned at 4:43 pm by President Evenson.

Following the meeting Joe Smith offered the use of the American Legion facilities in Bismarck for the March meeting and he will set it up.

Ekern M Ekern, Secretary / Treasurer

NORTH DAKOTA VETERANS COORDINATING COUNCIL
Veterans' Preference Committee Meeting

The Veterans Preference Committee met at 10:30 am, Monday, November 19, 1990 at the AMVETS Club in Bismarck. The meeting was called to order by Council President Ken Evenson who named Curt Twete as committee chairman. Twete conducted the meeting.

Those in attendance were Curt Twete, Ken Evenson, Julius Wedman, Joe OBrien, Earl Redlin, Vern Useldinger, Dave Schmidt, John Meyer, Milt Kane, Bernie Beach, Elmer Ekern, Al Georgeson, Dave Clinton, Dennis Moch, Leo Swenson, Joe Novak, Bob Hanson, Vic Hass and Jim Coats.

Chairman Twete asked for a clarification of who the actual committee members were for voting purposes as his understanding was that they were the four Department adjutants, Milt Kane and Dennis Mock, with Joe Novak and Bob Hanson as counsel. Bernie Beach stated that his adjutant was not present with the understanding that he need not be present, so Beach would represent the adjutant of the VFW. Input would be accepted from anyone attending.

Leo Swenson introduced Dave Clinton from the Attorney General's office, who has been assigned the veterans portfolio in that office.

Milt Kane stated the issues were paragraph 4 of the veterans' preference law and how to fund hearings. He identified the issues as NDCC 37-14-14, wording of the investment of the postwar trust fund to change some wording for clarification and to provide reimbursement from the fund to veterans or spouses for attorney's fees or travel expenses incurred as the result of hearings and appeals under the veterans preference law, 37-19.1-04; and changes in 37-19.1-04 to provide for a governor appointed hearing committee to hear cases where the veterans preference law may have been violated.

Elmer Ekern stated that the AMVETS Resolution 11 from 1989 was still before the Council for action. The resolution asked to change the definition of veteran for veterans preference in 37-19.1-01(5) to read "5. "Veteran" means a veteran as defined in subsection 1 of section 37-01-40." Milt said that in the previous legislature there was strong opposition to this change and the Council had not supported it because it had been brought to the Legislature by an individual. It was felt it should be a separate bill.

DISCUSSION

37-19.1-04 Veterans Preference Hearing

Milt stated that paragraphs 3 and 4 were most important. Paragraph 3 would allow for a three member hearing committee appointed by the governor. The appointments would come from a list supplied by the Veterans' Affairs subcommittee of the Administrative Committee on Veterans Affairs. Ekern questioned if agencies would perceive unfairness of appointments to the hearing board if the list was made up by a veterans committee. Joe Novak suggested that perhaps lines 24-27 of the rough draft be scratched. Discussion was held on just how can a list be drawn up and presented. Joe felt more work was needed on this section.

Bob Hanson suggested this be a three member board of which at

least one person be a veteran. Also, one could be submitted from a list of veterans, one from Central Personnel, with the governor to pick the third. This would be much as is the case now. Joe Novak suggested perhaps having a person from the Attorney General's office as hearing officer. The question was asked if we really had a problem with the veterans preference law. Joe explained the problems with the law as present that in fact shows that the law is broke. Right now you can fill a job without advertising, thus circumventing veterans preference, or as the Hodney case indicated, the veteran would have to prove that he/she was prejudiced as a veteran. This bill would put the burden on the agency, provide for a better hearing procedure, and allow the aggrieved to go beyond district court to the supreme court.

Dave Schmidt questioned having three people rather than one hearing officer with funding such as it is. Julius Wedman said if we could be assured that the one person would be impartial the one person may be best. The name of Bob Brady from the Attorney General's office was brought up. Dave Clinton spoke favorably of a one person board.

Bob Hanson felt the cost of the hearing should be placed on the agency. Also, there should be a person, such as at central personnel, to report back to. Chairman Twete said it appeared that there may be major changes needed to the rough draft. Motion by Joe Novak that the Veterans' Preference committee continue working on the draft for a veterans' preference bill and have it completed by December 5th. Second by Dennis Mock, carried.

37-14-14 Postwar Trust Fund Changes.

Bob Hanson felt the words in line 15, "shall have full authority to", should not be removed in favor of the word "may". It was felt that perhaps the wording had been changed by the Legislative Council for word simplification. Joe Novak recommended rewriting of lines 19-21. There was much discussion. Dave Schmidt then questioned if this section could be changed since it was a law by referral. It could be changed by 2/3 vote of the Legislature. He inquired if 37-14-14 could be left intact and the changes be made a part of another section. Motion by Joe Novak to not make any changes in 37-14-14. Second by Dennis Mock, carried.

AMVETS Resolution 11 Extend Veterans' Preference to All Veterans. Motion by Milt Kane to submit as a bill, second by Elmer Ekern. Milt stated we could be opening ourselves to loss of all veterans' preference. Leo Swenson asked if we would be able to give up this bill to save the changes under 37-19.1-04. Joe Novak felt we should back it all the way if we decide to put it in bill form. Jim Coats stated as a part of the Legislature he would support this type of bill with people now in the Persian Gulf area. John Meyer stated it was difficult to tell a drafted veteran with overseas duty that he did not qualify for veterans preference because of service dates. Joe O'Brien said this was the time to support this type of legislation. Motion to support Resolution 11 carried.

The delegates would take up 37-18 at the Council meeting. Committee meeting adjourned at 12:20 pm.

Elmer M Ekern, Secretary/Treasurer