

## MINUTES

Nebraska Environmental Trust Board  
Special Meeting  
Thursday, January 4, 2024  
1:30 p.m.

### 1. Call to Order

Chair Hellbusch called the virtual/on-site 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 December 26, 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 website.

Roll call was conducted, and a quorum was present.

#### **Members Present (13):**

**District I:** Mr. Jeff Kanger, Lincoln; Chair James Hellbusch, Columbus.

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

**District III:** Mr. Josh Andersen, Edgar; Mr. Rod Christen, Steinauer; 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; Mr. Tom Riley, P.E., Director, Nebraska Department of Natural Resources; Vice-Chair Sherry Vinton, Director, Nebraska Department of Agriculture.

#### **Members Absent (1):**

**District I:** Mr. Ted Vasko, Papillion.

**Staff Present:** Mr. Karl Elmshaeuser, Executive Director; Ms. Holly Adams, Grants Administrator; Ms. Madison Moe, Grants Assistant; and Ms. Sandra Weaver, Administrative Specialist.

### 2. Consent Agenda

#### Background on Consent Agenda Items

The consent agenda included the November 2, 2023, Board Meeting Minutes.

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

**Voting Aye:** Davidson, Quandahl, Helgoth, Andersen, Christen, Hansen, McCoy, Menefee, Riley, Vinton, Macy, Kanger, Hellbusch

**Absent:** Vasko

**13 Voted Aye. Motion carried.**

### 3. Public Comment

No comment

### 4. Public Hearing on Proposed Funding List for the 2024 Grant Cycle

As presiding officer, Mr. Quandahl opened the public hearing at 1:34 p.m. to accept testimony on the 2024 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

None

### Testimony During Hearing

Mr. James Keim, Arbor Day Foundation and Farm, testified that the match had been raised on grant application 24-167, Arbor Day Farm Trail Charge Oasis.

Mr. Chad Wemhoff, Pine Lake Homeowners Association, testified on the phases of grant project 24-140, Pine Lake Rehabilitation Program.

The public hearing concluded at 1:40 p.m.

## 5. Bidding Policy Amendment for grants

### Background on Agenda Item 5

The State of Nebraska Procurement Manual, updated September 14, 2018, outlines the procurement process used for Nebraska's agencies, boards, and commissions. Agencies are encouraged to solicit bids from at least three bidders/suppliers. Requirements for sole source justification are provided.

Executive Director Elmshaeuser noted the proposed amendments to Board Policy A in Section VI will better align the bidding policy with state requirements and help alleviate some issues that occurred with submittals from grantees in the past. Justification will be required when there is a sole source vendor.

### Proposed revisions to NET Grantee Conditions Bidding Policy, Section VI, A:

#### A. Bidding Policy

1. For any purchase of personal property valued at \$5,000 or more, or purchases of services valued at \$20,000 or more, a grantee is required to obtain at least 2 3 (two three) bids for equipment or services unless:

- ~~• A vendor was named in the grant application.~~
- The grantee is a government agency, program or subdivision with a different bidding policy. In this case, the grantee must submit a copy of its bidding policy to the Trust, and then may proceed according to their publicly adopted policy.

Specifications shall be drawn such that it will be possible for three or more manufacturers, vendors, or suppliers to submit competitive bids.

The grantee must accept the lowest reasonable bid when products are substantially equivalent. If the lowest bid is not accepted, the grantee must provide the rationale for accepting a higher bid.

2. Sole source purchases are used for the procurement of commodities/goods available from only one source due to the unique nature of the requirement, compatibility, its supplier, proprietary product, or market conditions. (This may also apply to the request to procure used equipment, due to the difficulty of evaluating used equipment on an item-by-item basis).

Sole source services are defined as services "of such a unique nature that the contractor selected is clearly and justifiably the only practicable source to provide the service. Determination that the contractor selected is justifiably the sole source is based on either the uniqueness of the service or the sole availability at the location required."

**Motion by** Mr. Quandahl, seconded by Mr. Davidson, “I move that the NET Grantee Conditions Bidding Policy amend the requirements for bidding for personal property, services, and sole source requirements as presented.”

**Discussion:** Mr. Helgoth commented on the merits of the RFP process in the State of Nebraska procurement manual. Executive Director Elmshaeuser specified that most grantees are not governmental entities or agencies, and Board policies are often hybrids of state policy, which allows various types of entities to comply. It was clarified that variables from the three bids could include declining a low bid that is not from a responsible bidder, counting the effort when a bidder declines a request, and difficulty finding three available bidders. Documentation would be required. If the proposed policy is approved, the language will be reflected in the 2024 contracts for the grantees.

**Voting Aye:** Davidson, Quandahl, Helgoth, Andersen, Christen, Hansen, McCoy, Menefee, Riley, Vinton, Macy, Kanger, Hellbusch

**Absent:** Vasko

**13 Voted Aye. Motion carried.**

## 6. Proposed Travel Policy for grants

### Background on Agenda Item 6

The NET Grant Contract provides that travel expenses are limited to the Federal rate for reimbursement. There have been multiple issues with grantees requesting reimbursement for same-day travel expenses, general meetings with their staff or board, and requests for excessive travel expenses. This policy would clarify the issues and focus public funds on environmental projects and necessary travel expenses for grant projects.

Executive Director Elmshaeuser gave examples of problematic grant project reimbursement requests to demonstrate the need for a policy to clarify reimbursable expenses in the grant contract.

### **Proposed NET Grantee Conditions Travel Policy; Section VI, J:**

#### J. Travel Policy

The Nebraska Environmental Trust (NET) has a responsibility to act as a careful steward of public funds and that those funds are used for purposes that are appropriate, cost-effective, and necessary to fulfill the core mission of the NET.

A Conference is a pre-arranged formal event with at least some of the following characteristics: designated participants, registration fee, a published substantive agenda, scheduled speakers or discussion panels on a topic, and involves expenses other than the wages of attendees. A conference may include, but is not limited to a retreat, convention, seminar, or symposium. A conference is not a routine operational meeting, mission-critical core function activity, or technical assistance/operational review site visit.

A Convention is a formal meeting of members or representatives of a profession or industry.

A Workshop is a gathering for educational and/or work purposes to concentrate on defined areas of concern. Workshops emphasize the exchange of ideas and the demonstration and application of techniques and skills.

An Event is an all-inclusive term to include a conference, meeting, training occurrence, or other similar gathering that involves expenses of the attendees, such as for travel, meals, or refreshments. It is not a routine operational meeting.

Meals and refreshments should be incidental to a conference, convention, workshop, or event.

Only recognized conferences, conventions, workshops, and events by NET will be considered for reimbursement.

**FEDERAL RATE REIMBURSEMENT.** Same-day meals and lodging expenses are not permitted for reimbursement. Travel must be at least two days (overnight) and the destination at least 60 miles from the workplace to be eligible for reimbursement. Reimbursement for meals and lodging for overnight travel will be reimbursed at the actual cost of said expenses, except that this reimbursement shall be capped at the Federal rate per meal for food and per day for lodging. Alcohol reimbursement is prohibited.

Mileage may be reimbursed for both same-day and overnight travel at the current standard IRS mileage rate. Travel logs are required to include the following information: starting point and destination, number of miles driven, and purpose of the trip.

Automobile rentals, airfares, and taxi/shuttle transportation will be reimbursed at the actual reasonable cost. A bank card receipt that displays only the total cost of the transportation expense is not sufficient documentation.

Grant-sponsored travel will require itemized meal receipts.

**Motion by Mr. Macy,** seconded by Mr. Davidson, “I move that I move that the NET Grantee Conditions Travel Policy be adopted as presented.”

**Discussion:** It was clarified that board members and state employees (staff) must follow the state’s travel policies.

**Voting Aye:** Quandahl, Helgoth, Andersen, Christen, Hansen, McCoy, Menefee, Riley, Vinton, Macy, Kanger, Davidson, Hellbusch

**Absent:** Vasko

**13 Voted Aye. Motion carried.**

## 7. Basic Grant Contract updates

Mr. Quandahl reported being a part of the Trust 22 Committee tasked with reviewing NET operations for ways to improve its processes. The grant contract for grantees was one of the areas studied. The contract was compared with NET's past practices and the applicable sections of the state constitution, statutes, rules and regulations, and policies. The grant contract was revised, and yearly reviews are planned for continuous improvement to improve services for the public, grantees, and the purposes of NET. Substantial revisions to Title 137 became effective in August 2023. As a result of these revisions to the rules and regulations and suggestions from staff, additional changes to the contract were necessary.

Executive Director Elmshaeuser reported that although Title 137, Chapter 8, 002, permits the Executive Director to negotiate specific conditions within the limits of the Board's intent, the standard boilerplate for the grant contract that incorporates NET statutes, rules, regulations, and policies is being presented to the Board for approval.

Mr. Quandahl and Executive Director reviewed the proposed contract in conjunction with a grant review and input from the Grants Administrator, and a review by the Nebraska Attorney General's office.

**Motion by** Mr. Davidson, seconded by Ms. Vinton, “I move that the NET Board approves the standard conditions grant contract that is applicable to all grants and the Executive Director shall have discretion to negotiate specific conditions as allowed in Title 137, Chapter 8.”

**Discussion:** It was noted that Board Policy Section VI, E. Proceeds From Sale or Transfer of Real Estate, appeared to be in conflict with the proposed language in Section VI, 2. REAL ESTATE of the grant contract concerning the amount the sponsor would be obligated to repay when selling or transferring appreciated real property purchased with grant funds. Mr. Riley noted that if the contract were signed using the proposed language, it would stand before any Board policy. Revisions only apply to contracts signed for new grants going forward. It was clarified that the same language concerning repayment was previously in the grant language. In the past, policies often were not put on grantees. Nothing binds the grantee to internal Board policies unless the policies are included in the grant contract. Ms. Vinton suggested revising the language of the Personal Property Disposition section in the Grant Contract to reflect the same terms for sponsor repayment when selling real estate. Mr. Quandahl proposed referencing the policies in the grant contract.

**Amended motion by** Mr. Riley, seconded by Mr. Christen, “I move to include Board policy Section VI, subsection E to the grant contract.”

**Discussion:** None

**Voting Aye:** Helgoth, Andersen, Christen, Hansen, McCoy, Menefee, Riley, Vinton, Macy, Kanger, Davidson, Quandahl, Hellbusch

**Absent:** Vasko

**13 Voted Aye. Motion carried.**

**Original motion as amended** by Mr. Davidson, seconded by Ms. Vinton, “I move that the NET Board approves the standard conditions grant contract to include Board policy Section VI, subsection E, that is applicable to all grants and the Executive Director shall have discretion to negotiate specific conditions as allowed in Title 137, Chapter 8.”

**Discussion:** None

**Voting Aye:** Quandahl, Helgoth, Andersen, Christen, Hansen, McCoy, Menefee, Riley, Vinton, Macy, Kanger, Davidson, Hellbusch

**Absent:** Vasko

**13 Voted Aye. Motion carried.**

## **8. Grants Committee Report and Recommendations; Award of 2024 Grants**

Grants Committee Chairman Andersen reported the Grants Committee met once for eligibility and once for scoring. The grant process for 2024 grant funding was revised because of Title 137 revisions. The Grants Committee reviewed 80 grant applications, and 69 were deemed eligible. Each Committee member anonymously reviewed the applications, and the scores were combined for the final score of each grant application. The Committee recommended funding projects with an average score of 25 or higher. The methods used for ranking and scoring were summarized.

The last six applications on the rank order list were above 25 points, but available funding was applied to higher-scoring applications until expended. If circumstances change, these grant applications will be returned to the Board for consideration.

Executive Director Elmshaeuser reported that the total funds are certified encumbrances for every grant awarded. Funds are no longer held in reserve. This assures the grantee that the total funding will be available for their grant. The grantee must still meet the annual milestones in their contract to receive funding for multi-year projects. The 2024 process for grant contract generation was summarized for the Board. Once a contract is offered, the grantee has 60 days to sign it, or it is null and void. The grantee may not proceed with the project until the Board Chair signs the grant contract.

Grants Administrator Adams reported she would be emailing the initial grant award letters.

**Motion by** Mr. Andersen, second by Mr. Davidson, “As Chairman representing the Grants Committee, I move that the Nebraska Environmental Trust Board accepts and approves the following grant applications, as recommended by the Grants Committee, and authorize the Chairperson and Executive Director to sign the award letters and contracts: 24-175 and 24-179.”

**Discussion:** None

**Voting Aye:** Andersen, Christen, McCoy, Menefee, Riley, Vinton, Macy, Kanger, Davidson, Quandahl, Helgoth, Hellbusch

**Abstaining:** Hansen

**Absent:** Vasko

**12 Voted Aye. 1 Abstained. Motion carried.**

**Motion by** Mr. Andersen, second by Mr. Quandahl, “As Chairman representing the Grants Committee, I move that the Nebraska Environmental Trust Board accepts and approves the following grant applications, as recommended by the Grants Committee, and authorize the Chairperson and Executive Director to sign the award letters and contracts: 24-109, 24-125, 24-121, and 24-152.”

**Discussion:** None

**Voting Aye:** Christen, Hansen, Menefee, Riley, Vinton, Macy, Kanger, Davidson, Quandahl, Helgoth, Andersen, Hellbusch

**Abstaining:** McCoy

**Absent:** Vasko

**12 Voted Aye. 1 Abstained. Motion carried.**

**Motion by** Mr. Andersen, second by Mr. McCoy, “As Chairman representing the Grants Committee, I move that the Nebraska Environmental Trust Board accepts and approves the following grant application, as recommended by the Grants Committee, and authorize the Chairperson and Executive Director to sign the award letter and contract: 24-158.”

**Discussion:** None

**Voting Aye:** Hansen, McCoy, Riley, Vinton, Macy, Kanger, Davidson, Quandahl, Helgoth, Andersen, Christen, Hellbusch

**Abstaining:** Menefee

**Absent:** Vasko

**12 Voted Aye. 1 Abstained. Motion carried.**

**Motion by** Mr. Andersen, second by Mr. Macy, “As Chairman representing the Grants Committee, I move that the Nebraska Environmental Trust Board accepts and approves the following grant applications, as recommended by the Grants Committee, and authorize the

Chairperson and Executive Director to sign the award letters and contracts: 24-111, 24-138, 24-123, 24-135, 24-148, 24-139, 24-122, 24-156, 24-113, 24-142, 24-130, 24-101, 24-162, 24-140, 24-126, 24-180, 24-128, 24-104, 24-103, 24-108, 24-163, 24-169, 24-102, 24-127, 24-147, 24-132, 24-173, 24-174, 24-107, 24-133, 24-124, 24-131, 24-167, 24-105, 24-106, 24-168, 24-143, 24-136, 24-160, 24-153, 24-116, and 24-129.”

**Amended motion by Mr. Christen, second by Mr. Davidson, “I move to amend the motion to remove 24-180 and 24-168 for discussion.”**

**Discussion:** Mr. Christen noted grant 24-180 was for public land restoration work. He could not determine if the recipient had already received funding from NET for these projects. Mr. Christen reported that Grant application 24-168 indicated the Nature Conservancy had returned 444 acres to the Iowa Tribe in 2020. He believed part of this land was involved in a past grant project where funding was provided to the Nature Conservancy to purchase acres to expand the preserve's size and restore components of the natural landscape. A later site inspection by himself and another Board member revealed the work had not been done. He had recommended that the Board not allow a land transfer, but the Board voted to approve the transfer. Mr. Christen expressed concern that the management practice of a controlled burn to control invasive species, as specified in application 24-168, would not effectively eradicate sericea lespedeza.

Based on his research, Executive Director Elmshaeuser stated the original application was awarded in 1996. In 2017, the Nature Conservancy approached the Board requesting to donate the acreage to the tribe. The transfer was approved at the February 9, 2017, Board meeting. It was not found that the tribe had ever applied to the Trust previously. The burn was just one of the elements mentioned in their application. The donated ground is only part of the Tribal National Park at Rulo Bluffs.

**Voting Aye:** Menefee, Riley, Vinton, Macy, Kanger, Davidson, Quandahl, Helgoth, Andersen, Christen, Hansen, McCoy, Hellbusch

**Absent:** Vasko

**13 Voted Aye. Motion carried.**

**Original motion as amended by Mr. Andersen, second by Mr. Macy, “As Chairman representing the Grants Committee, I move that the Nebraska Environmental Trust Board accepts and approves the following grant applications, as recommended by the Grants Committee, and authorize the Chairperson and Executive Director to sign the award letters and contracts: 24-111, 24-138, 24-123, 24-135, 24-148, 24-139, 24-122, 24-156, 24-113, 24-142, 24-130, 24-101, 24-162, 24-140, 24-126, 24-128, 24-104, 24-103, 24-108, 24-163, 24-169, 24-102, 24-127, 24-147, 24-132, 24-173, 24-174, 24-107, 24-133, 24-124, 24-131, 24-167, 24-105, 24-106, 24-143, 24-136, 24-160, 24-153, 24-116, and 24-129.”**

**Discussion:** None

**Voting Aye:** McCoy, Menefee, Riley, Vinton, Macy, Kanger, Davidson, Quandahl, Helgoth, Andersen, Christen, Hansen, Hellbusch

**Absent:** Vasko

**13 Voted Aye. Motion carried.**

**Motion by Mr. Christen, “I move not to fund grant application 24-168.”**

The motion failed for lack of a second.

**Motion by** Mr. Christen, second by Davidson, “I move to approve grant application 24-180 for funding.”

**Discussion:** Mr. Christen stated that, as presented, it appeared NET might have already put a lot of funding into these projects, although at this point, the extent could not be determined. Mr. Quandahl reported that an ad hoc committee would be considered to improve the grant application cycles going forward. A disclosure of previous NET funding for real estate and projects would be helpful for the Grants Committee members reviewing applications. Mr. Andersen noted the present grant evaluation process did not allow him to address some of his concerns. The process could be improved going forward.

**Voting Aye:** Vinton, Macy, Kanger, Davidson, Quandahl, Helgoth, Andersen, Christen, Hansen, McCoy, Menefee, Riley, Hellbusch

**Absent:** Vasko

**13 Voted Aye. Motion carried.**

**Motion by** Mr. Christen, second by Mr. Riley, “I move to fund grant application 24-168 with the condition that state best management practices are used to control noxious weeds on the property.”

**Discussion:** It was noted that conditions for a grant project could be determined either by state law or the conditions of a grant contract. Conducting a site visit later to check the progress was suggested. Mr. McCoy concurred with Mr. Christen that a controlled burn cannot manage sericea lespedeza. Executive Director Elmshaeuser noted the application shows collaboration with other entities, and adding an additional item on the award about using the state's best management practices requirement should not be a burden for compliance.

Kanger left the meeting at 3:04 p.m.

**Voting Aye:** Macy, Davidson, Quandahl, Helgoth, Andersen, Hansen, McCoy, Menefee, Riley, Vinton, Hellbusch

**Abstain:** Christen

**Absent:** Kanger, Vasko

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

## **9. Grants Committee Recommendation for Ad Hoc Ranking and Scoring Committee**

Grants Committee Chairman Andersen reported that ten questions were answered by grant applicants in the 2024 grant cycle. The answers to the questions were available to the scorers. Each question had five possible points, with three points meeting expectations. A total of 50 points was a perfect score. The questions were geared to the approved revisions in Title 137 in 2023 to comply with state statutes. The rules and regulations were not in alignment prior to the revisions. The issue was exposed in an APA audit and DAS Operations Assessment conducted in 2021. The Grants Committee passed a motion on December 13, 2023, to recommend to the NET Chair and Board to form an ad hoc committee to provide additional input in the ranking and scoring process for the 2025 grant application cycle. The recommendation for the committee members is based on the member's experience on the Trust 22, Title 137, and Grant Committees.

Any ad hoc committee recommendations for the ranking and scoring process will require a public hearing and approval of the NET Board.



**Motion by** Mr. Andersen, second by Mr. Christen, “I move that the NET Board establish an Ad Hoc Committee as allowed in Neb. Rev. Stat. § 81-15,173(7) to assist the Executive Director in developing a ranking system as described in Title 137 Chapter 6, to meet the requirements of Neb. Rev. Stat. § 81-15,175(2) and to be completed by March 29, 2024. There should be three members on the committee from each of the Congressional Districts: Jeff Kanger - District 1, Mark Quandahl - District 2, and Josh Andersen - District 3. The Committee is in place until June 30, 2024, or until the NET Board dissolves the committee, or whichever comes first.”

**Discussion:** It was noted positive improvements have been made to the methodology of grant eligibility and scoring and other NET processes in the last three years. Striving for continuous improvement will continue to be emphasized. Because of process improvements, Mr. Andersen reported grantees may begin their projects once their contracts are in effect. In the past, grants were not awarded until June. The state can now put funds to work six months sooner.

**Voting Aye:** Davidson, Quandahl, Helgoth, Andersen, Christen, Hansen, McCoy, Menefee, Riley, Vinton, Macy, Hellbusch

**Absent:** Kanger, Vasko

**12 Voted Aye. Motion carried.**

#### 10. Directors Report

Executive Director Elmshaeuser reported receiving inquiries concerning the start of work on the next biennium budget. The Board must utilize public meetings in each congressional district to establish the five-year funding categories, and some budget allocations will be needed for related expenses in the 2025-2027 biennium budget request.


After the grant applications were released for eligibility, an individual contacted the grantees asking for information about their grants to compile information. It was brought to light when one of the grantees contacted NET staff to ask if the email came from the Trust. Actions were taken internally to ensure the database was secure and no breaches occurred. A records request was not submitted to the Trust, which could have provided some of the desired information. Personal information for grantees is never published.

#### 11. Next Meeting

Thursday, February 1, 2024, Telegraph Lofts West, 2077 N St, Suite 310, Lincoln, Nebraska 68510, 1:30 p.m.

#### 12. Adjourn

Chair Hellbusch adjourned the meeting at 3:16 p.m.

  
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Karl L. Elmshaeuser  
Executive Director