

**Administrative Procedures, Regulations, and Policy Committee Meeting
Nevada Board of Wildlife Commissioners
Wednesday, January 7, 2009 - 1 p.m.-5 p.m.**

Nevada Department of Wildlife
Western Region Office, 380 West B. St. Fallon, NV 89406
(775) 423-3171
Minutes

Committee Members: Commissioners Scott Raine (chair), Grant Wallace, and Tom Cavin, staff Maureen Hullinger and Kelly Clark; Members of the Public: Bud Sonnentag, Mike Laughlin, Floyd Rathbun, Pat Laughlin.

1. Call to Order – Chairman Scott Raine called the meeting to order at 1 p.m. He announced that there was a sign in sheet, and invited the public to sign in. Four members of the public signed in.
2. Public Comment Period – Commissioner Raine asked if there was any public comment, there was none.
3. Chairman Raine asked for input on the Committee Charter.

A number of edits were recommended, including the following: “Change the name of the Committee to be Administrative Procedures, Regulations *and Policy* Committee”; Under the Purpose, change name of Committee to Administrative Procedures, Regulations *and Policy* Committee”; change date of Aug. 5, 2005 to “Nov. 22, 2008” as the date the committee was reestablished; add an additional objective “*Review existing policies, recommend new policies as needed, and recommend those changes to the Commission.*” Under Objectives: fourth objective, “*add nac references to each objective, and cite the other documents that should be referenced, including petition processes as background materials for each objective .*” Tom Cavin made motion for staff to make changes as generally conceived, Grant Wallace seconded, vote was unanimous to alter the charter as described.

4. **A.General discussion/workshop of Commission Policies and Regulations**

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Public Comment: Floyd Rathbun spoke about his concerns regarding the agency's receipt of a letter he had written. There was extended discussion by Rathbun, concerning the letter about disease issues, response from the Department to his letters, and concerns about science used in plans. Raine stated his issue did not directly affect regulations, and there was discussion about whether the changes he was requesting would be changes to a regulation. Raine stated that Rathbun's issue would be addressed at an upcoming committee meeting.

Sonnentag talked about the Wildlife Action Plan, that it must be policy, that the public needed the opportunity to correct fallacies in plans, like the Wildlife Action Plan. He said the bottom line is there are fallacies in the plan and that it was approved as policy. Raine said you would be fighting a battle with people who are not there. Cavin said the lesson to be learned is don't let it happen again. Raine said this commission must have authority over this. That NRS 501.181 states that the commission shall guide the Department in its administration and enforcement of wildlife law, that is a little deeper than creating broad policy. Guidance must change from time to time, what is the correct way to implement those changes? Two options discussed: Could request that it be changed at the Division level (as a plan) or could request the Commission set a broad policy change on disease.

Discussion about the difference between plans and policies, that plans are operational and conducted by NDOW staff, that policy is set by the Commission to provide guidance to staff. Raine asked Rathbun to bring a draft of a specific policy to the next Committee meeting, for us to hash over. This would be an action item. Kelly Clark notified them that if the committee wished to have it on the meeting agenda as an action item, they would need to have a copy of the action proposal before the next meeting, that it would be included with the agenda item and presented on the web site to be properly noticed; Raine noted that the other option is to have it on the committee agenda as an informational item and then bring it up before the committee at the following meeting as an action item.

Laughlin made comments that cannot be heard.

Discussion continued on changes to policy and changes to plans and regulations should be considered. Cavin noted that a letter to chair of commission is the proper process for requesting change to policy.

Raine recommended Sonnentag send in a letter to petition for change.

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Chairman Raine asked if there were any recommended changes to Commission Policy 1. Grant Wallace expressed interest in a changing existing commission processes so that commissioners have more information about an item before it is voted on by the Commission, he requested that Commission General Regulations should be reviewed by the pertinent commission committee prior to being submitted for full commission review; Maureen Hullinger gave an overview of regulatory authority of the Commission, from broad Commission policy, to the season and bag commission regulations, to the Commission General Regulation, which becomes Nevada Administrative Code. Commissioner Raine asked why sometimes rulemaking begins immediately and other times it is delayed. Kelly Clark explained that when a petition is approved, the process requires that rule making is initiated immediately after a petition has been accepted, however if NAC is on an issue that is not an emergency, then rule making may occur later. We need to have a chance to approve the draft before it is even viewed by the Commission. Hullinger explained that a CGR when brought forward to the Commission, could be delayed with decisions, until finally approved or denied.

Cavin said the Commission does not have to accept CGRs that are brought forward. Raine added it could be tabled. Cavin said the Commission is getting more information now that it used to.

These things could be reviewed before a committee first, see what information we lack, then go back out to the commission with the full information. Wallace -It might make the meeting flow a little better.

Hullinger: We used to have an Application Hunt Committee and that was their task, to review items before they were heard by the Commission. They were disbanded after the need for that went away.

Wallace: what committee would review actions if there was no pertinent committee. Cavin said if there is no pertinent committee, it would come to the Administrative Procedures committee. Wallace stated that all extra issues would come back to them and asked whether that was right. Clark confirmed that would be accurate, that they would have a number of meetings to review items. Raine said that is a good direction to go, any other thoughts about specific processes.

Clark: Is there need for more background material, perhaps providing agency position on CGRs, or we should be providing more background?

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Hullinger, the way it used to work, at least with the TAAHC Committee, if there was a regulation change, it was worked up, the committee (TAAHC) would review it there, once the language was settled on, the committee voted on it, then it was distributed to the County Advisory Boards for input, then reviewed by the Commission.

Discussion on the specific issue of the 1235 Hunt and rejected applications and whether additional information would have helped the Commission decision. Hullinger noted that she sent summary information with the CGR change material and had comments back from two members of the public.

Cavin made the Motion that: All requests for CGR changes should come before the pertinent committee, prior to being considered by the full commission. If there is no committee, the Administrative Procedure Regulations and Policy Committee will review the CGR.. Cavin made the motion, Wallace seconded, unanimous vote.

4.A. New Policies:

Raine expressed an interest in developing a new policy “That all gifts, grants and bequests must be accepted by the commission in a public meeting and be approved by the commission in accordance with sound biological principals, excluding state and federal grants, and donations received through the applications process.”

Wallace noted that one reason for this is to recognize the donors. Raine said he did not mean grants, he meant small groups, that this should exclude state and federal funding sources, but it should apply to private and nonprofit groups. Clark said that the idea would have to be reviewed by the Attorney General regarding whether the commission has this level of authority, the commission only has approval authority for NDOW’s current budget. Hullinger asked about donations through the application process for OGT and for predator control. They said these donations are also exempt. Hullinger said that it is unclear whether they have the administrative authority to add this new policy. Hullinger mentioned the donations through the Wildlife Heritage auction program would also be covered under this policy.

Cavin states that approving those donations would help with public relations as well as accountability.

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Hullinger said that the Wildlife Heritage donations would be considered under this policy, as the funds that are brought in by individual nonprofit groups would fall into this category.

Motion by Raine: "In accordance with sound management practices, the commission shall perform annually, or as needed, a review of the director of Nevada Department of Wildlife."

Cavin asked what is happening now, and Raine said nothing is occurring now.

Hullinger states that is a personnel issue and the NDOW director works for the governor. Raine offers that NRS 501.181 allows the commission to guide the department and that the performance review would allow the commission to provide that guidance.

Hullinger said that the NRS states that guiding the Department in its administration is under the provisions of this title (NRS 501) and of chapter 488 (boating) by the establishment of such policies. She points out that personnel issues are not covered in those chapters.

Staff stated there was insufficient information to determine whether the committee has the authority to direct a review of the NDOW director. Some discussion about the commission's role regarding selection of the NDOW director.

Sonnentag spoke but cannot be heard clearly.
Raine said we are just putting ideas out here.

Raine: what is the current policy regarding disputed tags? The final authority for issuance of tags does not rest with the Commission. Cavin: there are individual NAC for each error that occurs. Hullinger said the regulations regarding errors and disputed tags are in NAC. Most recent one was in regard to a credit card issue. We didn't call the business number, now that has been changed procedurally, we were calling the client's number in the application. Raine: for those situations that are not procedurally covered, we do not have an option to resolve the issue. Hullinger: in effect, she did not pay for the tag. There was a proposal to consider how to deal with Department errors not governed by current NAC, I don't where that is right now. A gentleman requested that his bonus points be reinstated due to a revocation, and that was not possible.

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Raine: If a case that comes up that is not otherwise provided for, specifically addressed, or covered by regulation, then the Commission should have the authority to do whatever is right or necessary. Wallace: currently there is no opportunity for the commission to deal with those.

Hullinger: this would need to be a CGR with some teeth, not broad policy. Where does this fall, under policy, or under regulation?

Clark: you would probably see an increase in small wedge issues: we have laws that define errors, people are very creative at finding new ways to get around the laws; you would probably receive a lot of new problems; Raine: they could do that today and we have no way to deal with their problems; Clark: the reason we have what we have today is that we have identified the broad problems, and ways to address those problems.

Hullinger: you would probably see an increase in hearings.

4 A . Modifications to Commission Policies:

Cavin: Fix typos in all Commission Policies. Cavin: is the list of publications mentioned in P-2 available? Clark: yes it is on the web. Cavin: would like it incorporated here.

Commission Policy 10: Cavin said it would be reviewed in the Heritage Committee. Raine: all proposed Heritage Projects, including all NDOW projects, should be presented to the Committee. Clark: we have internal processes to review NDOW project proposals. I don't know the process for the external projects. Raine: if proposals are made by staff members, do 100% go to the Committee: Clark: Technical Review Team gives first line review, we want to encourage staff to submit applications and that all are reviewed; originally the dollar value had increased and we wanted to emphasize the program and get biologists to send in applications; but the director wanted an internal review process so that program direction, budget and staffing support could be considered and reviewed by both Division chiefs and the director.

10-minute break

4.B. Which policies may be considered for future work

Commission Policy 21: bottom of second page, should say as to "the" (delete or) . Delete redundancy starting with: "Whenever Division recommendations...", through "as to the herds affected." Needs to be revised and resigned.

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Commission Policy 22: Edits: historically, increasing, Under Augmentation, 1.b. change were to where, change affect to effect, under 1. d change affect to effect. Under 3. add space. Under 8, make in to into.

Raine: what about cost benefit analysis of stocking fish, where does that fit?

Hullinger: is that policy related?

Raine: well it is important to wildlife management policy.

Policy 24: Cavin: need clarification on Antelope horns short, in terms of a definition, need more information that it could include young males and all females. Section on allocation of projected harvest by weapon group needs to be updated to reflect current practice.

Commission Policy 25: Raine: under procedure 1A. This has been violated this previous month. What are we doing to enforce this policy? Woman who was attacked, Wildlife Services was never called, according to what I heard. My understanding is that Wildlife Services was never contacted and that is a violation of this policy. Question needs to be forwarded to the Game Division. Are there other policies that conflict with this one? What teeth do these policies have? Should have stronger language to say that those animals that cause an immediate threat will be killed. Requested that Commission Policy 25 be referred to the Wildlife Damage Management Committee.

Raine asked where it is stated that predator fees are to be spent on predator management, Clark and Hullinger said that is stated in NRS.

Cavin made the motion to work on these new policies and to clean up the language in the aforementioned policies, Grant Wallace seconded the motion, unanimously approved.

4.C. Commission Policies and regulations the committee would like to have staff provide them with more information

The following questions were posed to request staff information:

All commissioners are requesting a complete set of NRS and NAC and Commission Regulations, as well as the appeal process and petition processes.

How is petition process publicized?

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How do plans get changed?

Commissioners would like to know when the biologists will review their annual work program for the transplant plan?

Question about definition of antelope horns shorter than ears?

Question what happens if employees do not follow commission policy?

Grant Wallace moved that questions be forwarded to staff, Tom Cavin seconded, approved unanimously.

5. Chairman Raine set the next meeting for March 26 or March 27, either Thursday afternoon or Friday a.m. based on the next commission meeting time. Motion by Tom Cavin, seconded by Wallace, unanimously approved.

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