

MINUTES

Nebraska Environmental Trust Board
Special Meeting
Tuesday, January 10, 2023
1:30 p.m.

1. Call to Order

Chairman Quandahl called the virtual, on-site meeting of the Nebraska Environmental Trust Board to order at 1:30 p.m. in LL Room 031 at 245 Fallbrook Blvd, Lincoln, Nebraska.

Advanced notice of the meeting and public hearing was published in the Lincoln Journal Star on December 29, 2022. The agenda and documents to be considered at the meeting were provided. The Open Meetings Act was posted near the entrance of the meeting room and on the Nebraska Environmental Trust (NET) website.

Roll call was conducted, and a quorum was present.

Members present (13):

District I: Mr. James Hellbusch, Columbus; Mr. Jeff Kanger, Lincoln; Mr. John Orr, Blair.

District II: Mr. Felix Davidson, Valley; Mr. Paul Dunn, Omaha; Chairman Mark Quandahl, Omaha.

District III: Josh Andersen, Edgar; Mr. Quentin Bowen, Humboldt; Mr. Rod Christen, Steinauer.

State Agency Representatives: Vice Chairman Jim Macy, Director, Nebraska Department of Environment and Energy; Mr. Tim McCoy, Director, Nebraska Game & Parks Commission; Ms. Charity Menefee, Director, Nebraska Department of Health and Human Services; Ms. Sherry Vinton, Director, Nebraska Department of Agriculture.

Members absent (1):

State Agency Representative: 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, Administrative Specialist.

2. Consent Agenda

The consent agenda contained the November 3, 2022, Board meeting minutes.

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

Voting Aye: Hellbusch, Orr, Dunn, Davidson, Andersen, Christen, Bowen, McCoy, Menefee, Vinton, Macy, Kanger, Quandahl

Absent: Riley

13 Voted Aye. Motion carried.

3. Public Comment

Ms. Sandy Scofield, Friends of the Nebraska Environmental Trust, commented on funds legislatively transferred to the Water Resources Cash Fund from the Environmental Trust Cash Fund and cautioned the Trust about its growing Cash Fund.

4. Board Development

a. Welcome New Board Members

Executive Director Elmshaeuser welcomed Ms. Charity Menefee and Ms. Sherry Vinton to the Nebraska Environmental Trust (NET) Board. The new members are replacing Dr. Gary Anthonie, Health and Human Resources, and Steve Wellman, Department of Agriculture.

Chairman Quandahl noted that the new Board members Charity Menefee and Sherry Vinton would replace their predecessors on the Board Committees, as reflected in the updated 2022-2023 NET Committee assignment handout.

b. Financial Overview

A general overview of the cash funds, revenue stream, and legislative spending authority for NET was outlined by Executive Director Elmshaeuser. A copy of the applicable section of LB380, 2021, showing the total NET appropriation and salary limitation, was provided. The mainline appropriation bill reflects the biennium period beginning on July 1, 2021, and ending on June 30, 2023.

5. Public Hearing on Proposed Eligibility Recommendations for the 2023 Grant Cycle

As presiding officer, Chairman Quandahl opened the public hearing at 1:49 p.m. to accept testimony on the 2023 proposed grant funding recommendations under consideration by the Nebraska Environmental Trust Board, pursuant to Neb. Rev. Stat., Sections 81-15,167 through 81-15,176.

Written testimony

Ms. Joyce Mick and Mr. Clint Reisen, High Plains Weed Management Association, regarding the focus of grant application 23-135. Reconsideration of funding was requested.

Testimony at Hearing

Ms. Sandy Scofield, Friends of the Nebraska Environmental Trust, testified that the Friends support quality grants and financial responsibility. A concern was raised that the current grant process is discouraging applicants, as the number of applications is declining.

Mr. Kyle Kinyoun thanked the Board for carefully evaluating grant proposals to avoid wasteful spending.

The hearing concluded at 1:54 p.m.

6. Grants Committee Report and Recommendations, and Award of 2023 Grants

Background on Agenda item 6

The Grants Committee prepares eligibility, ranking, and funding for consideration by the NET Board. Committee members include Chairman Felix Davidson, Mark Quandahl, Josh Andersen, Jeff Kanger, Jim Macy, and Tim McCoy. The Grants Committee is required to have a member from each congressional district and two agency directors. Its chairman is rotated by congressional district. Each year in August, committee members are appointed by the incoming NET Board chairman.

Mr. Davidson, Chairman of the Grants Committee, reported NET received 81 legitimate applications for the current grant round. Before reviewing grant applications, the Grants Committee met on September 22, 2022, and decided to utilize Olympic scoring (an average of the aggregated scores without the top and bottom scores) to determine the minimum funding line. The NET Board adopted a new Project Ranking System on May 19, 2022, for the 2023 grant round that required each grant applicant to

answer ten project ranking criteria questions on their application. The Grants Committee members independently reviewed the eligible applications to make a scoring determination on each criterion. On November 3, 2022, the NET Board approved the Grants Committee's eligibility recommendations, moving 47 projects to scoring. On December 8, 2022, the Grants Committee developed funding recommendations, including 23 projects for a total of \$11,347,203.

Motion by Mr. Davidson, seconded by Mr. Hellbusch, "As Chairman representing the Grants Committee, I move that the Nebraska Environmental Trust Board accepts and approves the grant applications, as recommended by the Grants Committee: 23-113, 23-131, 23-115, 23-136, 23-164, 23-122, 23-114, 23-156, 23-132, 23-171, 23-149, 23-148, 23-140, 23-162, 23-166, 23-127, and 23-150, and authorize the Chairperson and Executive Director to sign the award letters and contracts."

Discussion: Mr. Christen questioned whether the CRP acres referred to in application 23-115 are regulated and if the math in the drill justification narrative is correct. Executive Director Elmshaeuser referred the Board to Neb. Rev. Stat. §81-15-176 (2a) concerning regulatory programs. Chairman Quandahl noted the grantee responded no in response to the eligibility question, "Does your project provide direct assistance to regulatory programs?" Mr. McCoy stated part of the math challenge might be caused by additional drills and acres added over time. Mr. Andersen pointed out the need to better define regulatory programs in Title 137.

Motion as amended by Mr. Hellbusch, seconded by Mr. Christen, "I move to amend the motion to remove grant 23-115 from consideration."

Discussion: Mr. Orr questioned ramifications of approving grant application 23-115 for funding before an opinion from the Attorney General is received. Executive Director Elmshaeuser stated the grant contract language allows a claw-back of funds paid out. If any of the items in the contract are not in accordance with the State of Nebraska, the contract could be terminated. Additional Board discussion dealt with regulatory definition and how it should be applied.

Voting Aye: Christen, Bowen, Hellbusch

Voting Nay: Dunn, Davidson, Andersen, McCoy, Menefee, Vinton, Macy, Kanger, Orr, Quandahl

Absent: Riley

3 Voted Aye. 10 Voted Nay. Amended Motion failed.

Original Motion by Mr. Davidson, seconded by Mr. Hellbusch, "As Chairman representing the Grants Committee, I move that the Nebraska Environmental Trust Board accepts and approves the grant applications, as recommended by the Grants Committee: 23-113, 23-131, 23-115, 23-136, 23-164, 23-122, 23-114, 23-156, 23-132, 23-171, 23-149, 23-148, 23-140, 23-162, 23-166, 23-127, and 23-150, and authorize the Chairperson and Executive Director to sign the award letters and contracts."

Discussion: Mr. Andersen announced that as Chairman of the Title 137 Committee, regulatory issues would be a priority once clarification from the Attorney General's Office is received. Mr. Dunn noted he would vote no on the motion because he believed it was a mistake for the Board not to consider so many applications or not to deploy more money into funding grants.

Voting Aye: Orr, Davidson, Andersen, Christen, Bowen, McCoy, Menefee, Vinton, Macy, Kanger, Hellbusch, Quandahl

Voting Nay: Dunn

Absent: Riley

12 Voted Aye. 1 Voted Nay. Motion carried.

Motion by Mr. Davidson, seconded by Mr. Christen, "As Chairman representing the Grants Committee, I move that the Nebraska Environmental Trust Board accepts and approves the grant applications, as recommended by the Grants Committee, 23-138, 23-170, and 23-172, and authorize the Chairperson and Executive Director to sign the award letters and contracts."

Discussion: None.

Voting Aye: Davidson, Andersen, Christen, Bowen, Menefee, Vinton, Macy, Kanger, Hellbusch, Orr, Quandahl

Voting Nay: Dunn

Abstained: McCoy

Absent: Riley

11 Voted Aye. 1 Voted Nay. 1 Abstained. Motion carried.

Motion by Mr. Davidson, seconded by Mr. McCoy, "As Chairman representing the Grants Committee, I move that the Nebraska Environmental Trust Board accepts and approves the grant applications, as recommended by the Grants Committee: 23-142, 23-117, and 23-153, and authorize the Chairperson and Executive Director to sign the award letters and contracts."

Discussion: None.

Voting Aye: Andersen, Christen, Bowen, McCoy, Menefee, Vinton, Kanger, Hellbusch, Orr, Davidson, Quandahl

Voting Nay: Dunn

Abstained: Macy

Absent: Riley

11 Voted Aye. 1 Voted Nay. 1 Abstained. Motion carried.

Motion by Mr. McCoy, seconded by Mr. Dunn, "As a member of the Board, I move that the Nebraska Environmental Trust Board accepts and approves the grant applications that scored between 33.17 and 30 points: 23-186, 23-125, 23-111, 23-151, 23-183, 23-169, 23-159, 23-108, 23-179, 23-121, 23-152, 23-158, 23-102, 23-154, 23-180, and 23-141.

Discussion: Mr. McCoy explained his reasoning behind the motion and stated lowering the minimum funding line was worth Board discussion. He noted grant projects scoring 30 and above on the recommended funding list are average or slightly above since applications removed during the eligibility process would have scored lower. Mr. Macy noted he would abstain from voting since he had not researched his agency's involvement with these projects before the meeting. Additional discussion included the Grants Committee's eligibility and scoring process and whether supporting the lower minimum funding line for grant applications was appropriate.

Voting Aye: McCoy, Dunn

Voting Nay: Christen, Bowen, Menefee, Vinton, Kanger, Hellbusch, Orr, Andersen, Quandahl

Abstained: Macy, Davidson

Absent: Riley

2 Voted Aye. 9 Voted Nay. 2 Abstained. Motion failed.

7. Department of Administrative Services Office Lease Contract Approval

Background on Agenda Item 7

The NET entered into a Property Management Agreement with DAS on July 1, 2004, for the Ferguson House. Board action involving the lease occurred as follows:

- April 8, 2021 - NET Board passed a motion to have NET staff explore a comprehensive list of alternate locations and space for NET operations that may better facilitate the realization of the vision, mission, and purpose of NET.
- January 25, 2022 - NET Finance Committee passed a motion to recommend that the NET Board make budget adjustments as necessary to provide the NET Board the ability to continue to explore efficient and effective alternate office locations.
- February 3, 2022 - NET Board passed the same language as the Finance Committee motion on January 25, 2022.
- April 7, 2022 - A termination of the current Ferguson House Property Management Agreement was approved by the NET Board.

Executive Director Elmshaeuser reported working with DAS Building Division personnel to advertise a request for proposals (RFP) for office space for NET. Six proposals responded to the RFP, and tours of the site locations were conducted. DAS has followed its protocol for assessing each proposal. The NET Chairman, Executive Director, and staff contributed to the evaluation and scoring assessment. Scoring is based on thirteen evaluation criteria established by DAS personnel. All proposals were for an initial term of 10 years and within the NET budget for the Ferguson House.

Motion by Mr. Davidson, seconded by Mr. Andersen, "I move that the Nebraska Environmental Trust authorizes the Department of Administrative Services Building Division to enter into an office lease agreement for NET in Lincoln, Nebraska, for an initial term of ten (10) years and authorize the NET Chairman and/or Executive Director to sign all applicable and necessary documents as required."

Discussion: Mr. Davidson commented that although the Ferguson House was a cool place, it was better suited as a museum than an office because of liability and accessibility issues. Chairman Quandahl outlined the process to seek a new location and stated the objective was to put the Trust in a position to move forward into the future.

Voting Aye: Bowen, McCoy, Menefee, Vinton, Macy, Kanger, Hellbusch, Orr, Dunn, Davidson, Andersen, Christen, Quandahl

Absent: Riley

13 Voted Aye. Motion carried.

8. Directors Report

Executive Director Elmshaeuser reminded the NET Board members that the Statement of Financial Interests must be filed with the Nebraska Accountability and Disclosure Commission by March 1, 2023. Additional information and the applicable forms will be provided at the February 2, 2023, 1st Quarter Board meeting.

Appreciation was expressed to the Board for their respectful discussion, patience, and cooperation as ongoing improvements are made to prepare the Trust for the next generation.

9. Next Meeting

Thursday, February 2, 2023, Fallbrook State Office Building, LL Room 031, 245 Fallbrook Blvd, Lincoln, Nebraska, 1:30 p.m.

10. Adjourn

Chairman Quandahl adjourned the meeting at 3:09 p.m.



Karl L. Elmshaeuser
Executive Director