

# MINUTES

Nebraska Environmental Trust Board  
Third Quarter Meeting  
Thursday, August 1, 2024  
1:30 p.m.

## 1. Call to Order

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

Advanced notice of the meeting and public hearing was published in the Lincoln Journal Star on July 23, 2024. 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 (10):**

**District I:** Chair James Hellbusch, Columbus; Mr. Ted Vasko, Papillion

**District II:** 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. Thad Fineran, Interim Director, Nebraska Department of Environment and Energy; Mr. Tim McCoy, Director, Nebraska Game & Parks Commission; Vice-Chair Sherry Vinton, Director, Nebraska Department of Agriculture

### **Members Absent (4):**

**District I:** Mr. Jeff Kanger, Lincoln

**District II:** Mr. Felix Davidson, Valley

**State Agency Representatives:** Ms. Charity Menefee, Director, Nebraska Department of Health and Human Services; 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

## 2. Consent Agenda

### Background on Consent Agenda Items

The consent agenda included the May 2, 2024, 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. Helgoth, "I move to approve the consent agenda."

**Voting Aye:** Vasko, Quandahl, Helgoth, Andersen, Christen, Hansen, McCoy, Vinton, Fineran, Hellbusch

**Absent:** Davidson, Kanger, Menefee, Riley

**10 Voted Aye. Motion carried.**

## 3. Public Comment

Mr. Mike Murphy, Middle Niobrara Natural Resources District (MNNRD), thanked the Board for the funding opportunity for Grant 23-117 and outlined the delays, benefits, and substantial amount of federal dollars that could be secured and leveraged for the Long Pine Creek Watershed Restoration project. Additional consideration for the project funding was requested.

#### 4. Board Development

Executive Director Elmshaeuser stated the central mission of the Board is to be a good steward of public funds and to put them to use to benefit the public. Grantees are required to meet the terms and conditions of their grant project contract. Examples of previous project reimbursement requests were given to the Board to demonstrate how claims are processed.

A review of grant reimbursement requests from January 1, 2024, to June 13, 2024, showed NET's internal review process averaged 1.48 business days. Grantees received payments within an average of 3.88 business days.

#### 5. Consider Nebraska Environmental Trust Policy

##### Background of Agenda Item 5.a

When and for how long grant extensions may be granted has been the subject of some confusion. A historical and statutory review of NET funding obligations was conducted during the preparation of the biennium budget. The review helped clarify the statutory limitations for grant extension requests.

Executive Director Elmshaeuser reported the additional proposed language in Section VI was also indicated in Neb. Rev. Stat. § 81-138.01. It may be easier for Board members and grantees to reference language concerning extension encumbrances in the Board's policies.

##### a. Section VI: Grantee Conditions, I. Grant Modification Requests

Proposed language:

1. Requests for extensions to the funding period may be approved by the Board if the request is received by the Trust prior to the expiration date of the funding period. This policy is effective starting with the 2022 grant cycle.
2. Requests for budget changes within a grant may be approved by staff if less than \$10,000 and received by the Trust prior to the expiration date of the funding period. This policy is effective starting with the 2022 grant cycle.
3. All remaining project funds shall be returned to the Trust.
4. An extension request cannot exceed statutory limitations. A valid encumbrance is a written agreement for a grant or award that was signed but was not paid during the same biennium. An encumbrance established in one biennium may only be carried over into the subsequent biennium.

**Motion by** Mr. Quandahl, seconded by Mr. Andersen, "I move to adopt the new policy change for Section VI: Grantee Conditions, I. Grant Modification Requests, as presented."

**Discussion:** To avoid the loss of remaining funding for a three-year project, a question was raised whether a one-year extension could be granted a second time if the project was not completed. It was explained that when the legislative appropriation lapses for a project, the NET would need to go back to the legislature to request the reappropriation or take the remaining amount from the appropriation for the next grant cycle. Language must be changed in the budget request bill to allow funding to be held over for more than four years. Mr. Fineran clarified that nothing was added to the policy that was not already identified in Neb. Rev. Stat. § 81-138.01. It was questioned whether NET's statutes could be amended to allow a funding extension beyond a current or subsequent biennium using a case-by-case evaluation of reasons for the project delay.

The issue will be referred to the Legislative Committee to determine the best course of action and to make a recommendation to the Board at the November meeting.

**Voting Aye:** Quandahl

**Voting Nay:** Helgoth, Andersen, Hansen, McCoy, Vinton, Fineran, Vasko, Hellbusch

**Abstaining:** Christen

**Absent:** Davidson, Kanger, Menefee, Riley

**1 Voted Aye. 8 Voted Nay. 1 Abstained. Motion failed.**

**b. Section XI: Office Policy, A. Facility Use Manual**

Background of Agenda Item 5.b

Requests have been received from other entities to use the NET conference room. Advice was sought from legal counsel and the Department of Administrative Services (DAS). When leased office space is not owned by the state, the tenant has the final say.

Proposed language for a Facility Use Manual for the NET's meeting room was provided to the Board.

**Motion by** Mr. Quandahl, seconded by Mr. Andersen, "I move to adopt the new policy change to add Section XI: Office Policy, A. Facility Use Manual, as presented."

**Discussion:** It was specified that the Manual only allows Nebraska state agencies to use the meeting room.

**Voting Aye:** Quandahl, Helgoth, Andersen, Christen, Hansen, McCoy, Vinton, Fineran, Vasko, Hellbusch

**Absent:** Davidson, Kanger, Menefee, Riley

**10 Voted Aye. Motion carried.**

The Facility Use Manual will be added to the NET's adopted policies.

**6. Grant Adjustments & Closeouts**

Background of Agenda Item 6

The NET Board determines the grant awards, and the Executive Director is responsible for managing those awards within the statutes, rules, and regulations set by the NET Board. On April 7, 2022, the NET Board approved the standard conditions for the grant contract which is applicable to all grants. The Executive Director was given the discretion to negotiate specific conditions as allowed in Title 137, Chapter 9, Section 002.

In May 2024, NET staff reviewed multiple-year awards for 2022, 2023, and 2024. Grant contracts from 2022 are still on a year-to-year basis. Reviews included the applications, budgets, spending plans, timelines, reports, and funding drawdowns. Grantees identified as behind in their projects were contacted by email to provide written statements. Failure by the grantee to comply with regulations or the grant contract may result in revocation of the grant, withholding of grant disbursements, or fund reimbursement of money already disbursed under the contract. Before the Executive Director takes any action, a written notice is sent to the grantee explaining the intended action and why it may be taken. The burden of proof to support claims by the applicant or grantee is the sole responsibility of that entity.

Grantees who did not provide information or could not substantiate their lack of performance were issued 15-day notices for failure to perform with specified actions to follow.

- a. **24-123 – Platte Valley Weed Management Area – Deobligate & close**
- b. **24-101 – Twin Valley Weed Management Area – Deobligate & close**

Notifications to withdraw the application were received for grant projects 24-123 and 24-101.

**Motion by Mr. McCoy**, seconded by Mr. Andersen, "I move to close out and deobligate grant funds for grant numbers 24-123 and 24-101."

**Discussion:** None

**Voting Aye:** Helgoth, Andersen, Christen, Hansen, McCoy, Vinton, Fineran, Vasko, Quandahl, Hellbusch

**Absent:** Davidson, Kanger, Menefee, Riley

**10 Voted Aye. Motion carried.**

- c. **23-136 – Habitat for Humanity of Omaha – No rollover**

No action is required as project funding was expended by June 30, 2024.

- d. **22-172 – NE Department of Transportation – Deobligate & close**

**Motion by Mr. Quandahl**, seconded by Mr. Andersen, "I move to close out and deobligate residual grant funds as of July 1, 2024, for grant number 22-172."

**Discussion:** Mr. Quandahl stated this was an example of holding all grantees to the same standard. It was noted that none of the funding had been expended.

**Voting Aye:** Andersen, Christen, Hansen, McCoy, Vinton, Fineran, Vasko, Quandahl, Helgoth, Hellbusch

**Absent:** Davidson, Kanger, Menefee, Riley

**10 Voted Aye. Motion carried.**

- e. **23-117 – Middle Niobrara NRD – Deobligate & close**

Consultant Janel Kaufman, P.E., Houston Engineering, came before the Board to answer questions and speak on the contractual aspects of grant project 23-117. Ms. Kaufman stated collaboration with the Middle Niobrara Natural Resources District (MNNRD) began with the project's initiation. Issues with project management, grant application objectives, project timeline, and the required state Natural Resources Conservation Service (NRCS) funding milestones were detailed and discussed with the Board.

It was suggested that Middle Niobrara NRD could resubmit a grant proposal for the Long Pine Creek Watershed project during the current grant period to allow more time for the project. Ms. Kaufman expressed concern about issues with the timeline and the possibility that a new application would not be approved. The review stage for the current grant project has been completed with NRCS. Funding will occur through a phased allocation process. Ms. Kaufman expressed confidence that the project could be completed within the contractual grant period.

Mr. Mike Murphy, General Manager of MNNRD, was invited to appear before the Board to answer additional questions about grant project 23-117's performance. Mr. Murphy specified MNNRD is committed to the project and is open to any opportunities to speed up the federal process. As part of efforts to improve the process, conversations were held with NRCS and Senator Fischer. A three-year grant was requested to allow flexibility in the project timeline.

**Motion by** Mr. Quandahl, seconded by Mr. Christen, "I move to close out and deobligate residual grant funds as of July 1, 2024, for grant project 23-117."

**Discussion:** Board members agreed that the grant was beneficial and a good project. The issue of whether NET is adhering to its policies and laws and treating all grantees equally was discussed.

**Voting Aye:** Christen, Quandahl, Andersen, Hellbusch

**Voting Nay:** McCoy, Vinton, Fineran, Vasko, Helgoth, Hansen

**Absent:** Davidson, Kanger, Menefee, Riley

**4 Voted Aye. 6 Voted Nay. Motion failed.**

**f. 23-150 – The Nature Conservancy – Deobligate & close**

**Motion by** Mr. Vasko, seconded by Mr. Andersen, "I move to close out and deobligate grant funds in the amount of \$270,525 for grant number 23-150."

**Discussion:** None

**Voting Aye:** Hansen, McCoy, Vinton, Fineran, Vasko, Quandahl, Helgoth, Andersen, Christen, Hellbusch

**Absent:** Davidson, Kanger, Menefee, Riley

**10 Voted Aye. Motion carried.**

The Board took a break from 3:48 p.m. to 4:00 p.m.

**7. Set NET Board Meeting Calendar for 2025 and Grant Application Deadline**

**Motion by** Mr. Andersen, seconded by Mr. McCoy, "I move to approve the 2025 NET Grant application and meeting calendar as follows:

Thursday, January 9, 2025, Public Hearing and Grant Awards for 2025

Thursday, February 6, 2025, 1<sup>st</sup> Quarter Board meeting

Thursday, May 1, 2025, 2<sup>nd</sup> Quarter Board meeting

Thursday, August 7, 2025, 3<sup>rd</sup> Quarter Board meeting

Thursday, November 6, 2025, 4<sup>th</sup> Quarter Board meeting

and Grant Application deadline September 2, 2025."

**Discussion:** None

**Voting Aye:** McCoy, Vinton, Fineran, Vasko, Quandahl, Helgoth, Andersen, Christen, Hansen, Hellbusch

**Absent:** Davidson, Kanger, Menefee, Riley

**10 Voted Aye. Motion carried.**

**8. Grant Application Cycle 2024/2025**

**a. Authorization for Technical Advisory Committee**

**Motion by** Mr. Andersen, seconded by Mr. Christen, "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 2025 grant applications."

**Discussion:** It was clarified that Board Policy Section II, E. Technical Advisory Committee: Qualifications outlines the qualifications and Board Policy Section III, C. Technical Advisory Committee addresses conflicts of interest for technical advisors. A concern was expressed that the Grants Committee members cannot see the name of the TAC reviewer on an application. Ms. Adams, Grants Administrator, noted the Board chair receives a list of the members of the Technical Advisory Committee.

**Voting Aye:** Vinton, Fineran, Vasko, Quandahl, Helgoth, Andersen, Christen, Hansen, McCoy, Hellbusch

**Absent:** Davidson, Kanger, Menefee, Riley

**10 Voted Aye. Motion carried.**

## 9. Election of Officers

### Background on Election of Officers

Neb. Rev. Stat. § 81-15-172 requires the Board to elect a chairperson from among its citizen members annually. 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 the chairperson rotates each year by Congressional district.

#### a. Chairman

**Motion by** Mr. Andersen, "I move to nominate Rod Christen for Chairman from Congressional District 3."

**Discussion:** None

**Voting Aye:** Vinton, Fineran, Vasko, Quandahl, Helgoth, Andersen, Christen, Hansen, McCoy, Hellbusch

**Absent:** Davidson, Kanger, Menefee, Riley

**10 Voted Aye. Motion carried.**

#### b. Vice-Chairman

**Motion by** Mr. Andersen, "I move to nominate Sherry Vinton for Vice-Chairman."

**Discussion:** None

**Voting Aye:** Vinton, Fineran, Vasko, Quandahl, Helgoth, Andersen, Christen, Hansen, McCoy, Hellbusch

**Absent:** Davidson, Kanger, Menefee, Riley

**10 Voted Aye. Motion carried.**

## 10. Director's Report

As a result of action taken by the Board earlier at the meeting, Executive Director Elmshaeuser reported that \$26,232,149 will be available for the 2025 grant cycle. The amount is a combination of NET's legislative appropriation and the current biennium's unused and deobligated grant funding.

The Board was invited to attend the Grant Application Q & A Sessions offered through Zoom. Press releases for the sessions are being distributed to newspapers and broadcast distribution sources by the Nebraska Press Association. The first session was held on July 25, 2024, and additional sessions will be offered on August 6, 2024, and August 21, 2024.

NET received \$15,000 for equipment with a lien on it that was sold, and \$47,030.83 in restitution from a federal court disbursement.

By invitation, Executive Director Elmshaeuser gave a presentation in South Sioux City, and the South Sioux City plastic road grant project was toured with Lance Hedquist.

The Nebraska Lottery staff will be contacted to see if a beneficiary briefing can be presented to the Board.

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

### Background of Agenda Item 11

The NET Executive Committee must 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 outlined in the Board Policies, Section IX: Trust Staff, C.

Chair Hellbusch reported on the Executive Committee's process for the performance review. The Committee recommended a merit-based salary increase of 5%, effective as of July 1, 2024. Mr. Quandahl indicated he would have a supplemental motion once the salary recommendation is adopted.

**Motion by Mr. Helgoth**, seconded by Mr. Vasko, "I move to adopt the Executive Committee's recommendation to grant a 5% salary increase for the Executive Director effective on July 1, 2024."

**Discussion:** It was clarified that the Executive Director received no bonuses in the past and the pay increase for FY 2023-24 as well as the proposed pay increase for FY 2024-25 matched the standard pay increase for classified state employees with satisfactory performance.

**Voting Aye:** Fineran, Vasko, Quandahl, Helgoth, Andersen, Christen, Hansen, McCoy, Vinton, Hellbusch

**Absent:** Davidson, Kanger, Menefee, Riley

**10 Voted Aye. Motion carried.**

**Motion by Mr. Quandahl**, seconded by Mr. Andersen, "I move to grant Karl Elmshaeuser a one-time bonus of \$10,000 payable at the next pay period."

**Discussion:** Mr. Quandahl reported that the one-time performance bonus was not a salary increase. The bonus would be awarded for performance during the past 2.5 years. He credited Executive Director Elmshaeuser's leadership for:

- Updating and modernizing the grant contract
- Updating and clarifying Title 137 Rules and Regulations and Board policies
- Implementing desktop audits of grant projects
- Creating and/or enforcing timelines, statutory and regulatory requirements, and grant project milestones
- Good stewardship of public funds
- Cleanup of the accumulated financial aspects of grant funding
- Spearheading the office location RFP resulting in a vastly improved office space
- Sharpening the focus of the NET's mission

Chair Hellbusch reported that the performance reviews completed by the Board and staff showed a high rating for the Executive Director's performance. Appreciation was expressed by the Board for Executive Director Elmshaeuser's focus on the Trust and efforts to enhance and streamline its processes.

**Voting Aye:** Vasko, Quandahl, Helgoth, Andersen, Christen, Hansen, McCoy, Hellbusch

**Abstaining:** Vinton, Fineran

**Absent:** Davidson, Kanger, Menefee, Riley

**8 Voted Aye. 2 Abstained. Motion carried.**

## 12. Director's Report

Executive Director Elmshaeuser commended Chair Hellbusch for his service and commitment to the Nebraska Environmental Trust Board and presented a gift as a token of appreciation. NET funds were not expended for the gift.

## 13. Next Meeting

Thursday, November 7, 2024, Telegraph Lofts West, 2077 N St, Suite 310, Lincoln, NE 68510, 1:30 p.m.

## 14. Adjourn

Chair Hellbusch adjourned the meeting at 4:47 p.m.



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Karl L. Elmshaeuser  
Executive Director