

MINUTES

Nebraska Environmental Trust Board
Special Meeting
Thursday, May 19, 2022
1:00 PM

1. Call to Order

The virtual and on-site meeting of the Nebraska Environmental Trust Board was called to order by Chairman Andersen at 1:01 PM at 700 South 16th Street, Lincoln, Nebraska.

Advance public notice of the meeting and public hearing was published in the Lincoln Journal Star on May 9, 2022. The agenda and documents to be considered at the meeting were provided. The Open Meetings Act was posted on the door of the meeting room, Zoom chat, and on the Nebraska Environmental Trust (NET) website.

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; Vice Chairman Jim Macy, Director, Nebraska Department of Environment and Energy; Mr. Tim McCoy, Director, Nebraska Game & Parks Commission.

Members absent (4):

District I: Mr. James Hellbusch, Columbus; Mr. Jeff Kanger, Lincoln.
State Agency Representatives: Mr. Steve Wellman, Director, Nebraska Department of Agriculture; Mr. Tom Riley, P.E., Director, Nebraska Department of Natural Resources.

Staff present:

Mr. Karl Elmshaeuser, Executive Director; Ms. Holly Adams, Grants Administrator; and Ms. Sandra Weaver, Office Specialist.

2. Consent Agenda

Background on consent agenda items

The consent agenda listed the April 7, 2022, Board meeting minutes.

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

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

Absent: Hellbusch, Kanger, Riley, Wellman.

10 Voted Aye. Motion carried.

3. Public Comment

Ms. Lynn Roper, Friends of the Nebraska Environmental Trust, commented on concerns about grant eligibility and the staff vacancy of the public information officer position.

4. Board Development – Informational reviews

Executive Director Elmshaeuser reviewed the following subjects with the Board.

a. Grant extension request procedures

Grantees can submit budget and project modifications and extension requests. These requests do not change the scope of the grant project. If approved, the letter of request and any attachments are a binding amendment to their grant agreement. The Board acts if the request changes the contract expiration or exceeds a \$10,000 budget category request. An informational document concerning grant modification requests was created to let grantees know what will be evaluated and how the process works. More information will be given to the Board for requests in the future.

b. Defense Funds on Easements

The NET Board implemented a policy in July 2015 to require a defense of easements fund by grantees if a conservation easement was part of a grant request. The Defense Fund is not an account or funds held by the NET. The funds set aside by the grantee, were provided by the NET when the grant was awarded. NET does not monitor these funds. Future modifications, adoptions, or deletions to the Defense Funds on Easements policy may be considered.

5. Public Hearing on Proposed Project Ranking Systems for Grant applications

As presiding officer, Chairman Andersen opened the public hearing at 1:16 PM to accept testimony on the proposed project ranking systems for grant applications under consideration by the Nebraska Environmental Trust Board, pursuant to Neb. Rev. Stat., Sections 81-15,167 through 81-15,176. No written comments were submitted.

Executive Director Elmshaeuser explained the previous ranking system and the groundwork for the proposed project ranking system in relation to criteria listed in Neb. Rev. Stat. § 81-15,173, § 81-15,175, and Title 137, Chapter 7, Rules and Regulations.

Testimony and comments were provided by the following individuals:

Ms. Sandy Scofield, Friends of the Nebraska Environmental Trust, provided testimony concerning geographic scoring and grant eligibility.

Ms. Lynn Roper, Friends of the Nebraska Environmental Trust, provided testimony concerning clarity of the grant ranking process and eligibility.

Ms. Adams, Grants Administrator, clarified that the Board materials contained the rating criteria chart currently used and the ten application questions proposed to replace the rating criteria.

The hearing concluded at 1:29 PM.

6. Project Ranking Systems for Grant applications

Background on Project Ranking Systems for Grant applications

Pursuant to Chapter 7 of Title 137, the Executive Director shall prepare Project Ranking Systems to be used to rank all applications which are eligible. The Project Ranking Systems and any subsequent amendments shall be approved by affirmative vote of the Board after the public hearing. The Project Ranking Systems adopted by the Board shall be used by the Grants Committee for ranking of projects as described in Chapter 8 of Title 137.

Executive Director Elmshaeuser clarified that geopoints are looked at separately. Scoring and eligibility are two separate processes and only the scoring process is being considered at this time.

Motion by Mr. Quandahl, seconded by Mr. Davidson, “I move to approve the new Project Ranking Systems for Grant Applications using the 10-question format that follows Title 137 and allows up to five points per question as presented. This is to be effective as of July 1, 2022.”

Discussion: Mr. McCoy asked for clarification of the use of geographic points in scoring criteria. Executive Director Elmshaeuser explained under Title 137, the Board may consider geographic locations. It is not a requirement. What is currently being looked at for scoring is what is required by the Board’s statutes and rules and regulations. Both Mr. Davidson and Mr. Orr stated the new system, while not perfect, is an improvement. The effort to improve processes will be ongoing.

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

Absent: Hellbusch, Kanger, Riley, Wellman.

10 Voted Aye. Motion carried. (10-question format attached to minutes)

7. Transfer of Conservation Easement Request 09-113

Background on Transfer of Conservation Easement Request 09-113

In March of 2022, Mr. Don Blankenau, representative of the Central Platte NRD and Buell, LLC, submitted a request concerning the ability to transfer a conservation easement originally funded through Environmental Trust funds. The easement is held by the Central Platte NRD. The original easement, grant contract, and documents from 2009 were provided. Correspondence and documents were shared with the Attorney General’s office for review and advice. Consideration of the transfer was initially on the agenda at the April Board meeting and a scheduling conflict prevented the individuals making the request from staying until the end of the meeting. The Board requested more information and the agenda item was tabled to the May meeting.

Mr. Don Blankenau and Mr. Rick Buell were invited to appear before the Board to explain the request for approval to transfer 11.89 acres of the conservation easement to other land also owned by Buell, LLC. Mr. Blankenau reported the Dawson County Commissioners had approved the transfer and clarified that the request was completely disconnected to any federal program. He stated the transfer would enhance the value of the conservation easement and although the shape would change, it would not change the total acres subject to the easement. All restrictions would remain in place.

A handout with an aerial view of the current and proposed location of the land involved in the transfer request was provided by Mr. Buell. He stated it had never been his intention to modify any of the restrictions. An explanation for the conservation easement transfer request was provided to the Board.

Motion by Mr. Christen, seconded by Mr. Davidson, “I move to approve the conservation easement transfer for 09-113.”

Discussion: Mr. Christen indicated he was in favor of the transfer, but was concerned about changes to perpetual easements over time. Mr. Bowen stated he was not in favor of perpetual easements because they are often unwanted later for personal gain.

Voting Aye: Dunn, Davidson, Christen, McCoy, Anthonie, Macy, Andersen.

Voting Nay: Quandahl, Bowen.

Abstained: Orr.

Absent: Hellbusch, Kanger, Riley, Wellman.

7 Voted Aye. 2 Voted Nay, 1 Abstained. Motion carried.

8. Grants Portal annual Grants Management System Service Agreement

Background on Grants Portal annual Grants Management System Service Agreement

Since 2011, the NET has had a sole source agreement with Gregoire Consulting. The proposed FY 2022-23 agreement was reviewed by the Nebraska Attorney General's office. The Trust seeks to engage the Contractor for maintenance services on the Grants Management System. The agreement period begins July 1, 2022, and ends on June 30, 2023. Any additional software development will be paid by adding an amendment to the agreement.

Executive Director Elmshaeuser noted the Trust now has control of the server the software is hosted on and directly pays the yearly domain registration and monthly fees for Amazon Web Services.

Motion by Mr. Davidson, seconded by Mr. Christen, "I move to approve the Grants Management System service agreement with Gregoire Consulting, Inc. and authorize the Executive Director to sign the contract in the amount of \$27,600."

Discussion: None.

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

Absent: Hellbusch, Kanger, Riley, Wellman.

10 Voted Aye. Motion carried.

9. Trust 22 Committee NET Center for Operational Excellence updates

Background on Trust 22 Committee NET Center for Operation Excellence updates

During the Trust 22 Committee's work with the Center of Operational Excellence, several issues have been discovered that require additional efforts to resolve. One of the key issues is defining edibility for grants. Establishing a dedicated ad hoc committee has been recommended to work over the next year to further identify, propose, and resolve these issues through the formal process to amend Title 137.

Chairman Andersen reported that the Trust 22 Committee is continuing its work with the Center of Operational Excellence (COE). Deadlines are being met in a very aggressive timeline to meet the new grant application period beginning in July 2022. The work of the COE has helped the Committee determine what needs to be addressed in alignment with the audit findings.

Executive Director Elmshaeuser reported at least 10 different ongoing projects and noted he could not say enough about the COE's professionalism. Some of the meetings included outside experts from across the state who offered invaluable input. Trial runs have been carried out on some of the suggested processes. Moving to DocuSign has been invaluable for the grant process. Improvements have come about because the Board was willing to obtain help.

10. Proposed Special Ad Hoc Title 137 Committee

Background on Proposed Special Ad Hoc Title 137 Committee

During the Trust 22 Committee's work with the COE, several issues have been discovered that will require additional efforts to resolve. One of the key issues is defining edibility for grants. Establishing a dedicated ad hoc committee has been recommended to work over the next year to further identify, propose, and resolve these issues through the formal process to amend Title 137.

Chairman Andersen reported the COE has created a simplified list of Title 137 issues. The intent of this agenda item is to assign a new ad hoc committee to tackle the Board's rules and regulations for needed revisions.

A list of possible revisions to Title 137 was reviewed by Executive Director Elmshaeuser with the Board. It was noted that eligibility issues for grants are on the list and will need to be addressed. An overview of the regulation process required to adopt or promulgate regulations was included in the meeting material. After the rule drafting period is over, a 30-day notice is given for a public hearing so the public will have an opportunity to comment on proposed regulations.

Mr. Davidson requested that the current version of Title 137 be distributed to the full Board.

Motion by Mr. McCoy, seconded by Mr. Davidson, “I move that the NET Board create an Ad Hoc Committee to focus on a review of Title 137 to determine and recommend to the NET Board procedures, policies and efficiencies as well as alignment with state statutes. The Committee shall consist of five people appointed by the Chair and shall meet at least quarterly. The Committee is in place until January 1, 2024, or until the NET Board dissolves the Committee, or whichever comes first.”

Discussion: None.

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

Absent: Hellbusch, Kanger, Riley, Wellman.

10 Voted Aye. Motion carried.

11. Directors Report

Executive Director Elmshaeuser reported the new staff member scheduled to begin employment on Monday as the Grants Assistant, accepted a position elsewhere. The application process will be restarted.

12. Next Meeting

Tuesday, August 2, 2022, Nebraska Department of Environment and Energy, LL Room 031, 245 Fallbrook Blvd, Lincoln, Nebraska, 1:30 PM.

At the August meeting, the Chairman from Congressional District 2 will be elected and the dates for next year's quarterly meetings and the grant application deadline will be set.

13. Adjourn

Chairman Andersen adjourned the meeting at 2:21 PM.



Karl L. Elmshaeuser
Executive Director

Project Number:

Sponsor:

Project Name:

Scoring Criteria:

1. Does the project conform to the funding categories? (003.01)
Select from Dropdown Menu
0 – Does not meet criteria
1 – Low
2 – Below Average
3 – Average
4 – Above Average
5 – High

2. Does the project produce a commitment of funds from other funding sources? (003.02)
 - a. 0 – Does not provide any match
 - b. 1 – Provides 5% - 24% match
 - c. 2 – Provides 25% - 49% match
 - d. 3 – Provides 50% - 74% match
 - e. 4 – Provides 75% - 99% match
 - f. 5 – Provides 100% match

3. Does the project provide in-kind match to the requested grant funds? (003.03)
 - a. 0 – Does not meet criteria
 - b. 1 – Low
 - c. 2 – Below Average
 - d. 3 – Average
 - e. 4 – Above Average
 - f. 5 – High

4. Does the project result in a public-private partnership? (003.04)
 - a. 0 – Does not meet criteria
 - b. 1 – Low
 - c. 2 – Below Average
 - d. 3 – Average
 - e. 4 – Above Average
 - f. 5 – High

5. Does this project attain a geographic mix that provides funding for a diverse area? (003.05)
 - a. 0 - Does not meet criteria
 - b. 1 – Low
 - c. 2 – Below Average
 - d. 3 – Average
 - e. 4 – Above Average
 - f. 5 – High

6. Is the project cost effective? (003.06)
 - a. 0 – Does not meet criteria
 - b. 1 – Low
 - c. 2 – Below Average
 - d. 3 – Average
 - e. 4 – Above Average
 - f. 5 – High

7. Does the project have economic impacts? (003.07)
 - a. 0 – Does not meet criteria
 - b. 1 – Low
 - c. 2 – Below Average
 - d. 3 – Average
 - e. 4 – Above Average
 - f. 5 – High

8. Does the project produce direct environmental impacts? (003.08)
 - a. 0 – Does not meet criteria
 - b. 1 – Low
 - c. 2 – Below Average
 - d. 3 – Average
 - e. 4 – Above Average
 - f. 5 – High

9. Does the project produce long term environmental benefits for the general public? (003.09)
 - a. 0 – Does not meet criteria
 - b. 1 – Low
 - c. 2 – Below Average
 - d. 3 – Average
 - e. 4 – Above Average
 - f. 5 – High

10. Does the project have a plan for evaluating the results of the expenditure of grant funds? (003.10)
 - a. 0 – Does not meet criteria
 - b. 1 – Low
 - c. 2 – Below Average
 - d. 3 – Average
 - e. 4 – Above Average
 - f. 5 – High