

NEBRASKA NATURAL RESOURCES COMMISSION

DRAFT MEETING MINUTES – February 24th, 2021

Roll Call:

Commissioners		Absent	Present	Commissioners		Absent	Present
Anderson	Garry	X		Krause	Timothy P		X
Batie	Donald		X	Kubat	Rick		X
Bradley	Lawrence		X	McDonald	Mike		X
Citta Jr.	Joseph L		X	Miller	John		X
Clouse	Stan		X	Reynolds	Michael (Mick)		X
Czaplewski	Mark		X	Schroer	Lyle		X
Deines	Dave	X		Sievers	LeRoy		X
Dunbar	Brad		X	Smathers	Scott		X
Fornoff	Kevin		X	Steffen	Jeff		X
Hadenfeldt	N. Richard	X		Strauch	Walter Dennis		X
Halligan	Bill		X	Taylor	Loren		X
Heaston	John		X	Wilke	Greg		X
Knutson	Thomas		X				
Kraus	Don		X	Lower Platte	Basin Vacant		

Introduction of New Commissioners:

Chairman Smathers introduced four newly appointed Commission members Joe Citta, Tim Krause, Rick Kubat and LeRoy Sievers and welcomed them to the team. Smathers also announced that Karen Amen resigned for personal reasons and that a caucus to fill her unexpired term was under way.

DNR staff in attendance:

Tom Riley, Kent Zimmerman and Jill Richters.

Others in attendance were:

Scott Dickey, Eric Gottschalk and Tom Mountford.

CALL TO ORDER, NEW MEMBER INTRODUCTION, ROLL CALL

Chairman Smathers called the meeting to order at 1:31 p.m. in the Holiday Inn and Convention Center, 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. The following DHHS guidelines regarding COVID-19 were implemented:

- Tell invitees not to attend if they are sick.
- Face coverings were provided and use was encouraged when not seated.

- Seating arrangements provide at least six feet of distancing between attendees and presenters.
- Food, beverages and snacks stations were not available to reduce physical proximity and community touching of common surfaces.
- Proper social distancing expectations was reviewed with the attendees related to discussions, training room entry and egress, restroom breaks, etc.
- Attendee roster was completed verbally and recorded by the meeting organizer instead of sign-in sheets.
- Minimize sharing resources/equipment such as pens, markers, presentation remotes, handouts, etc.

MINUTES

Knutson moved and Fornoff seconded the motion to approve the minutes of the October 28th, 2020, Commission meeting.
Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Anderson				X	Krause	X			
Batie			X		Kubat			X	
Bradley	X				McDonald	X			
Citta	X				Miller	X			
Clouse	X				Reynolds	X			
Czaplewski	X				Schroer	X			
Deines				X	Sievers			X	
Dunbar	X				Smathers	X			
Fornoff	X				Steffen	X			
Hadenfeldt				X	Strauch	X			
Halligan	X				Taylor	X			
Heaston	X				Wilke	X			
Knutson	X				(Vacant)				
Kraus	X				TOTALS	20	0	3	3

DNR UPDATE & PUBLIC COMMENTS

Chairman Smathers opened the floor for public comments. None was offered.

Director Riley stated that as Director he intends to continue using a science-based approach for sustainable water resource use, and to continue working with water users to collect good data that can be used to make the best decisions. Riley is also interested in educating the general citizens in Nebraska on the importance of water to our state's economy; and helping to develop an understanding of water and hydrology in younger people. He calls this the citizen hydrologist.

Staff utilized the NRC website to discuss changes to the State of Nebraska's reimbursement system noting specific changes that affect Commissioners. Staff also provided an NRC website overview of Commission duties and activities for the benefit of the new members.

PROGRAM COMMITTEE

Staff led 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.

Eric Gottschalk, General Manager of LPNNRD, described a situation that arose with a neighbor's property that resulted in a plaintiff bringing a lawsuit against the District. Prior to the court date, the judge required the parties to enter into mediation. The mitigation between the neighbor, the NRD, and the NRD's insurance company was successful. Included in that mitigation was a potential project, which may require up to 10,000 cubic yards of dirt from the Lake Wanahoo Borrow Pit to be used as fill for an NRD/NRCS approved project on the neighbor's property at no charge to the neighbor. The NRD is requesting permission from the NRC to utilize up to 10,000 cubic yards of dirt from the borrow pit area at no charge. With NRC permission, the NRD would be able to finalize the mitigation agreement.

Currently, the NRC is allowing the NRD to enter into an AGREEMENT with a contractor to operate a borrow pit with 60% of the proceeds being returned to the Resources Development Fund (RDF). The NRC agreement runs through the end of 2021 or upon project close-out, whichever comes first (NRC Minutes May 17, 2018). After discussion, it was determined that the NRD could use dirt from the borrow pit under the existing agreement without further NRC action, by reimbursing the RDF at the same rate per yard as is currently being generated by the contractor. The current end date of the operation of the borrow pit, December 31, 2021, remains in effect. Should the contractor request an extension to their AGREEMENT with the NRD, the NRD must request an extension from the NRC in advance of extending that AGREEMENT with the contractor.

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

The status report showed business as usual, with \$800,000 currently being distributed among the NRDs.

Water Well Decommissioning Fund

The status report showed business as usual.

Water Sustainability Fund

The status report showed business as usual.

DNR staff and the Commission recently completed and released a “STORY MAP” for the fund. Smathers urged everyone to utilize this resource noting the importance of self-promoting the WSF and showing what the tax-payers money is being used for. Batie stated that DNR’s IT staff (Ryan Werner) is amazing for producing the “STORY MAP”. Batie also noted that almost everything in it has a clickable link that takes you to more information. This “STORY MAP” is intended to grow over time as additional projects, data, interviews, and video become available. Smathers thanked Batie for his assistance in producing the “Project Spotlight” interview with Katie Cameron, ENWRA; and Katie for all of her assistance. Riley noted this is a great way to exchange data with the public to show what happened and positive things about projects the WSF funds.

EXECUTIVE COMMITTEE

Chairman Smathers stated the Committee met prior to this meeting. Batie reminded Commissioners that two years ago Governor Ricketts requested all rules be reviewed and made less wordy. The NRC’s Comprehensive Planning Committee has done that and is at the point in the process to give final approval and to adopt the amended rules. On November 3, 2020, public hearings were held on the proposed changes to Natural Resources Commission rules Title 257 “Administration of Small Watersheds Flood Control Fund”; Title 259 “Administration of the Water Well Decommissioning Fund”; Title 260 “Rules of Practice and procedure”; Title 262 “Administration of the Nebraska Soil and Water Conservation Program”; and Title 263 “Administration of Natural Resources Water Quality Fund.” A final version of each rule was sent to each Commissioner prior to this meeting. With no further discussion, Batie brought forward the following motion.

Batie moved and Sievers seconded the motion to adopt the following Natural Resources Commission rules, which after notice as provided by law, were the subject of public

hearings held on November 3, 2020: Title 257 “Administration of Small Watersheds Flood Control Fund”; Title 259 “Administration of the Water Well Decommissioning Fund”; Title 260 “Rules of Practice and procedure”; Title 262 “Administration of the Nebraska Soil and Water Conservation Program”; and Title 263 “Administration of Natural Resources Water Quality Fund.”

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Anderson				X	Krause	X			
Batie	X				Kubat			X	
Bradley	X				McDonald	X			
Citta	X				Miller	X			
Clouse	X				Reynolds	X			
Czaplewski	X				Schroer	X			
Deines				X	Sievers	X			
Dunbar	X				Smathers	X			
Fornoff	X				Steffen	X			
Hadenfeldt				X	Strauch	X			
Halligan	X				Taylor	X			
Heaston	X				Wilke	X			
Knutson	X				(Vacant)				
Kraus	X				TOTALS	22	0	1	3

- Chairman Smathers asked Kraus to give a brief summary of legislative bills of interest. Kraus discussed Senator Hughes bill, LB 190, which is an attempt to protect WSF funding by eliminating withdrawals of the interest generated by the fund. Director Riley stated that LB 190 as amended would impact LB 384 which the Department has requested for data collection and water studies.

- Kraus described Senator McDonnell’s bill, LB 406, which if approved would remove \$900,000 from the Water Sustainability Fund. It was noted that LB 406 has not come out of committee.

ELECTION OF OFFICERS

Chairman Smathers appointed Czaplewski, Kraus and Wilke to the Nominating Committee. On behalf of the Committee, Kraus brought forward Jeff Steffen as the committee’s recommendation for 2021 & 2022 Chairman and Don Batie for Vice Chairman.

Smathers opened the floor for further nominations, none were offered.

McDonald requested separate votes be cast for Chairman and Vice-Chairman.

Reynolds moved and Knutson seconded the motion to recommend Nominations cease and the Commission cast a unanimous ballot for Jeff Steffen to become the Chairman of the Commission for 2021 & 2022.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Anderson				X	Krause	X			
Batie	X				Kubat			X	
Bradley	X				McDonald		X		
Citta	X				Miller	X			
Clouse	X				Reynolds	X			
Czaplewski	X				Schroer	X			
Deines				X	Sievers	X			
Dunbar	X				Smathers	X			
Fornoff	X				Steffen			X	
Hadenfeldt				X	Strauch	X			
Halligan	X				Taylor	X			
Heaston	X				Wilke	X			
Knutson	X				(Vacant)				
Kraus	X				TOTALS	20	1	2	3

Kraus moved and Czaplewski seconded the motion to recommend Nominations cease and the Commission cast a unanimous ballot for Don Batie to become the Vice-Chairman of the Commission for 2021 & 2022.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Anderson				X	Krause	X			
Batie			X		Kubat			X	
Bradley	X				McDonald	X			
Citta	X				Miller	X			
Clouse	X				Reynolds	X			
Czaplewski	X				Schroer	X			
Deines				X	Sievers	X			
Dunbar	X				Smathers	X			
Fornoff	X				Steffen	X			
Hadenfeldt				X	Strauch	X			
Halligan	X				Taylor	X			
Heaston	X				Wilke	X			
Knutson	X				(Vacant)				
Kraus	X				TOTALS	21	0	2	3

Smathers distributed a sign-up sheet and asked Commissioners to indicate their preference and to volunteer for committee assignments, Smathers then turned the meeting over to Chairman Steffen. Steffen discussed using the list of volunteers to make his committee assignments. Steffen encouraged new members to be on the Application Review Committee because it is a great way to learn how it works.

SCHEDULING FUTURE MEETING DATES

Chairman Steffen led a discussion to set the next four quarterly meeting dates with Kearney as the tentative meeting location. The following dates were selected contingent upon staff's ability to secure meeting facilities:

- April 21st, 2021
- August 18th, 2021
- November 10th, 2021
- February 23rd, 2022

OTHER BUSINESS

Steffen recognized Karen Amen for her work on the Commission and Committees. It was decided that Steffen would send a letter as Chairman of the Commission, expressing thanks and appreciation for everything she has done for the Commission.

Czaplewski brought forward items of concern from the last Application Review Committee, which he Chaired, such as Federal Mandates, applications for studies, and guidance for new members appointed to this committee. Czaplewski recommended review of these items by the Comprehensive Planning Committee and the possibility of an orientation meeting prior to the next round of scoring.

Dunbar led discussion that the NRC may be at a point in its history (after six rounds of applications) for taking a serious review of WSF questions, rules and funding distribution decisions. It was noted that NRC rules could be changed regarding the number of points assigned to a question, but that the questions stem from statute and that it would be unwise to open the door to the risks associated with a statute change. Batie suggested a review of the rules and scoring process may be a good idea, while staying within the statutes.

ADJOURNMENT

The meeting was adjourned at 3:15 p.m.
