

MINUTES

Nebraska Environmental Trust Board
Third Quarter Meeting
Thursday, August 22, 2022
1:30 p.m.

1. Call to Order

The third quarter meeting of the Nebraska Environmental Trust Board was called to order by Chairman Andersen at 1:31 p.m. in the LL Hearing Room 031, 245 Fallbrook Blvd, Lincoln, Nebraska.

Advanced notice of the meeting and public hearing was published in the Lincoln Journal Star on August 11, 2022. The agenda and documents to be considered at the meeting were provided. The Open Meetings Act was posted near the meeting room entrance.

Roll call was conducted, and a quorum was present.

Members present (10):

District I: Mr. John Orr, Blair. **District II:** Mr. Felix Davidson, Valley; Mr. Paul Dunn, Omaha; Mr. Mark Quandahl, Omaha. **District III:** Chairman Josh Andersen, Edgar; Mr. Quentin Bowen, Humboldt; Mr. Rod Christen, Steinauer. **State Agency Representatives:** Dr. Gary Anthonie, Director, Nebraska Department of Health and Human Services; Mr. Tim McCoy, Director, Nebraska Game & Parks Commission; Mr. Tom Riley, P.E., Director, Nebraska Department of Natural Resources.

Members absent (4):

District I: Mr. Jeff Kanger, Lincoln; Mr. James Hellbusch, Columbus.
State Agency Representatives: Vice Chairman Jim Macy, Director, Nebraska Department of Environment and Energy; Mr. Steve Wellman, Director, Nebraska Department of Agriculture.

Staff present:

Mr. Karl Elmshaeuser, Executive Director; Ms. Holly Adams, Grants Administrator; Ms. Shelly Rea, Grants Assistant; and Ms. Sandra Weaver, Administrative Specialist.

2. Consent Agenda

Background on consent agenda items

The consent agenda included the May 19, 2022, Board meeting minutes, financial reports, and approval to set financials aside for audit.

Motion by Mr. Davidson, seconded by Mr. Riley, "I move to approve the consent agenda."

Voting Aye: Orr, Dunn, Quandahl, Davidson, Christen, Bowen, McCoy, Anthonie, Riley, Andersen.

Absent: Kanger, Hellbusch, Macy, Wellman.

10 Voted Aye. Motion carried.

3. Public Comment

Ms. Shelly Kelly, Sandhills Task Force, expressed concerns about proposed grant application changes and the time spent on grant documentation for reimbursements.

Mr. Bob Wickersham, Friends of the Nebraska Environmental Trust, expressed concerns with the grant contract language.

4. Board Development – Informational reviews

Background on informational reviews

Board development provides an opportunity for Board members and staff to review statutes, rules and regulations, and policies and procedures and become more familiar with the documents governing NET's operations.

a. Grant application front-end loading

Grantees have been front-end loading applications. Executive Director Elmshaeuser stated he would like to see the Board award contracts for two or three years at the time of the award. Grant requests should be fully funded for the requested time frame to avoid front-end loading requests. The initial contract should be for the entire term and set performance requirements and milestones that grantees would be required to meet. This would assist grantees in planning their projects, improve the accuracy of ongoing expenditures, and reduce requests to modify or extend their budgets.

b. PIE & NRC Grants review

The Nebraska Environmental Trust (NET) has discontinued the practice of entering into sub-grantee contracts. Historically, NET signed sub-grantee contracts with the Nebraska Academy of Sciences and the Nebraska Recycling Council. Executive Director Elmshaeuser reported that NET should not be signing subcontracts with grantees based on additional research and consultation with the Attorney General's office. The grantee has an existing contract with NET that covers the sub-grantee. Checks and balances are already in place. Ms. Adams, Grant Administrator, clarified that sub-grantee requests would still be reviewed.

5. Finance Committee Report and Recommendations

a. Biennial Budget

Background for Biennial Budget

The NET provides a biennial budget request to the Nebraska Game and Parks Commission for submission to the State Budget Division. Agencies must use the prescribed forms and procedures to compile their budget requests. The deadline for the 2023-2025 biennium budget request to be submitted in the budget request system is Thursday, September 15, 2022, at 5:00 p.m.

As per NET Bylaws Article IV, Section 1.B Finance Committee; Duties, the Finance Committee develops the biennial and annual budget for Board approval. Finance Committee Chair Quandahl reported the Finance Committee met on July 19, 2022.

The Finance Committee approved the biennial budget recommendations as follows:

- No proposed increase to the number of personnel, currently set at five (5) FTE.
- Adjustments to the Personal Service Limitation (PSL) for permanent salaries and wages as estimated in the budget instructions (final amount authorized by a budget bill and/or an A-Bill).
- No change in operating expenses from the base appropriation in FY 2022-23 except for state-negotiated benefit expenses (health insurance, retirement plans, FICA), and
- Revise the Government Aid (State) request to \$21,000,000 for FY 2023-24 and \$22,000,000 for FY 2024-25. This allows additional funds not awarded in FY 2021-22 to be available for grant funding programs in the 2023-2025 biennium.

Motion by Mr. Quandahl, seconded by Mr. Davidson, “I move to approve the NET Budget Request for the Biennial Budget within the following limitations and amounts; PSL not to exceed five (5) FTE, Operational funding to include contracted increases from the previous base, State Aid amount is recommended to be \$21,000,000 in FY 2023-24 and \$22,000,000 in FY 2024-25.”

Discussion: None.

Voting Aye: Orr, Dunn, Quandahl, Davidson, Christen, Bowen, McCoy, Anthon, Riley, Andersen.

Absent: Kanger, Hellbusch, Macy, Wellman.

10 Voted Aye. Motion carried.

6. Set NET Board Meeting Calendar for 2023 and Grant Application

Background of NET Board meeting calendar and grant application date

The NET is required to meet quarterly and set a grant application date. Executive Director Elmshaeuser summarized the requirements in Neb. Rev. Stat. 81-15,172, 81-15,175(1), NET Bylaws Article III, Section 4, and Title 137, Chapter 4.001 Form of Application and Accompanying Materials.

A special meeting on January 5, 2023, to conduct a public hearing and award grants would change the nine-month application and award cycle to a six-month cycle. The change would allow grantees to start work on their grant project sooner, resulting in some reimbursement requests being seen in the same cycle.

Motion by Mr. Riley, seconded by Mr. Davidson, “I move to approve the 2023 NET Grant application and meeting calendar as follows:

- Thursday, January 5, 2023, Public Hearing and Grant Awards for 2023
- Thursday, February 2, 2023, 1st Quarter Board meeting
- Thursday, May 4, 2023, 2nd Quarter Board meeting
- Thursday, August 3, 2023, 3rd Quarter Board meeting
- Thursday, November 2, 2023, 4th Quarter Board meeting, and
- Grant Application deadline September 5, 2023.”

Discussion: Dates for the 2023 grant awards and the grant application deadline were discussed and clarified. Mr. Riley requested that calendar items be sent to members for the 2023 meetings.

Voting Aye: Dunn, Quandahl, Davidson, Christen, Bowen, McCoy, Anthon, Riley, Orr, Andersen.

Absent: Kanger, Hellbusch, Macy, Wellman.

10 Voted Aye. Motion carried.

7. Grant application cycle 2022/2023

Background of application cycle 2022/2023

The NET Board has the authority to seek assistance in evaluating technical aspects of grant proposals as per Neb. Rev. Stat. § 81-15,173; § 81-15,175; Title 137, Chapter 1, 003 Board Activities; NET Bylaws, Article IV, Committees, Section 2 & 3; NET Policy, Section II: Committees, E. Technical Advisory Committee: Qualifications.

The NET Board shall evaluate the geographic mix of projects over time as per Neb. Rev. Stat. § 81-15,175 (2); Title 137, Chapter 7 - Project Ranking Systems, 003 Ranking Factors and 003.05.

a. Authorization for Technical Advisory Committee

Executive Director Elmshaeuser proposed authorizing a Technical Advisory Committee to evaluate the technical aspects of grant proposals. The NET Chairman would work with NET staff to approve a list of Technical Advisory Committee (TAC) Reviewers.

Motion by Mr. Quandahl, seconded by Mr. McCoy, "I move to establish a Technical Advisory Committee to assist NET staff with evaluation of grant proposals and authorize NET staff to seek reviews as appropriate for the 2023 grant applications."

Discussion: None.

Voting Aye: Quandahl, Davidson, Christen, Bowen, McCoy, Anthone, Riley, Orr, Dunn, Andersen.
Absent: Kanger, Hellbusch, Macy, Wellman.
10 Voted Aye. Motion carried.

b. Point Allocation for Geographic Distribution

The NET Board shall evaluate geographic mix of projects over time as per Neb. Rev. Stat. § 81-15,175(2), Title 137, Chapter 7 - Project Ranking Systems, 003 Ranking Factors, 003.05.

Executive Director Elmshaeuser noted the grant application scoring criteria approved by the NET Board on May 19, 2022, addresses Title 137, Chapter 7, 003 Ranking Factors with Question #5, "Does this project attain a geographic mix that provides funding for a diverse area?" The NET 2021 Annual Report provided a map and data of the geographic mix of project funding over time. Based on this information, additional points for specific geographical areas are not recommended for the 2023 grant cycle. Currently, geopoints are not being utilized.

Motion by Mr. Christen, seconded by Mr. Dunn, "I move to not utilize additional geopoints for the 2023 grant cycle."

Discussion: Mr. Davidson commented that on the basis of the practice observed over the last couple of years, the adjustment was good and will remove a skew. Mr. McCoy noted in past years, utilizing geopoints occasionally led to good projects being jumped over for lesser projects.

Voting Aye: Davidson, Christen, Bowen, McCoy, Anthone, Riley, Orr, Dunn, Quandahl, Andersen.
Absent: Kanger, Hellbusch, Macy, Wellman.
10 Voted Aye. Motion carried.

c. Annual Priorities within Funding Categories

The NET Board may consider annual priorities for funding. As per Title 137, Chapter 2, 005 Annual Priorities Within the Funding Categories, the Board may establish annual priorities within the Five-Year Categories. The Board will conduct at least one public meeting in the three congressional districts to obtain input and recommendations on any annual priorities it may designate.

Priority categories are not recommended for the 2023 Grant cycle since public meetings were not conducted in each of the three congressional districts. This is an optional activity for the NET Board to receive input from the public. The NET Board may provide guidance for this activity for the 2024 Grant cycle.

Motion by Mr. Davidson, seconded by Mr. Riley, “I move to not recommend priority categories for the upcoming grant cycle.”

Discussion: The Board discussed the difference between categories and specific projects.

Voting Aye: Christen, Bowen, McCoy, Anthone, Riley, Orr, Dunn, Quandahl, Davidson, Andersen.

Absent: Kanger, Hellbusch, Macy, Wellman.

10 Voted Aye. Motion carried.

8. Department of Natural Resources contract amendments 18-107-3 & 21-158-2, 21-158-3

Background of Contract Amendments

In 2007, LB701 created the Water Resource Cash Fund. It provided a way to guarantee that Nebraska stays in compliance with the Republican River Basin Compact Agreement with Kansas on an annual basis. In 2011, LB229 sought funds from the Nebraska Environmental Trust (NET) Fund for the Water Resources Cash Fund. The bill also broadened the use of the Water Resources Cash Fund to allow funds to be used for studies and grants to facilitate compliance with the Nebraska Groundwater Management and Protection Act. Potential funds from the NET were to cover FY 2011-12 through FY 2017-18. In 2017, Speaker Bill, LB331, extended the NET funding actions through FY 2021. In 2019, Speaker Bill, LB298, extended the NET funding actions through FY 2024.

Executive Director Elmshaeuser reported once the funds move from the Trust, they are not dispersed back. Funds in the Water Resources Cash Fund can only be used and transferred as the Legislature allows. Clarification is needed on how funds awarded through the NET grant process should be transferred to DNR and maintained. The proposed modified amendments with DNR were vetted with the Attorney General’s Office and the Department of Natural Resources (DNR). They would be used as a tool for the Trust to meet the Nebraska statutory requirements.

Motion by Mr. Orr, seconded by Mr. Quandahl, “I move to approve contract amendment three with DNR for grant number 18-107-3 and amendment one with DNR for grant contract numbers 21-158-2 and 21-158-3.”

Discussion: Mr. Riley clarified that the interest on NET dollars comes back to the Trust for redistribution. Several examples were given of how the funds are spent.

Voting Aye: Bowen, McCoy, Anthone, Orr, Dunn, Quandahl, Davidson, Christen, Andersen.

Abstaining: Riley.

Absent: Kanger, Hellbusch, Macy, Wellman.

9 Voted Aye. 1 Abstained. Motion carried.

9. Election of Officers

Background on Election of Officers

Neb. Rev. Stat. § 81-15-172 requires the Board to annually elect a chairperson from among its citizen members. NET Bylaws, Article II, states the vice-chairperson will be selected from the agency directors and sets out the procedures for electing a chairperson and vice-chairperson.

The office of Chairperson rotates each year by Congressional district.

a. Chairman

Mr. Davidson nominated Mr. Quandahl from District II for Chairman. No other nominations were made. Andersen declared the nominations closed.

Motion by Mr. Christen, seconded by Mr. Orr, “I move to appoint Mr. Quandahl as the next Chairman.

Discussion: None.

Voting Aye: McCoy, Anthone, Riley, Orr, Dunn, Quandahl, Davidson, Christen, Bowen, Andersen.
Absent: Kanger, Hellbusch, Macy, Wellman.
10 Voted Aye. Motion carried.

b. Vice-Chairman

Mr. Quandahl noted that, despite Mr. Macy’s absence, he had obtained his permission to nominate him as Vice-Chairman.

Motion by Mr. Quandahl, seconded by Mr. Davidson, “I move to nominate Mr. Macy of the Nebraska Department of Environment and Energy (NDEE) for Vice-Chairman.

Discussion: None.

Voting Aye: Anthone, Riley, Orr, Dunn, Quandahl, Davidson, Christen, Bowen, McCoy, Andersen.
Absent: Kanger, Hellbusch, Macy, Wellman.
10 Voted Aye. Motion carried.

Chairman Andersen noted the new officers would begin their term of office at the close of the meeting.

Mr. Quandahl reported that he would follow the path taken by previous Chairmen, Andersen and Kanger, in improving the way the Trust operates, following the laws and policies, and being a good steward of state resources. He asked members to contact him if they were interested in specific committee assignments.

10. Policy Amendments

a. Bidding Policy and Equipment Insurance Policy

Background on proposed Board policy amendment Section VI, A & B

The current limit of \$1,000 or more for obtaining two bids for equipment purchases and maintaining property insurance for equipment valued at \$1,000 or more is burdensome to grantees and difficult for staff to consistently track and update. Policies A & B have not been updated for 26 and 20 years respectively. The limit needs to be increased to be in line with today’s market. The Nebraska Department of Administrative Services Materiel Administrator has established \$5,000 as the minimum for capitalization of articles or property.

Motion by Mr. Riley, seconded by Mr. Orr, “I move that the NET Grantee Conditions Bidding Policy amend the \$1,000 amount to \$5,000 and that the NET Grantee Conditions Equipment Insurance Policy amend the \$1,000 amount to \$5,000 retroactive to contracts signed after April 1, 2022.”

Discussion: Mr. Davidson noted this was an excellent example of a small change making a big impact.

Voting Aye: Riley, Orr, Dunn, Quandahl, Davidson, Christen, Bowen, McCoy, Anthone, Andersen.
Absent: Kanger, Hellbusch, Macy, Wellman.
10 Voted Aye. Motion carried.

b. Evaluation of Executive Director

Background on proposed Board policy amendment Section IX: C

The policy pertaining to the annual evaluation of the executive director was last amended in 2008. Unless confidentiality is an issue, the requirement to send stamped mail is not necessary and is inefficient. A requirement is needed for the Executive Committee to provide an annual performance plan to the Executive Director in advance of the performance period.

The proposed changes to the policy were as follows:

Section IX: Trust Staff

C. Procedures for Annual Evaluation of Executive Director

1. Each year, following the second quarter meeting of Trust Board, a performance evaluation of the Executive Director will occur using the following format:
 - a.) ~~Staff~~ The Executive Director will distribute an evaluation form and a stamped return envelope addressed to the Board Chairperson. The Board Chairperson will distribute an evaluation form to every board member. Board members and the Executive Director will be instructed to complete and return the form to the Chairperson by a date, which will allow adequate review and consideration of submitted material by the Executive Committee prior to the third quarter meeting. Forms will be signed, and will be retained in the personnel file of the Executive Director for three years.
 - b.) At the same time, a staff evaluation will be provided to all trust employees, including the Executive Director, ~~with a stamped return envelope addressed to the Board Chairperson~~ with instructions to complete and return the form to the Chairperson by a date which will allow adequate review and consideration of submitted materials by the Executive Committee prior to the third quarter meeting. Staff will be given adequate time during regular work hours to complete the evaluation.
2. The Chairperson or the Chairperson's designee will transcribe verbatim, the completed evaluations onto a common report and distribute to each member of the Executive Committee.
3. The Executive Committee will meet prior to the third quarter meeting of the Board to discuss the submitted evaluations. The Committee will develop a recommendation on the evaluation outcome for ratification by the Board. The Committee will recommend any salary adjustment and timetable for the Executive Director as appropriate for ratification by the Board at its third quarter meeting.
4. The Committee will provide a summary of the Board and staff evaluations to each member of the board and the Executive Director; and meet with the Executive Director to discuss comments and recommendations prior to presenting the recommendations to the Board.
5. All board members have access to the executive director's personnel file, held by the Board Chairperson. The Executive Director may review the evaluation forms submitted by the Board, and may review the staff evaluation comments en masse without distinction of the submitter.
6. An evaluation following the format described here may occur at other times appropriate due to the hiring of a new Executive Director.
7. At the Executive Committee meeting to discuss comments and recommendations of the past period performance review with the Executive Director, a written expectations and goals for the Executive Director's next annual performance shall be presented and discussed. The terms shall be mutually agreed upon by the Executive Committee and the Executive Director, unless it is due to an unsatisfactory performance and a Performance Improvement Plan is required.

Motion by Mr. Davidson, seconded by Mr. Christen, "I move to amend the NET Policy, Section IX: Trust Staff, C. Procedures for Annual Evaluation of the Executive Director as presented in this document with language removed that is struck through and add language that is underlined."

Discussion: None.

Voting Aye: Orr, Dunn, Quandahl, Davidson, Christen, Bowen, McCoy, Anthone, Riley, Andersen.
Absent: Kanger, Hellbusch, Macy, Wellman.
10 Voted Aye. Motion carried.

11. Trust 22 Committee

Background of Trust 22 Committee

At the NET Board meeting on April 8, 2021, an Ad Hoc Committee was created to focus on recruitment, procedures, policies, and efficiencies. The Committee was to consist of five people appointed by the chair and meet monthly. The Committee is in place until January 1, 2023, or until the Board dissolves the Committee, whichever comes first. The Trust 22 Committee and NET staff have been working with the Nebraska Center for Operational Excellence to improve the NET processes. They have operated within the statutes, bylaws, rules & regulations, and the current NET policy parameters.

a. NET Center for Operational Excellence Summary Report

Executive Director Elmshaeuser reported a final report is being prepared. A spreadsheet summary was provided to identify the tasks addressed during the process as a result of the audit.

12. Director's Report

a. Website

The new Trust website was reviewed by the Board. Creating a website easy to use and takes the needs of customers into account was the goal. Executive Director Elmshaeuser reported the level of cooperation from multiple agencies to create the website in a short period was phenomenal.

b. Grant Portal

i. Eligibility

Ms. Adams, Grants Administrator, reported a new tab was added to the grants portal called "Requirements" that contains a section specifically for eligibility and scoring. Members were asked for any suggestions for a more appropriate name for the tab. Mr. McCoy suggested naming the tab "Eligibility/Scoring." Executive Director Elmshaeuser stated that although there may be some ambiguity in the eligibility criteria, the language in Title 137 will be revised next year to improve clarity.

ii. Scoring

Grant applicants will be required to complete ten questions pertaining to scoring criteria for their project. The questions may be scored up to 5 points each. The portal will be updated so the members of the Grants Committee will see the ten questions and answers displayed for each applicant as they review and score each application.

iii. Budget Categories

In the past, grantees would submit their budgets and create their own categories. Now there are standardized categories.

c. Monitoring audits

Executive Director Elmshaeuser reported that out of 230 receipts for grant project expenditures, 73 were sent back to be modified or were not accepted. Six audits across Nebraska have been conducted. A system of accountability is in place for the expenditure of public funds.

Other items:

The new Grants Assistant, Shelly Rea, was introduced to the Board.

Executive Director Elmshaeuser presented Mr. Andersen with a flag that had been flown over the United States Capital, to commemorate his service as the Chairman of the Nebraska Environmental Trust Board.

13. Report and Recommendation of the Executive Committee with recommendations for the Executive Director

Background of Executive Director Performance Evaluation

The NET Executive Committee is required to conduct an annual performance evaluation of the Executive Director as per NET Bylaws, Article IV, Committees, Section 1A: Executive Committee, Duties. Procedures for the annual evaluation of the executive director are set forth in Section IX: Trust Staff, C.

Chairman Andersen reported the Executive Committee functions as a Review Committee for the Executive Director's performance. Performance reviews from Board members and staff were summarized into an average assessment and presented to the Executive Committee before the Board meeting. The Executive Committee met with Executive Director Elmshaeuser, and goals were set for the upcoming year. The average overall score for the performance review was 4.5 out of 5. The highest combined score in the review was 4.9 for seeking new and better ways of accomplishing a task. The Executive Committee gave the Board a high recommendation for Mr. Elmshaeuser's performance.

Motion by Mr. Quandahl, seconded by Mr. Christen, "I move to increase the salary of Karl Elmshaeuser by 8% effective in the next pay period."

Discussion: Mr. McCoy noted the next pay period would begin on Monday, August 29.

Voting Aye: Orr, Dunn, Quandahl, Davidson, Christen, Bowen, McCoy, Anthone, Riley, Andersen.

Absent: Kanger, Hellbusch, Macy, Wellman.

10 Voted Aye. Motion carried.

14. Grant Modification Request 20-121-2

Background on Grant Modification Requests

Grantees can submit budget and project modification requests to be reviewed by the Board. These requests do not change the scope of the project. If approved, the grantee's letter of request and any attachments are a binding amendment to their grant agreement.

Motion by Mr. Davidson, seconded by Mr. Riley, "I move to approve the University of Nebraska's budget modification for project 20-121-2, to move funding from the travel and benefits categories into the operating category."

Discussion: None.

Voting Aye: Orr, Dunn, Quandahl, Davidson, Christen, McCoy, Anthonie, Riley, Andersen.
Voting Nay: Bowen.
Absent: Kanger, Hellbusch, Macy, Wellman.
9 Voted Aye. 1 Voted Nay. Motion carried.

15. Next Meeting

Thursday, November 3, 2022, Location and Time TBD.

16. Adjourn

Chairman Andersen adjourned the meeting at 3:27 p.m.



Karl L. Elmshaeuser
Executive Director