

ENVIRONMENTAL QUALITY COUNCIL MEETING MINUTES

November 16, 2021

Joe Citta, Chair, called the meeting of the Nebraska Environmental Quality Council (EQC) to order at approximately 10:00 am, Central Time, November 16, 2021. The meeting was held at the Nebraska Department of Environment and Energy (NDEE), 245 Fallbrook Blvd Lincoln, NE 68521. Public notice of the meeting and scheduled public hearings was published more than 30 days prior to the meeting in the Omaha World Herald in accordance with the law and on the NDEE Website. Mr. Citta read a statement at the beginning of the meeting informing the meeting attendees of the location of a current copy of the Open Meetings Act.

ROLL CALL

Present at roll call were Mr. Bogner, Mr. Citta, Mr. Grams, Mr. Harder, Mr. Hedquist, Mr. Marshall, Mr. Peterson, Ms. Staples, Mr. Stange, Ms. Steidley, and Mr. Zuhlke. Absent were Mr. Anderson, Mr. Hall, and Mr. Marshall. Eleven members were present, constituting a quorum.

ANNOUNCEMENTS

None.

APPROVAL OF MINUTES

Mr. Hedquist made a motion to approve the minutes from the June 15, 2021 meeting. Mr. Zuhlke seconded the motion. Voting in favor were Mr. Bogner, Mr. Citta, Mr. Grams, Mr. Harder, Mr. Hedquist, Mr. Marshall, Mr. Peterson, Ms. Staples, Mr. Stange, Ms. Steidley, and Mr. Zuhlke. Eleven voting yes, the motion carried.

REPORTS OF EQC MEMBERS

Mr. Citta gave a welcome to new and reappointed EQC members. Mr. Bogner, Mr. Citta, Mr. Grams, Mr. Harder, Mr. Hedquist, Mr. Marshall, Mr. Peterson, Ms. Staples, Mr. Stange, Ms. Steidley. Mr. Zuhlke also welcomed and encouraged new members to be engaged.

DIRECTOR'S REPORT

Director Macy reported that NDEE continues to develop processes to make compliance easier to understand, provide outreach to communities, and to be responsive, helpful, and transparent.

Director Macy reported on the Volkswagon (VW) Settlement final plan and the NDEE VW Funding categories. Graphs showing the Funding Categories and the VW Funding Categories: Committed & Spent were included in the attached Director's Report.

Director Macy provided a spreadsheet reporting the NDEE Total Estimated amount of Funding from H.R. 3684. He provided an American Rescue Plan Act of 2021 (ARPA) update and a copy of Governor Ricketts letter to the Chair of the Legislature's Appropriations Committee.

Director Macy highlighted the following changes transferring staff and duties to department. LB302 was passed and became effective July 1, 2019 transferring 17 full time employees from the Energy Office to NDEE. LB147 was passed and became effective July 1, 2021 transferring Department of Health and Human Services (DHHS) Drinking Water and Well Driller teams, consisting of 46 full time employees. NDEE also completed a reorganization of programs and staff to achieve a more functional structure. Land, Air, Water, Drinking Water, and Energy divisions were reorganized into Permitting and Engineering, Inspection and Compliance, Monitoring and Remediation, Drinking Water, and Planning and Aid.

Director Macy reported on other NDEE projects, including using more technology to assist with process improvement.

Director's Report attached.

OLD BUSINESS

None.

NEW BUSINESS

Election of Chairperson

Mr. Zuhlke nominated Mr. Citta and Mr. Hedquist seconded the nomination. Mr. Grams made a motion to close the nominations and approve Joe Citta as Chairperson. Ms. Kolterman seconded the motion. Voting in favor were Mr. Bogner, Mr. Grams, Mr. Harder, Mr. Hedquist, Mr. Marshall, Mr. Peterson, Ms. Staples, Mr. Stange, Ms. Steidley, and Mr. Zuhlke. Abstaining from voting was Mr. Citta. Ten voting yes, the motion carried.

Election of Vice-Chairperson

Mr. Citta nominated Mr. Zuhlke and Mr. Hedquist seconded the nomination. Ms. Kolterman made a motion to close the nominations approve Alden Zuhlke as Vice-Chairperson. Mr. Harder seconded the motion. Voting in favor were Mr. Bogner, Mr. Citta, Mr. Grams, Mr. Harder, Mr. Hedquist, Mr. Marshall, Mr. Peterson, Ms. Staples, Mr. Stange, and Ms. Steidley. Abstaining from voting was Mr. Zuhlke. Ten voting yes, the motion carried.

Resolution to Increase Borrowing Authority for the Wastewater Treatment Facilities Construction Loan Fund (Clean Water State Revolving Fund)

Steve McNulty, NDEE State Revolving Fund Section Supervisor, presented the Resolution to Increase Borrowing Authority for the Wastewater Treatment Facilities Construction Loan Fund (Clean Water State Revolving Fund).

Mr. Hedquist made a motion to approve the Resolution to Increase Borrowing Authority for the Drinking Water State Revolving Fund. Mr. Harder seconded the motion. Voting in favor were Mr. Bogner, Mr. Citta, Mr. Grams, Mr. Harder, Mr. Hedquist, Mr. Marshall, Mr. Peterson, Ms. Staples, Mr. Stange, Ms. Steidley, and Mr. Zuhlke. Eleven voting yes, the motion carried.

Resolution to Increase Borrowing Authority for the Drinking Water State Revolving Fund

Steve McNulty, NDEE State Revolving Fund Section Supervisor, presented the Resolution to Increase Borrowing Authority for the Drinking Water State Revolving Fund.

Mr. Stange made a motion to approve the Resolution to Increase Borrowing Authority for the Drinking Water State Revolving Fund. Ms. Steidley seconded the motion. Voting in favor were Mr. Bogner, Mr. Citta, Mr. Grams, Mr. Harder, Mr. Hedquist, Mr. Marshall, Mr. Peterson, Ms. Staples, Mr. Stange, Ms. Steidley, and Mr. Zuhlke. Eleven voting yes, the motion carried.

NEXT MEETING

Mr. Citta asked Annette Kovar if a date for the next EQC meeting has been decided upon. Ms. Kovar said there are no dates currently scheduled but reminded the EQC that there is a spring meeting typically in June to consider the Clean Water State Revolving Fund and Drinking Water State Revolving Fund Intended Use Plan. She there may be another meeting in the early spring if there are regulations ready to present to the EQC.

PUBLIC HEARING ON THE 2022 LITTER PERCENT ALLOCATION

Brian McMullen, hearing officer, opened the hearing. The following exhibits were received:

- **Order appointing Brian McMullen Hearing Officer (Exhibit 1)**
- **Proof of publication of legal notices (Exhibit 2)**
- **Declaration of Adam Ward (Exhibit 3)**
- **Memo from S. Staostka to EQC, dated 09-29-21, re Litter Reduction and Recycling Grant Program 2022 Funding Percentage Allocations (Exhibit 4)**

Aaron Miller, NDEE Grants Section Supervisor, the proposed 2022 funding percentage allocations for the Litter Reduction and Recycling Grant Program.

Mr. Bodner asked if there was anything NDEE can do related to encourage more recycling and cleanup. Mr. Miller stated that based on past grant years, the public education category has been funded the most. Mr. Hedquist asked if there were additional funds available for the next year. Mr. Miller explained

this program only disburses state funds, not federal money, and total available funds is not known at this time. Mr. Grams asked if the 20% flexibility has been effective for adjustments to grant awards. Mr. Miller confirmed it has and NDEE is seeking a similar adjustment flexibility this year. In response to further questions from EQC members, Mr. Miller provided additional information on examples of grant recipients, how the flexibility adjustment would be used, an estimated percentage of grant projects that receive funding, and the possibility that some applicants may qualify for other grants. Mr. Macy suggested that next year NDEE will look at providing data on the grant awards programs. Mr. Macy also encouraged continuing a past practice where a few EQC members attend and observe how grant reviews are considered.

There being no other questions or testimony from the public, Brian McMullen, hearing officer, closed the hearing and turned the conduct of the meeting back to the chair.

Mr. Bogner made a motion to approve the 2022 Litter Percent Allocation as presented. Mr. Grams seconded the motion. Voting in favor were Mr. Bogner, Mr. Citta, Mr. Grams, Mr. Harder, Mr. Hedquist, Mr. Marshall, Mr. Peterson, Ms. Staples, Mr. Stange, Ms. Steidley, and Mr. Zuhlke. Eleven voting yes, the motion carried.

PUBLIC HEARING ON AMENDMENTS TO THE 2022 INTENDED USE PLAN AND PROJECT PRIORITY LIST FOR CLEAN WATER STATE REVOLVING FUND (CWSRF) AND DRINKING WATER STATE REVOLVING FUND (DWSRF)

Brian McMullen, hearing officer, opened the hearing. The following exhibits were received:

- **Order appointing Brian McMullen Hearing Officer (Exhibit 1)**
- **Proof of publication of legal notices (Exhibit 2)**
- **Declaration of Adam Ward (Exhibit 3)**
- **Memo from S. Starostka to EQC, dated 11/10/21, re Amendment of the State Fiscal Year 2022 Intended Use Plan (Exhibit 4)**
- **PowerPoint Presentation (Exhibit 5)**

Steve McNulty, NDEE State Revolving Fund Section Supervisor, presented the PowerPoint, Exhibit 4, on the proposed amendments to the 2022 Intended Use Plan.

Mr. Citta asked Mr. McNulty to explain the loan forgiveness process. Mr. Citta asked about expanded focus and if other pollutants will qualify. Mr. McNulty stated based on limited verbal statements by EPA, he does think that more pollutants will likely be approved for coverage. Mr. Bogner asked if the changes in red were required by the EPA. Mr. McNulty stated that they were and they were major components.

There being no other questions or testimony from the public, Brian McMullen, hearing officer, closed the hearing and turned the conduct of the meeting back to the chair.

Ms. Kolterman made a motion to approve the Amendments to the 2022 Intended Use Plan and Project Priority List for the Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF). Mr. Harder seconded the motion. Voting in favor were Mr. Bogner, Mr. Citta, Mr. Grams, Mr.

Harder, Mr. Hedquist, Mr. Marshall, Mr. Peterson, Ms. Staples, Mr. Stange, Ms. Steidley, and Mr. Zuhlke. Eleven voting yes, the motion carried.

PUBLIC HEARING ON AMENDMENTS TO TITLE 124 – RULES AND REGULATIONS FOR THE DESIGN, OPERATION AND MAINTENANCE OF ON-SITE WASTEWATER TREATMENT SYSTEMS

Brian McMullen, hearing officer, opened the hearing. The following exhibits were received:

- **Order appointing Brian McMullen Hearing Officer (Exhibit 1)**
- **Proof of publication of legal notices (Exhibit 2)**
- **Declaration of Adam Ward (Exhibit 3)**
- **Memo from A. Aanerud to EQC, dated 09-29-21, re Explanatory Statement for Proposed Amendments to Title 124 (Exhibit 4)**
- **Fiscal Impact Statement (Exhibit 5)**
- **Redlined copy of Title 124, as proposed to be amended (Exhibit 6)**
- **Summary of proposed amendments to Title 124 (Exhibit 7)**
- **PowerPoint Presentation (Exhibit 8)**
- **Draft of Private Onsite Wastewater Treatment Facility General Construction Permit (Exhibit 9)**

Alan Aanerud, NDEE Onsite & Environmental Safety Section Supervisor, presented the PowerPoint, Exhibit 8, on the proposed amendments to Title 124.

In response to questions from EQC members, Mr. Aanerud explained what qualifies as a hardship, the different levels and information covered by the exam, and streamlining of the permitting process including use of general permits.

There being no other questions or testimony from the public, Brian McMullen, hearing officer, closed the hearing and turned the conduct of the meeting back to the chair.

Ms. Kolterman made a motion to approve the Amendments to Title 124. Ms. Staples seconded the motion. Voting in favor were Mr. Bogner, Mr. Citta, Mr. Grams, Mr. Harder, Mr. Hedquist, Mr. Marshall, Mr. Peterson, Ms. Staples, Mr. Stange, Ms. Steidley, and Mr. Zuhlke. Eleven voting yes, the motion carried.

Chair Citta adjourned the meeting at approximately 12:20 pm. CT.

Respectfully submitted,



Jim Macy
Director