

NEBRASKA NATURAL RESOURCES COMMISSION

MEETING MINUTES – September 23, 2014

Younes Conference Center – Kearney, Nebraska

Roll Call:

Commissioners		Absent	Present	Commissioners		Absent	Present
Anderson	Garry		X	Kosman	Henry (Hod)	X	
Barels	Brian		X	Kraus	Don		X
Batie	Donald		X	Palm	Owen		X
Christensen	Joel		X	Palmertree	Tom		X
Clouse	Stan		X	Rains	Darrell M.		X
Deines	Dave		X	Rexroth	Keith		X
Donaldson	Beverly		X	Reynolds	Michael (Mick)		X
Fornoff	Kevin		X	Smathers	Scott		X
Hadenfeldt	N. Richard		X	Smith	Lindsey		X
Hergott	Joseph		X	Steffen	Jeff		X
Huggenberger	Steve		X	Strauch	Walter Dennis		X
Johannes	Clint	X		Sugden	Steven		X
Kadlecek	David		X	Taylor	Loren		X
Knutson	Thomas		X				

DNR staff in attendance:

Rex Gittins, Kent Zimmerman, LeRoy Sievers, Jill Richters, and Jesse Bradley

Others in attendance were:

Mark Koch
 Laurie Lage, Legislature
 Bob Hilske, NNRD
 Marlin Petermann, P-MRNRD
 Sen. Tom Carlson, #38

Scott Schurman, NGCSA
 Brad Soncksen, NRCS
 Karen Griffin, OA
 Mark Brohman, NET
 Eugene Bredthauer

Rick Wilson, USGS
 Jason Lambrecht, USGS
 Dave Clabaugh, LBBNRD
 Jay Rempe, Farm Bureau
 Russ Callen, LLNRD

CALL TO ORDER & ROLL CALL

Commission Chairperson Donaldson called the meeting to order at 1:35 p.m. at the Younes Convention Center, Kearney, Nebraska.

INTRODUCTION OF NEW COMMISSIONER

Chair Donaldson introduced Loren Taylor who was recently appointed by Governor Heineman to fill the position vacated by Dick Mercer. Taylor, who represents groundwater irrigators, took the oath of office prior to the meeting being called to order.

NOTICE OF THE MEETING

Notice of the meeting was published on the State Public Meetings Calendar and on Department of Natural Resources' web site at www.dnr.ne.gov. A copy of Nebraska's public meeting statutes was available in the room.

INFORMATIONAL MATERIALS

The following informational materials were distributed at the meeting. Copies are attached to the file copy of these minutes.

1. Commission Meeting Agenda
2. NRCS Report to the NRC, 9/19/14
3. Expenditures Report
4. Resources Development Fund (RDF) Status Report as of 9/16/14
5. Small Watershed Flood Control Fund Status Report as of 8/31/14
6. Nebraska Soil & Water Conservation Fund (NSWCPF) Status Report as of 8/31/2014
7. Nebraska Water Quality Fund Status Report as of 8/31/2014
8. Water Well Decommissioning Fund Status Report as of 8/31/2014
9. Interrelated Water Management Planning Program Report as of 9/16/14
10. Comprehensive Planning Committee Notes 9/11/14
11. White Paper Discussing LB 1098 Language 9/23/14

MINUTES

Fornoff moved and Kraus seconded the motion to approve the minutes of the August 13th, 2014 Commission meeting.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Anderson	X				Kosman				X
Barels	X				Kraus	X			
Batie	X				Palm	X			
Christensen	X				Palmertree	X			
Clouse	X				Rains	X			
Deines	X				Rexroth	X			
Donaldson	X				Reynolds	X			
Fornoff	X				Smathers	X			
Hadenfeldt	X				Smith	X			
Hergott	X				Steffen	X			
Huggenberger	X				Strauch	X			
Johannes				X	Sugden	X			
Kadlecek	X				Taylor	X			
Knutson	X				TOTALS	25	0	0	2

PUBLIC COMMENT

There were two requests from the audience to address the Commission. These individuals are listed below along with a summary of their comments.

Mark Koch stated he was speaking on behalf of Eugene Bredthauer. He described concerns about the Lower Loup NRD's refusal to assist with rebuilding of a dam on Bredthauer's property near North Loup. Major points presented were:

- Explanation of Bredthauer's efforts to obtain cost share assistance from the Lower Loup Natural Resources District (LLNRD) to offset costs associated with repairs to the the dam located above the village of North Loup, Nebraska.
- Frustration with the LLNRD board for refusing to provide financial assistance for this repair.
- Desire to persuade the LLNRD board to cost share on the repairs as flood protection for North Loup is a public benefit.
- Interpretation of the Commission's proposed change to Nebraska Soil and Water Conservation Program rules change makes it clear that NRDs can fund private dam repairs under the approved practice NC3.

Senator Carlson commented on the Commission's efforts to develop rules for the new Water Sustainability Fund. Major points presented were:

- Most people don't like working with the level of detail necessary to accomplish drafting rules. However, it must be done correctly.
- If a commissioner begins to get impatient with this process, he or she should step back and allow the Committee to get it done. Otherwise the Commission may have to start the process over.
- It is extremely important to find the right one or two projects that contribute to water sustainability to start with. Those projects must preserve or increase current supplies.

ADVISORS COMMENTS

Brad Soncksen, NRCS distributed an NRCS report, highlighting key items and providing updates on additional activities including:

- Craig Derickson, State Conservationist for Nebraska, has been asked to be the acting Director for the Pacific Islands beginning October 5th. Soncksen will be the acting NRCS director in Nebraska while Derickson is gone.
- A brief review of unusual NRCS activities during the past federal fiscal year, such as the government shut-down, passage of the farm bill and data programing delay issues.

Mark Brohman, Executive Director, Nebraska Environmental Trust (NET), provided an overview of the NET grant program and the application review process at the request of the Commission. Brohman offered the following comments for consideration by Commissioners as they draft rules for the Water Sustainability Fund:

- The NET Board is made up of 14 members; nine citizens (three from each congressional district) appointed by the governor to serve a six-year terms; and five agency heads designated by statute.
- The grant application filing deadline is the first Tuesday after Labor Day. Applications can be submitted electronically and followed up with a hard copy. Brohman encouraged Commissioners to set and absolutely adhere to a filing deadline such as midnight on a specific date.
- All of the grant applications that come in are assigned to technical reviewers. NET has about 150 technical reviewers across the state including state and federal employees, and private consultants each of which is considered an expert in their own field. Each person reviews up to 3 projects and applications, which may be between seven and several hundred pages. With the exception of very simple applications, each is sent to two separate reviewers. The reviewers check to be sure the described activity is feasible and can be completed, point out problems or questions, and may ask questions of the applicant via NET staff.
- Applications are placed in one of five categories prior to being reviewed.
- The NET Grants Committee consists of six members including two agency directors and four citizens, one from each of the three congressional districts plus one from the district the NET board chairperson represents. He also noted that the chair of the Grants Committee usually becomes chair of the NET the following year. This role assignment helps ensure all NET chairpersons are well acquainted with the grants cycle.
- Each person on the Grants Committee: 1) receives staff ranking and recommendations prepared by Brohman and the staff Grants Administrator; 2) receives the technical reviews prepared by the technical reviewers; and 3) individually scores each application.
- The Grants Committee meets four times in publicly noticed, open meetings to discuss group placement (scoring) and to help new board members get started. Applications are then compared to see how the highest scored applications of each category compare to the highest scored applications of other categories. Scores are then put into the system until the final board meeting in April when they vote.
- Applications can be made for up to three years of funding. The Grants Committee acts on the current year funding, but makes a recommendation on funding requested for subsequent years. Subsequent year funding requests are reassessed by Grant Committees in year two or three of the applications. When applications including a request for multiple years of funding are approved, applicants are informed of intended funding from the NET in subsequent years with the caveat that such funds are not guaranteed. By

policy, no more than forty percent of current year funding can be committed to year two projects, and no more than fifteen percent can be committed to year three projects.

- Application scores and recommended funding amounts are reviewed by the full NET Board in February for acceptance as a package. Approved grants are awarded in April. Applications are available for public review in September, and a public hearing takes place in April. Written comments are also welcomed prior to the April hearing and are made available to all board members.
- NET has three types of grants: 1) large regular grants; 2) recognition grants (these are requests for less than \$15,000 using a simplified application but subject to same review process), and 3) annual Public Information and Education (PIE) grants for up to \$3,000. PIE grants are administered through the Nebraska Academy of Sciences (NAS) which is awarded funding every three years for use in making sub-grants to PIE grant applicants. Applications are ranked and submitted quarterly to the NET who retains oversight on the grants. The NAS receives, ranks and administers the applications and grants which help ensure some types of small projects are funded even though they might not score as highly as a water or habitat project.
- There are also two sub grants, Nebraska State Recycling Association (NSRA) and the Nebraska Arboretum. NSRA gets a block grant and then uses those funds to award sub-grants related to recycling. Nebraska Arboretum provides trees to local communities.
- Applications require applicants to specify all other entities from which funding is being sought.
- Staff can extend project completion dates up to a total of three years. Any further extension must be approved by the NET board.
- NET shares in revenue derived from funded projects and also in any proceeds from sales of property purchased wholly or in part with NET grant funds.

DNR UPDATE

Jesse Bradley, DNR Natural Resources Programs Director, reviewed recent work the Department has completed to help make more informed management strategies and decisions on the types of projects that need to be implemented. Work included gathering data and information, developing modeling and other hydrologic tools used to assess water supply and use, and providing public access to these items via the internet. Bradley demonstrated the accessibility and extent of water resources research with a walk through of the Department's Integrated Network of Scientific Information & GeoHydrologic Tools (INSIGHT) web site.

EXPENDITURES REPORTS

Reports were distributed but not reviewed. Gittins stated that the reports did not yet reflect the Water Sustainability Fund, but no activity other than the original funds transfer has occurred.

EXECUTIVE COMMITTEE

Sievers reviewed the final versions of changes to Policy Statements I & II proposed by the Executive Committee during the August Commission meeting. By policy, the final vote on changes discussed and agreed upon at the last meeting was deferred until this meeting.

Motion by Knutson, seconded by Smathers to adopt the revisions to Policies No. 1 & 2:

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Anderson	X				Kosman				X
Barels			X		Kraus	X			
Batie	X				Palm	X			
Christensen	X				Palmertree	X			
Clouse	X				Rains	X			
Deines	X				Rexroth	X			
Donaldson	X				Reynolds	X			
Fornoff	X				Smathers	X			
Hadenfeldt	X				Smith	X			
Hergott	X				Steffen	X			
Huggenberger	X				Strauch	X			
Johannes				X	Sugden	X			
Kadlecek	X				Taylor			X	
Knutson	X				TOTALS	23	0	2	2

Sievers recommended that Policies V through XIV also should be reviewed by the Commission and noted that the Comprehensive Planning Committee may want to evaluate whether or not these might be applicable or serve as examples for the Commission’s governance of the Water Sustainability Fund.

PROGRAM COMMITTEE

Reports were distributed to Commissioners prior to the meeting. No unusual activity was reported since the last report in August.

Sievers reported that two people appeared and spoke in favor of the changes during the NSWCP rules change hearing. Sievers outlined the remaining steps if the Commission votes to adopt the rules change. First, proposed rules and required documentation are sent to the Attorney General’s office and the Legislative Council. If approved by the Attorney General’s office, the proposed rules are then submitted to the Governor’s Policy Research office. If approved by the Governor’s Office, the revised rules are filed with the Secretary of State and become effective five days later.

Motion by Strauch, seconded by Reynolds to approve the draft rule with no changes and to direct staff to proceed with the process to adopt the rule change for NSWCP as required by law:

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Anderson	X				Kosman				X
Barels	X				Kraus	X			
Batie	X				Palm	X			
Christensen	X				Palmertree	X			
Clouse	X				Rains	X			
Deines	X				Rexroth	X			
Donaldson	X				Reynolds	X			
Fornoff	X				Smathers	X			
Hadenfeldt	X				Smith	X			
Hergott	X				Steffen	X			
Huggenberger	X				Strauch	X			
Johannes				X	Sugden	X			
Kadlecek	X				Taylor	X			
Knutson	X				TOTALS	25	0	0	2

LEGISLATIVE & BUDGET COMMITTEE

Gittins noted that the language approved at the last Commission meeting with regard to a cap on the Water Sustainability Fund was included in the Department's 2015 – 2017 Biennial Budget Request as required by LB1098A.

COMPREHENSIVE PLANNING COMMITTEE

Chair Smathers reported that no comments were submitted by Commissioners prior to the September 11, 2014, Committee meeting. During that meeting, Committee members reviewed discussion points raised at the August Commission meeting and further refined White Paper items A through O. The Committee met at 10:30 a.m. today (September 21) and decided to meet with staff to proceed with preparing a "White Syllabus" of the questions that Commissioners have been receiving and other items that need to be addressed by rules, policies or procedures. Aspects questioned have included when rules will be completed, when applications will be accepted, what that process will look like, and how the applications will be scored. The list will then be sent to Comprehensive Planning Committee members who will meet in Kearney in October to formulate a game plan for discussion with the full Commission.

One of the goals of the Committee will be to produce a timeline of the remaining tasks in the rules drafting process, a timeline for the application period, eligibility review, and approval process that can be shared with interested parties.

Another goal of the Committee is for the full Commission to discuss how scoring will be handled, for example by each Commissioner, by consensus of the full Commission, or recommendations from a subcommittee approved by the full Commission. It was decided that the Committee should walk through several scenarios to create a straw dog scoring of a few old applications during the next meeting. This exercise should include different types of applications to provide feedback for scoring dissimilar projects against one another.

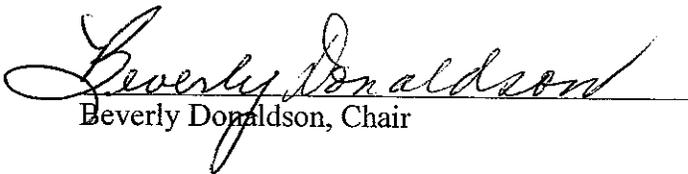
Smathers verified that all Commissioners have been receiving the notes produced from the Committee meetings to keep abreast of Committee activities. He stated that a Committee meeting will be scheduled in October and that the meeting will be publicly noticed.

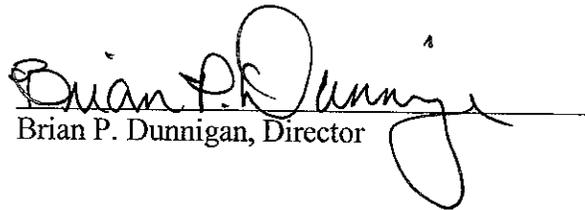
ANNOUNCEMENTS / OTHER BUSINESS

- A special Natural Resources Commission meeting will be scheduled for 2:00 p.m. on November 25, 2014, in Kearney to proceed with the rules drafting process.
- Commissioners were reminded to review Policies V – XIV in the Reference Guide and the Resources Development Fund Guidelines on the web site (<http://dnr.nebraska.gov/nrdf-guidelines-january-2000--updated-february-2009-for-title-256-regulations-governing-the-administration-of-the-resources-development-fund>).
- A Comprehensive Planning Committee meeting will be held in Kearney in October and will be publicly noticed.

* * * * *

The meeting was adjourned at 3:04 p.m.


Beverly Donaldson, Chair


Brian P. Dunnigan, Director