

NEBRASKA NATURAL RESOURCES COMMISSION

MEETING MINUTES – May 22, 2019

Roll Call:

Commissioners		Absent	Present	Commissioners		Absent	Present
Amen	Karen		X	Kraus	Don		X
Anderson	Garry		X	McDonald	Mike		X
Barels	Brian	X		Miller	John		X
Batie	Donald		X	Reynolds	Michael (Mick)		X
Bradley	Lawrence		X	Schroer	Lyle		X
Clouse	Stan		X	Shields	Jim		X
Czaplewski	Mark		X	Smathers	Scott		X
Deines	Dave		X	Steffen	Jeff		X
Dunbar	Brad	X		Strauch	Walter Dennis		X
Fornoff	Kevin		X	Taylor	Loren		X
Hadenfeldt	N. Richard		X	Wilke	Greg		X
Halligan	Bill	X		Wright	Chad	X	
Heaston	John		X	(Livestock)	Vacant		
Knutson	Thomas		X				

DNR staff in attendance:

Kent Zimmerman, Emily Rose, and Jill Richters.

Others in attendance were:

Karen Griffin, Olsson Associates

CALL TO ORDER, ROLL CALL

Chairman Smathers called the meeting to order at 2:00 p.m. in the Fairfield Inn, Kearney, Nebraska, and asked Zimmerman to call the roll.

NOTICE OF THE MEETING

Notice of the meeting was published on the State Public Meetings Calendar and on the Natural Resources Commission (Commission) web site at <https://nrc.nebraska.gov>. A copy of Nebraska’s open meeting statutes was available in the room.

MINUTES

Reynolds moved and Shields seconded the motion to approve the minutes of the March 6, 2019 Commission meeting.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Amen	X				Kraus	X			
Anderson			X		McDonald	X			
Barels				X	Miller	X			
Batie	X				Reynolds	X			
Bradley	X				Schroer	X			
Clouse	X				Shields	X			
Czaplewski	X				Smathers	X			
Deines	X				Steffen	X			
Dunbar				X	Strauch	X			
Fornoff	X				Taylor	X			
Hadenfeldt	X				Wilke	X			
Halligan				X	Wright				X
Heaston	X				(Vacant)				
Knutson	X				TOTALS	21	0	1	4

PUBLIC COMMENTS

Chairman Smathers opened the floor for public comments. Griffin thanked the Commission for all of their hard work.

DNR UPDATE & EXPENDITURES REPORT

Commission Fund Expenditures and Cash Funds Balance reports had been distributed prior to the meeting, there were no questions. It was noted that the state’s main line budget bill passed and went to the governor. Barring a line item veto, the Water Sustainability Fund (WSF) should receive the full \$11 million appropriation. DNR has nearly completed the 2019 audit.

PROGRAM COMMITTEE

Because the Program Committee did not meet, staff led the discussion on agenda topics pertaining to program activities. No unusual activity was reported during review of status reports for the following funds:

Resources Development Fund

The status report showed business as usual. It was noted that the Buck & Duck Creeks project was not damaged due to the recent flooding in the Missouri River, but the Western Sarpy Levee project near Camp Ashland on the Platte River had breached. Also, there were many news reports of the benefits derived in Grand Island from the Upper Prairie/Silver/Moores Creek Project during the spring floods.

Small Watersheds Flood Control Fund

This is currently an unfunded program.

Soil & Water Conservation Program Fund

The status report showed business as usual.

Natural Resources Water Quality Fund

A semi-annual funds distribution of \$725,000 was distributed in March, the next is scheduled for August.

Water Well Decommissioning Fund

The status report showed business as usual.

Water Sustainability Fund

The status report showed business as usual.

Regarding project close-outs where there are remaining unused funds, Rose stated that under Neb. Rev. Stat. § 2-1507 (4), in order to transfer unused funds into the unreserved balance of the WSF, the Commission must formally authorize the transfer by motion. The Commission should also confirm that a final billing has been received and paid before proceeding with a motion to transfer unused funds. It was discussed that a motion should be used to formally close-out all other projects as well. Discussion focused on officially moving any remaining funding into the unfunded balance, prior to taking final action on the new applications in December. It was recommended staff prepare a single spreadsheet listing projects that are being closed-out and any unused grant amounts. That spreadsheet would then be discussed and formally acted on by the Commission to recognize both project close-out and to formally reduce the amount granted to that project within the Commission's records.

Currently, the WSF has about \$5 million to carry forward from FY19, \$11 million expected on July 1st for FY20, and approximately \$175,000 from projects being completed under budget.

The Reports page on the Commission's website was modified to list the application number as well as the project name in an effort to make it easier to locate and review reports. All but three reports are now available, staff is working with sponsors to obtain the three remaining reports.

Chairman Smathers cautioned Commissioners to refer potential applicants to the website and allow them to review the statutes and rules and draw their own conclusions as to how well their potential project might score and the possibility of being funded.

EXECUTIVE COMMITTEE

Chairman Smathers stated the Executive Committee met prior to this meeting and is bringing forward a recommendation to approve the revised changes to Policy Statement I, presented at the December 18, 2018, Commission meeting and modified at the March 6, 2019, NRC meeting. Policy Statement I, with some additional revisions, was emailed to Commissioners prior to this meeting and is incorporated into these minutes as Attachment No. 1.

Strauch moved and Batie seconded the motion to amend Policy Statement I.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Amen	X				Kraus	X			
Anderson	X				McDonald		X		
Barels				X	Miller	X			
Batie	X				Reynolds	X			
Bradley	X				Schroer	X			
Clouse	X				Shields	X			
Czaplewski	X				Smathers	X			
Deines	X				Steffen	X			
Dunbar				X	Strauch	X			
Fornoff	X				Taylor	X			
Hadenfeldt	X				Wilke	X			
Halligan				X	Wright				X
Heaston	X				(Vacant)				
Knutson	X				TOTALS	21	1	0	4

COMPREHENSIVE PLANNING COMMITTEE

Committee Vice Chairman Batie announced that the committee met earlier today to discuss rewrites on a number of the Commission’s rules, stemming from a request by Policy Research Office’s (PRO) staff for additional, unsubstantial, changes. Because Chairman Barels was unavailable, Batie chaired the meeting focusing on the Governor’s Executive Order, No. 1704 to streamline wording. PRO staff gave approval to move forward with the proposed changes. Therefore, the committee recommended moving forward with informal public review. Rose reviewed changes she had drafted to comply with PRO’s request for additional word reduction.

Batie moved and Knutson seconded the motion to recommend staff move forward with informal public review and comment for revised Titles 257, 259, 260, 262 & 263.

Kraus noted the Committee had discussed some additional changes today that are not included within the draft emailed to Commissioners. The Committee recommended

obtaining additional input from Commissioners while simultaneously conducting informal public input. Rose noted that 30 days would be given for informal reply and comment. All comments will be reviewed by the Committee prior to the August Commission meeting, at which the full Commission could then discuss any new input received from the informal public review, as well as from PRO before moving forward with a formal hearing.

Batie requested Commissioners respond to both Rose and Chairman Smathers with any additional suggestions for changes.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Amen	X				Kraus	X			
Anderson	X				McDonald	X			
Barels				X	Miller	X			
Batie	X				Reynolds	X			
Bradley	X				Schroer	X			
Clouse	X				Shields	X			
Czaplewski	X				Smathers	X			
Deines	X				Steffen	X			
Dunbar				X	Strauch	X			
Fornoff	X				Taylor	X			
Hadenfeldt	X				Wilke	X			
Halligan				X	Wright				X
Heaston	X				(Vacant)				
Knutson	X				TOTALS	22	0	0	4

LEGISLATIVE COMMITTEE

Committee Chairman Dunbar was unavailable and the Committee had not met since the March Commission meeting. Chairman Smathers, however, reviewed his appointments to this and other committees as follows:

Program Committee

Greg Wilke, Chair
Loren Taylor, Vice-Chair
Karen Amen
Gary Anderson

Comprehensive Planning Committee

Brian Barels, Chair
Donald Batie, Vice-Chair
Scott Smathers
Stan Clouse
N. Richard Hadenfeldt
Don Kraus
Mick Reynolds

Legislative Committee

Brad Dunbar, Chair
Dennis Strauch, Vice-Chair
Chad Wright
Don Batie
Jeff Steffen
Lyle Schroer
Tom Knutson
Kevin Fornoff
Mike McDonald
John Heaston

Executive Committee

Scott Smathers
Jeff Steffen
W. Dennis Strauch
Brad Dunbar
Brian Barels
Greg Wilke

Chairman Smathers noted his appointments to the Applications Review Committee will be made closer to the time that Committee becomes active.

RESCHEDULE NRC MEETING

Chairman Smathers noted the meeting facility was not available on the dates originally selected for the 4th quarterly NRC meeting. Therefore, December 18th was being recommended instead.

Clouse moved and Batie seconded the motion to reschedule the 4th quarterly Commission Meeting to December 18, 2019.

Motion Passed.

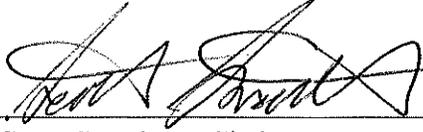
Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Amen	X				Kraus	X			
Anderson	X				McDonald	X			
Barels				X	Miller	X			
Batie	X				Reynolds	X			
Bradley	X				Schroer	X			
Clouse	X				Shields	X			
Czaplewski	X				Smathers	X			
Deines	X				Steffen	X			
Dunbar				X	Strauch	X			
Fornoff	X				Taylor	X			
Hadenfeldt	X				Wilke	X			
Halligan				X	Wright				X
Heaston	X				(Vacant)				
Knutson	X				TOTALS	22	0	0	4

OTHER BUSINESS

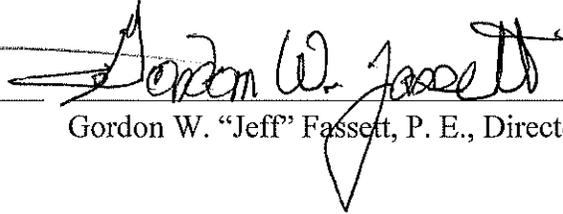
- A draft agenda and tour were discussed regarding the upcoming NRC Orientation and Refresher meetings. Possible WSF project tour sites were discussed including Lincoln’s well field, Hastings’ municipal water treatment facility, Mitchell’s new waste water treatment lagoon, the Papio-Missouri River NRD’s Dam Sites WP 6 & 7, Central Platte NRD’s projects and the automated gates project at Frenchman-Cambridge Irrigation District. Once dates and locations are finalized, the information will be emailed to Commissioners. Commissioners that want to attend and participate will then be asked to reply with their 1st and 2nd choice of meeting locations.
- Heaston suggested the Commission consider hosting an annual WSF project tour for key legislative folks and their staff. Chairman Smathers asked Heaston to develop his thoughts and submit them in an outline format to the Executive Committee.
- Bradley thanked everyone that had helped restore the bonding authority to the Papio-Missouri River NRD.

ADJOURNMENT

- The meeting was adjourned at 3:05 p.m.



Scott Smathers, Chairman



Gordon W. "Jeff" Fassett, P. E., Director

NEBRASKA NATURAL RESOURCES COMMISSION

POLICY STATEMENT 1

ADMINISTRATION

COMMISSION ORGANIZATION AND OPERATION

I. Legislative Authority

Neb. Rev. Stat. § 2-1504 establishes the Nebraska Natural Resources Commission (Commission or NRC). This enabling statute and other statutes relevant to the Commission's authority and its funds in Article 2, Chapter 15 of the Nebraska Revised Statutes were amended in 2000 by LB 900 to reflect the merger of the Commission with the Department of Water Resources to form the Department of Natural Resources (DNR). The Commission's authority and duties thereafter were to "advise the department as requested by the director and . . . perform such other functions as are specifically conferred on the Commission by law."

II. Organization of the Commission

A. The first regularly scheduled meeting date in odd numbered calendar years shall be the organizational meeting date for the Commission. During this organizational meeting the actions taken shall include but not be limited to the following:

Election of Chairperson and Vice-Chairperson (the vote to elect the Chairperson and the Vice-Chairperson may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes).

III. Operation of the Commission.

A. The Commission shall:

1. Administer the authorities, duties and responsibilities as outlined in the statutes;
2. Formulate and adopt the necessary rules and regulations to carry out its duties and responsibilities;
3. Develop, adopt and administer policy as required; and
4. Comply with the Open Meetings Act (*Neb. Rev. Stat.* §§ 84-1407 through -1414).

B. A minimum of fourteen members must be present in order for the Commission to conduct business. Official action of the Commission can only be taken by the concurrence of at least fourteen members. Determination of such concurrence must be by roll call vote of each member present. The order of the roll call shall be rotated by one member after such roll call, except that the Chairperson shall always be called last.

C. Except as otherwise provided by law or by Commission rule and regulation or policy statement, Commission and Committee meetings shall be conducted in accordance with Roberts Rules of Order.

IV. Notice and Agenda for Commission and Committee Meetings

- A. The DNR staff assigned by the Director to assist the Commission shall keep the agendas for all Commission and committee meetings continually current and they shall be available for public inspection at least one week prior to each meeting on the NRC website at: <http://www.nrc.nebraska.gov>.
- B. The DNR staff shall have the responsibility to develop all Commission and committee agendas. Commission members and advisors can have items placed on the agenda by notifying the Chairperson or the DNR staff at least ten days prior to the scheduled Commission meeting,
- C. Commission and committee agendas shall be circulated at least ten days prior to the scheduled meeting.
- D. Additional items may be placed on the circulated meeting agenda by the Director or by request of a member until 5:00 p.m. two days before a meeting. Thereafter an agenda may be modified only by Commission or committee action to include items of an emergency nature only.

V. Role of the Chairperson (or Vice-Chairperson in absence of Chairperson)

- A. The Chairperson shall:
 - 1. Preside over all regular or special meetings of the Commission;
 - 2. Sign appropriate documents on behalf of the Commission;
 - 3. Carry out any responsibility, duty or authority delegated to him/her by the Commission;
 - 4. Represent the Commission as necessary; and
 - 5. Appoint Chairperson and members of standing and special committees.

VI. Minutes

- A. Minutes of Commission meetings shall be available for public inspection at the DNR office during normal business hours. The minutes shall:
 - 1. Be kept of all Commission meetings to show the time, place, members present and absent, and the substance of all matters discussed;
 - 2. Record the action taken on any question by roll call vote and how each member voted or if the member was absent or not voting;
 - 3. Be written and emailed to Commission members no later than ten working days or prior to the next convened meeting, whichever occurs earlier; and
 - 4. Be available by posting to the commission's website after their approval by the Commission at the next regularly scheduled meeting.

VII. Committee Organizations

- A. The Commission shall have the following standing committees, which shall serve for two years:

1. Executive, consisting of the Chairperson, Past Chairperson, Vice-Chairperson and standing committee chairpersons
 2. Legislative
 3. Program
 4. Comprehensive Planning
 5. Water Sustainability Fund Application Review the members of which shall be appointed each year
- B. Unless otherwise delegated by the Commission the authority of these committees is limited to discussions and studies of pertinent matters and making recommendations for official action by the Commission.
- C. In addition to the standing committees, the Commission may take action to establish additional special or ad hoc committees as necessary. In the event that any such committees are established, the Commission Chairperson shall appoint the Chairperson and members of the committee, unless otherwise provided in the Commission action establishing such committee.

VIII. Policy Matters

- A. As a means of providing policy guidance to itself and to formulate Commission policies in written form, the Commission may adopt formal policy statements which outline the official policy position of the Commission. Unless an emergency exists requiring immediate action, any proposed policy statement or amendment to an existing policy statement shall be presented to the Commission for discussion, but without action, and then be automatically laid over until the next subsequent Commission meeting for action.
- B. Members shall not express public opinions contrary to the policy of the Commission unless it is qualified as their personal opinion.

IX. Advisory Members

- A. Advisory members of the Commission may be appointed by the Commission. Advisory members may not:
1. Make or second a motion; or
 2. Vote on any action considered by the Commission.
- B. Advisor members representing state and federal agencies, including but not limited to the Natural Resources Conservation Service, the University of Nebraska, the Department of Environmental Quality, the Nebraska Environmental Trust Board and the Game and Parks Commission, are requested to bring to the Commission those technical matters and programs of their agency which would be of interest to the Commission.

X. Travel and Per Diem of Commission Members

- A. Members are authorized to travel on activities as required in their official capacity and shall be reimbursed from agency funds for such travel and per diem (subject to availability of funds and applicable state travel directives). The following guidelines are established for authorized in-state travel:

1. All Commission meetings, including special meetings;
 2. Attendance of two meetings per year: a) in each of the NRDs represented by the Commission members excluding his/her own NRD, if he/she is a member of an NRD board or b) to representative groups when reporting on commission activities.
 3. Attendance at other Commission activities to include:
 - presenting legislative testimony on behalf of the Commission
 - Commission hearings and similar activities
 - Commission committee meetings.
- B. The per diem for members (as specified in *Neb. Rev. Stat. § 2-1505*) shall be as follows:
1. The dollar limitation applies to a calendar year.
 2. “For each day in the performance of his or her duties on the commission,” shall mean:
 - i. attendance at meetings described in Section X.A. (1-3) above; and
 - ii. any other duties performed by members related to his or her position as a Commission or committee member (in addition to i above). The minimum amount of time so spent pursuant to this subsection ii for which per diem will be allowed shall be at least eight hours cumulative to constitute a day. There is no maximum amount of time spent in a day.
- C. It shall be the responsibility of each Commission member and advisor eligible for expense reimbursement to submit within 60 days of the date of incurring the expense, a state voucher for per diem of reimbursement for travel expenses with receipts according to Department of Administrative Services' guidelines and DNR policy.

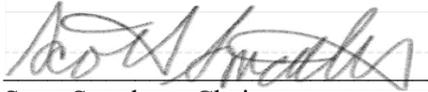
XI. Executive Committee Work on Legislation and Scope Changes

- A. The Executive Committee shall review all policy statements at least annually and recommend any appropriate changes.
- B. The Executive Committee in coordination with the Legislative Committee is authorized to adopt positions on proposed legislation and communicate them to the Legislature. The Executive Committee will report on such actions at the next meeting of the Commission. Additionally, the Executive Committee is authorized to delegate to the Legislative Committee the task of communicating such positions to the Legislature.
- C. Project Scope Changes
 1. Whenever a Water Sustainability Fund project sponsor seeks approval from the Commission for a project scope change, such request for a change shall be brought to the Commission and the Director by the sponsor.
 2. Such requested change shall first be reviewed to the Director and if the Director determines that obtaining such approval prior to the next meeting of the Commission is of an emergency nature that was unavoidable as a consequence of the actions or inactions of

the project sponsor, then the request may be brought to the attention of the Executive Committee. The Executive Committee is authorized, if it so chooses, to act upon the request and report to the Commission at the Commission's next meeting.

Adoption of Policy Statement:

This Policy Statement was adopted by the Nebraska Natural Resources Commission on the 22nd day of May, 2019, and supersedes all prior actions of the Commission regarding this policy.



Scott Smathers, Chairperson
Nebraska Natural Resources Commission

ATTEST:



Gordon W. "Jeff" Fassett, Director
Department of Natural Resources