

MINUTES

Nebraska Environmental Trust Board
Fourth Quarter Meeting
November 2, 2023
1:30 p.m.

1. Call to Order

Vice-Chair Vinton called the fourth quarter meeting of the Nebraska Environmental Trust Board (NET) to order at 1:30 p.m. in Suite 310 at 2077 N St, Lincoln, Nebraska.

Advanced notice of the meeting and public hearing was published in the Lincoln Journal Star on October 25, 2023. The agenda and documents to be considered at the meeting were provided. The Open Meetings Act was posted near the meeting room entrance and on the Nebraska Environmental Trust (NET) website.

Roll call was conducted, and a quorum was present.

Members Present (11):

District I: Mr. Jeff Kanger, Lincoln; Mr. Ted Vasko, Papillion.

District II: Mr. Mark Quandahl, Omaha; Mr. Felix Davidson, Valley; Mr. Roger Helgoth, Omaha.

District III: Mr. Josh Andersen, Edgar; Mr. Eric Hansen, North Platte.

State Agency Representatives: Mr. 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; Vice-Chair Sherry Vinton, Director, Nebraska Department of Agriculture.

Members Absent (3):

District I: Chair James Hellbusch, Columbus.

District III: Mr. Rod Christen, Steinauer.

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; Ms. Madison Moe, Grants Assistant; and Ms. Sandra Weaver, Administrative Specialist.

Executive Director Elmshaeuser welcomed new board members, Ted Vasko, District I; Roger Helgoth, District II; and Eric Hansen, District III.

2. Consent Agenda

Background on Consent Agenda Items

The consent agenda included the August 3, 2023, Board Meeting Minutes, financial reports, approval to set financials aside for audit, the Grant Disbursement Report, Nebraska Lottery Proceeds Allocation Report, and the Grant Administration Report.

Motion by Mr. Quandahl, seconded by Mr. Andersen, "I move to approve the consent agenda."

Voting Aye: Vasko, Quandahl, Davidson, Helgoth, Andersen, Hansen, McCoy, Menefee, Macy, Kanger, Vinton

Absent: Christen, Hellbusch, Riley

11 Voted Aye. Motion carried.

3. Public Comment

No comment

4. Board Development – Informational reviews

a. Conflicts of Interest and Abstentions

Neb. Rev. Stat. § 81-15,170.01, in the Nebraska Environmental Trust Act, requires board members to comply with the conflict-of-interest provisions of the Nebraska Political Accountability and Disclosure Act. Members of the Board who are state agency directors must abstain from voting on grant applications or projects that provide funding primarily to their agencies. An agency director may vote on an application or project that would provide only partial funding for their agency.

Executive Director Elmshaeuser reminded board members that a conflict of interest with a grant application or project must be disclosed per NET policy and the Nebraska Accountability and Disclosure laws. Disclosure of the conflict and potentially an abstention from voting may be advised.

b. 2023 Grant Metrics Tracker Annual Reports Evaluation Proposal

Background on Agenda Item 4.b

The Board tasked staff to find a way to determine if a grant was effective, if it was a good use of funds, and whether it provided public benefit.

Grants Assistant Moe explained how she determined a grantee's performance by reviewing annual reports and using metrics provided in grant applications. Samples of overall scoring for annual reports were provided.

Since a grant period may encompass three years, an annual report may be reviewed each year to monitor the project's progress and assist the grantee in staying on track. The review process is ongoing, and staff will continue to seek ways to improve performance monitoring.

c. Reimbursement payment requests

Background on Agenda Item 4.c

Grant reimbursement requests are reviewed and determined by staff. The Board is responsible for setting the parameters for grant awards and deciding the contract start and stop dates. Requests to move funding from one category to another (if over \$10,000) and extensions for grant projects must come before the Board.

Executive Director Elmshaeuser presented examples of reimbursement request results and answered questions from the board members.

5. Public Hearing on Proposed Eligibility Recommendations for the 2024 Grant Cycle

As presiding officer, Mr. Quandahl opened the public hearing at 1:59 p.m. to accept testimony on the proposed eligibility recommendations for the 2024 Grant Cycle under consideration by the Nebraska Environmental Trust Board, pursuant to Neb. Rev. Stat. §§ 81-15,167 through 81-15,176.

Written Testimony

Mr. Jeff Buettner, President, Nebraska State Irrigation Association Board of Directors, concerning the proposed action to deny eligibility for application 24-115.

Testimony During Hearing

Mr. Ron Pickel (representative of a committee to remove carp at Johnson Lake) voiced concern about the proposed ineligibility of grant application 24-141 and outlined the goals and benefits of removing carp from the lake.

Ms. Carolina Cordova, UN-L, testified about the goals and benefits of application 24-119, "Climate Smart Agriculture: Building Capacity Among Agricultural Advisors."

Mr. Keenan Amundsen, UN-L, testified about the purpose and goals of grant application 24-144, "Habitat Supporting Native Bee Foraging."

Mr. Carlos Morales, Transportation and Data Manager for MAPA for the Omaha-Council Bluffs Metropolitan Area Planning Agency, testified in support of grant application 24-155, "Advancing Clean Air Through Bike/Pedestrian Counter Implementation."

Ms. Amy Holman, Nebraska Pharmacists Association, testified about the benefits and goals of grant application 24-158, "Promoting a Healthy Nebraska: Mitigating Contamination, Ensuring Safe Disposal, and Enhancing Medication Access."

Mr. Alex Walters, Keep Omaha Beautiful, testified about the benefits and goals of grant application 24-113, "Trees for Tomorrow: An Urban & Community Tree Planting Program."

The public hearing concluded at 2:17 p.m.

6. Grants Committee Report and Recommendations for Grant Application Eligibility

Background on Grant Application Eligibility

After the September 5, 2023, deadline for grant applications, the Executive Director reviewed them for completeness. If necessary, a technical review was conducted. The results of technical reviews were provided to the Grants Committee members through the Grants Portal. After the Grants Committee makes its recommendations to the NET Board for consideration, the NET Board may adopt or modify the Grants Committee's determination for eligibility. After the Board's final determination, eligible applications will be referred to the Grants Committee to use the project ranking and scoring system approved at the May 5, 2023, NET Board meeting.

Chairman Andersen reported that the six Grants Committee members met on October 11, 2023. The Committee determined 69 out of 80 applications to be eligible. The revised rules and regulations in Title 137 and state statutes were utilized in the eligibility review. All ineligibility issues were tied to the requirements in the statutes and regulations.

The Grants Administrator Adams reported that each applicant was notified by email whether the Grants Committee recommendation was eligible or ineligible.

Motion by Mr. Andersen, seconded by Mr. Davidson, "As Chairman representing the Grants Committee, I move that the Nebraska Environmental Trust Board deems the following projects to be ineligible, as recommended by the Grants Committee: 24-146, 24-149, 24-151, 24-157, 24-134, 24-159, 24-141, 24-115, 24-112, 24-178, 24-145."

Discussion: Mr. Kanger asked staff to share what transpired in the grant process before receiving applications. Executive Director Elmshaeuser reported that three informational training sessions were offered to grant applicants, with 68 total participants.

In response to the written testimony submitted for application 24-115, Mr. Quandahl clarified that an applicant's integrity is not questioned when determining eligibility. The Grants Committee judges eligibility based on the statutory requirements and the rules and regulations in Title 137.

Mr. Macy suggested removing application 24-141 from the ineligibility list based on testimony so it could move forward to scoring.

Motion as amended by Mr. Macy, seconded by Ms. Menefee, “I move to amend the motion to remove application 24-141 from the ineligible list to the eligible list for further consideration of the Board.”

Discussion: None.

Voting Aye: Macy, Helgoth

Voting Nay: Quandahl, Davidson, Andersen, Hansen, McCoy, Menefee, Kanger, Vasko, Vinton

Absent: Christen, Hellbusch, Riley

2 Voted Aye. 9 Voted Nay. Motion failed.

Further discussion of the original motion: Mr. Quandahl clarified that although he was sympathetic to the applicant and their efforts, application 24-141 was deemed ineligible by the Grants Committee. Executive Director Elmshaeuser reported that the Grants Committee questioned whether a revision should be allowed for several applications. As a result of its discussion, the Committee determined it was best not to allow any modifications after the deadline since this would open all applications to revision.

Vice-Chair Vinton called for a vote on the original motion since the amended motion failed.

Voting Aye: Davidson, Helgoth, Andersen, Hansen, McCoy, Menefee, Macy, Kanger, Vasko, Quandahl, Vinton

Absent: Christen, Hellbusch, Riley

11 Voted Aye. Motion carried.

Motion by Mr. Andersen, seconded by Mr. Kanger, "As Chairman representing the Grants Committee, I move that the Nebraska Environmental Trust Board accepts and approves the grant eligibility, as recommended by the Grants Committee, for the following projects: 24-121, 24-125, 24-152, 24-109."

Discussion: None.

Voting Aye: Helgoth, Andersen, Hansen, Menefee, Macy, Kanger, Vasko, Quandahl, Davidson, Vinton

Abstaining: McCoy

Absent: Christen, Hellbusch, Riley

10 Voted Aye. 1 Abstained. Motion carried.

Motion by Mr. Andersen, seconded by Mr. Davidson, "As Chairman representing the Grants Committee, I move that the Nebraska Environmental Trust Board accepts and approves the grant eligibility, as recommended by the Grants Committee, for the following projects: 24-167, 24-102, 24-117, 24-119, 24-129, 24-144, 24-166, 24-170, 24-172, 24-105, 24-116, 24-103, 24-108, 24-161, 24-162, 24-180, 24-133, 24-124, 24-126, 24-106, 24-110, 24-114, 24-120, 24-168, 24-154, 24-143, 24-113, 24-139, 24-160, 24-177, 24-137, 24-156, 24-153, 24-136, 24-138, 24-128, 24-122, 24-130, 24-135, 24-174, 24-158, 24-131, 24-132, 24-104, 24-163, 24-118, 24-169, 24-171, 24-155, 24-111, 24-142, 24-140, 24-147, 24-150, 24-123, 24-176, 24-175, 24-179, 24-107, 24-127, 24-148, 24-173, 24-164, 24-165, 24-101."

Discussion: The reasons members should abstain from voting when a possible conflict of interest occurs were discussed.

Voting Aye: Andersen, McCoy, Menefee, Macy, Kanger, Vasko, Quandahl, Davidson, Helgoth, Vinton

Abstaining: Hansen

Absent: Christen, Hellbusch, Riley

10 Voted Aye. 1 Abstained. Motion carried.

Vice-Chair Vinton thanked Mr. Andersen and the Grants Committee for their work. The next phase of the grant process for the Committee will be scoring eligible grant applications.

7. Transfer of property request, Milton, Grant Contract 09-134-3

Background on Agenda Item 7

The Nebraska Title Company, representing its client, notified NET that a property with a conservation easement purchased with NET grant funds in project 09-134-3 is being sold. The Northern Prairies Land Trust holds the easement. The sale of ½ interest to Pribyl from Milton will not alter the conservation easement in place.

Motion by Mr. McCoy, seconded by Mr. Davidson, “I move to approve the transfer of the property in Grant 09-134-3 from Milton to Pribyl as requested and authorize the Executive Director to send a notification to the Nebraska Title Company.”

Discussion: The background and the conservation easement for project 09-134-3 were explained to the new members by Executive Director Elmshaeuser. The provision for the conservation easement and the easement holder remains the same regardless of who owns the property.

Voting Aye: Hansen, McCoy, Menefee, Macy, Kanger, Vasko, Quandahl, Davidson, Helgoth, Andersen, Vinton

Absent: Christen, Hellbusch, Riley

11 Voted Aye. Motion carried.

8. Grant Modification Requests

a. Extension requests for grants 23-127, 20-174-3

Motion by Mr. Quandahl, seconded by Ms. Menefee, “I move to approve the Village of Lindsay’s request to extend project 23-127 for six months.”

Discussion: None.

Voting Aye: Hansen, McCoy, Menefee, Macy, Kanger, Vasko, Quandahl, Davidson, Helgoth, Andersen, Vinton

Absent: Christen, Hellbusch, Riley

11 Voted Aye. Motion carried.

Motion by Ms. Menefee, seconded by Mr. Davidson, “I move to approve Beyond School Bells’ request to extend project 20-174-3 for six months.”

Discussion: Grants Administrator Adams clarified that this was the grantee's second request for a 6-month extension. Mr. Quandahl stated he would vote against the extension because time frames were not met, and unforeseen delays and fewer planned experiences did not appear to be adequate reasons for an extension. Mr. Kanger asked how the review process would look if the Board chose not to extend the parameters. Executive Director Elmshaeuser explained that if parameters are unmet and the grant period is over, any of the grantee's residual funds would

return to the fund, and the funding obligation is removed. It was clarified that the inability to complete the grant project and unused funding would not penalize the grantee in a future application.

Voting Aye: McCoy

Voting Nay: Menefee, Macy, Kanger, Vasko, Quandahl, Davidson, Andersen, Hansen, Vinton

Abstaining: Helgoth

Absent: Christen, Hellbusch, Riley

1 Voted Aye. 9 Voted Nay. 1 Abstained. Motion failed.

b. Budget request for grant 22-162-2

Motion by Mr. Macy, seconded by Ms. Menefee, "I move to approve the City of Papillion's request to move all funds into the Construction category for project 22-162-2."

Discussion: It was noted that the total amount in the budget categories was going into the project, and the other budget categories may be funded from another source. Grants Administrator Adams reported that the budget categories were standardized for the 2023 projects. Moving forward, this will not be an issue since this budget would all have been categorized under contractual services.

Voting Aye: Menefee, Macy, Kanger, Vasko, Quandahl, Davidson, Helgoth, Hansen, McCoy, Vinton

Voting Nay: Andersen

Absent: Christen, Hellbusch, Riley

10 Voted Aye. 1 Voted Nay. Motion carried.

9. Closeout Report of Grants

Background on the Closeout Report

Once a project contract has expired, the grantee must submit a final report. NET staff reviews reports, disbursement requests, and project balances after the contract has ended. Before closing out projects in the Grants Portal, the staff creates a summary report for Board review regarding each grant's final status. Before the final status report is created for the NET Board, the executive director reviews any grant project that has breached its contract and sends a written 15-day notice. If the grantee does not comply with the notice, the grant may be revoked, disbursements may be withheld, or the grantee may be required to reimburse the grantor. The final closeout report includes summary information for revoked grants.

Grants Administrator Adams noted that the audits and 15-day notices are now important tracking items affecting grant project scoring. The grant closeout list was reviewed and discussed.

Motion by Mr. Davidson, seconded by Mr. Quandahl, "I move to approve the grant closeout report provided and presented by NET Staff for the closeout of the projects presented in the report."

Discussion: The staff and the Board were commended for their work and for undertaking proven principles to help identify the issues and improve public benefit expenditures. Ms. Vinton noted that in the past, hearing reports from grantees about the results of their grant projects was helpful. Grants Administrator Adams reported that a public database is being built to allow anyone to pull the final reports for grant projects. Mr. Kanger specified that by recognizing unused balances and facilitating creative reallocations, the new approach will help ensure strong future applications.

Voting Aye: Macy, Kanger, Vasko, Quandahl, Davidson, Helgoth, Andersen, Hansen, McCoy, Menefee, Vinton

Absent: Christen, Hellbusch, Riley

11 Voted Aye. Motion carried.

10. Finance Committee Recommendation for additional grant funding

Background on Mid-biennium Budget Modification Request

The Nebraska Game and Parks Commission (NGPC) provides administrative support. NET collaborates with the NGPC Director and staff in developing and presenting the budget. The Nebraska Legislature will hold a legislative hearing in 2024 for budget modifications to the second year of the biennium budget. Grants are awarded based on the cash fund balance and authorized funding. An approved increase in appropriation would allow NET to fund additional grant requests.

Committee Chair Davidson reported that the Finance Committee met on October 13, 2023. The Ferguson House Cash Fund, the NET Endowment Cash Fund, recent legislation, and a proposed FY 2024-25 budget modification for additional grant funding were discussed. Mr. Davidson explained the background and purpose of the funds to the new members. LB 818, 2023, amended the language in the Nebraska Environmental Trust Act for transfers from the Nebraska Environmental Trust Fund to the Water Resources Cash Fund at the direction of the Nebraska Legislature. As requested, Executive Director Elmshaeuser communicated the full implications of LB 818 to the Board and will also email the information to the new members.

The authority to spend money in NET's cash fund and what may be added to or used from the NET Endowment Cash Fund was discussed. An increase in the state aid appropriation does not mean it has to be spent but would make it available for grant funding.

Motion by Mr. Quandahl, seconded by Mr. Andersen, "I move to approve the NET Board to make budget adjustments as necessary to provide the NET Board the ability to provide additional state aid in the form of grant funding in the amount of \$5,000,000 due to available NET cash funds on hand."

Discussion: None.

Voting Aye: Macy, Kanger, Vasko, Quandahl, Davidson, Helgoth, Andersen, Hansen, McCoy, Menefee, Vinton

Absent: Christen, Hellbusch, Riley

11 Voted Aye. Motion carried.

11. Director's Report

a. Desk audits, in-person audits, 15-Day Notices

Title 137, Chapter 8 – Grant Administration, 014, requires the Executive Director to conduct periodic financial audits of projects to ensure proper use of grant funds and to determine compliance with these regulations and the grant contract. Executive Director Elmshaeuser provided a spreadsheet showing a breakdown of desk audits, in-person audits, and 15-day notices from June 8, 2022, through September 15, 2023. He noted that there will be a scoring matrix for past performance when the Grants Committee looks at the ten scoring questions this year. Applicants will be rewarded extra points for good behavior and detailed metrics. The goal is to provide funds to grantees who do what they say when they say they will do it.

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

Mr. Quandahl requested that the Vice-Chair remove agenda item 12 indefinitely. The item was a follow-up to an action taken at the previous meeting; no further review or action is needed.

13. Department of Administrative Services (DAS) Memorandum of Understanding (MOU) with the Nebraska Environmental Trust (NET) for the Ferguson House

Background on Proposed Memorandum of Understanding

The Nebraska Environmental Trust (NET) terminated its property management agreement with the DAS Building Division for the Ferguson House on June 30, 2023. The cash fund for Ferguson House expenditures is assigned to NET. DAS Building Division wishes to use the Ferguson House cash fund to maintain the property as allowed in Neb. Rev. Stat. § 72-2401. A proposed MOU was drafted and reviewed by legal counsel from both agencies.

Motion by Mr. Davidson, seconded by Mr. McCoy, “I move that the Nebraska Environmental Trust authorizes the Executive Director to sign the Memorandum of Understanding with the Nebraska Department of Administrative Services for the purposes allowed under Neb. Rev. Stat. § 72-2401 for the Ferguson House.”

Discussion: The background of the Ferguson House Fund to be used by NET for Ferguson House expenditures was explained to the new members. Executive Director Elmshaeuser noted that to solve the issue permanently, the Nebraska Legislature will need to remove the Nebraska Environmental Trust Board from the language in Neb. Rev. Stat. § 72-2401.

Voting Aye: Kanger, Vasko, Quandahl, Davidson, Helgoth, Andersen, Hansen, McCoy, Menefee, Macy, Vinton

Absent: Christen, Hellbusch, Riley

11 Voted Aye. Motion carried.

14. Next Meeting

Thursday, January 4, 2023, Telegraph Lofts West, 2077 N St, Suite 310, Lincoln, Nebraska 68510, 1:30 p.m.

15. Adjourn

Vice-Chair Vinton adjourned the meeting at 3:47 p.m.



Karl L. Elmshaeuser
Executive Director