

**Approved Minutes for the January 30, 2009 Meeting of the
Administrative Procedures, Regulations, and Policy Committee
Held at NDOW Headquarters, 1100 Valley Road, Reno, NV 89512.**

Committee Members present via telephone: Commissioners Scott Raine (chair), Grant Wallace, and Tom Cavin

Department staff present: Director Ken Mayer, Executive Assistant Suzanne Scourby serving as staff for Kim Jolly on leave.

Others Present: Former Wildlife Commissioner Chris MacKenzie, Chairman Jim Jenne Lyon County Advisory Board to Manage Wildlife (CABMW), Larry Johnson Coalition for Nevada's Wildlife, Judi Caron, Tom Wilson Nevada Waterfowl Association, and Jeff Turnipseed, Nevada Bighorns Unlimited.

Friday, Jan. 30, 2009 -

1 Chairman Raine called the meeting to order at 9:05 a.m.

2 Public Comment Period – None

Director Mayer clarified that this is the time to bring up anything in addition to what is on the agenda.

3 Commission Policy #1, General Guidelines for the Commission. The committee will discuss language additions or changes to Commission Policy #1, regarding Department of Wildlife compliance with Nevada Revised Statute; review of the director; and acceptance of gifts, grants, donations and bequests. Any and all changes are to be forwarded to the full Wildlife Commission for discussion and possible action - Action

Public Comment on Policy #1 -

Chris MacKenzie said not sure what this is all about but when he got the email with the agenda, about the director he is concerned, if difference of opinion about the director and his relationship with the governor, you could put the director in a difficult position. He is also concerned that when you get this specific in policies you are limiting yourself as a Commissioner, because once you start delineating these items specifically you also limit yourself, someone might point that out to the Commission. You get into trouble delineating specific powers and not sure if Commission has authority to do that.

Mr. Jim Jenne, Chairman Lyon CABMW, said he sent email (exhibit file) to the Commission and was questioning the Commission's authority to define their own powers, if you do something like this it needs to be in alignment with the CABMWs to have a little more depth.

Larry Johnson said his concern is allowing the Commission input into what programs gifts are allocated, as the organizations he is affiliated with are major contributors into wildlife resources and they feel they have the right to earmark where their donations go into which program, and their desire should not be usurped by any outside entity, and does not know if intent of the changes is to offer guidance on monies donated that have no preference for their use. He said he thinks the Department receives money for

specific programs and purpose, and questions the legality of this, and he asked if this Committee or the Department has explored if this proposal is legal or constitutional.

Chairman Raine said he does not think intention on his behalf is to usurp what people want to donate to a program, the change states the proposal is to recognize who does donate and make sure that it allows the Commission input and input is not direct power over where it goes.

Larry Johnson said he is questioning legality of authority to provide input, and secondly why the Commission would want to get involved further.

Commissioner Cavin said he just wanted to put those concerns to rest, when this came up at the committee meeting in Fallon, no intention of reviewing projects. The legality issue has come up since that meeting, and his understanding that new language was from Deputy Attorney General (DAG) and was reviewed by DAG but not reviewed by whole Commission, basically the committee voted on the concept with consensus that by bringing it forward was to provide transparency and wanting to make sure that all groups are recognized as a way to promote donations to the Department at public meetings. He said the other thing is his experience from being on the Record Book Committee is that they presented a project for signage in Elko to improve relationships with landowners, and the Department came up with signs, the Record Book Committee paid for the signs and basically no one besides the Record Book Committee knew that event had occurred. The other thing it does is that it should be recognized somewhere in the budget that a group had spent x amount of dollars and when we donated those signs they purchase equipment and not sure if that shows up and would account for that and promote the donations. That is where his thoughts were when they moved this forward.

Mr. Johnson said the intent is admirable but that is not what the wording says.

Director Mayer said there are two versions of the policy – DAG Nguyen’s revision which he received and Chairman Raine’s which was sent as support material.

Chairman Raine said if Commission offers input, the public would also be allowed further input and the process which it is earmarked could be brought up as well, and if the Director decided to do something else it would be in a public process.

Tom Wilson said when you compare the language difference in the purpose/procedure, there is a difference in offering input to allocation of funds and the word “acceptance” as that could lead to denial. He said legal concerns looking down the road, should grants be denied and from a legal point of view you will have groups offering restricted use gifts or limited use. The political problem is that the Department could be seen as turning down money from the public if they cannot meet their conditions.

Jeff Turnipseed said the transparency is a commendable goal and appropriate, and recognition is fine, but most donors are not in it for that, but it is the word “acceptance,” money in and out, which will create three more subcommittees for the accounting hassle, and the end result could even be fewer donations toward projects on the ground and skirting directly around by donation directly to vendors.

Commissioner Cavin said “acceptance” may not be the word we are looking for, the Department has probably already accepted these donations, and not sure, problem with

“acceptance” did not perceive it as thumbs up or thumbs down, and if someone reading it that way we may need to change it, he did not conceive of not taking someone’s donation and was not his intent, maybe that word could be changed before it goes up to the Commission.

Director Mayer gave example of helicopter and how the Department asked Nevada Bighorns Unlimited to contribute, and that money did not go to the Department, instead the Department goes to the Board of Examiners to ask for acceptance of gift, than NBU writes a check to the vendor without having to take overhead out of donation. He said historically have not recognized people for what they have done.

Larry Johnson said that they are not in it for recognition they do it to do good for wildlife. He wants the word acceptance struck and clarify for him that language “input into which programs the gifts go,” and let’s get it worded as best as we can.

Judi Caron said she came today to give input on review of director and acceptance of gifts. She said she was a member of the Washoe CABMW for six years and has participated in the process and when she read this, said the system is not broke and does not know why this is in there and many people want to stay unknown, as some people just do it for betterment of the resource and we do not need procedures, and creation of more government and micromanaging of what can be done.

Tom Wilson said to follow up on what Ms. Caron said, these are drastic changes, paragraph 9 and 10, and from a legal perspective he has legal questions to go to the DAG. He would suggest that the language be fully vetted through the CABMW process and allow public input and turn that over to the Commission so they have all the information so all the concerns are fully vetted.

Chairman Raine said if anything passed it goes to Commission, and will have two full readings. He said whichever wording selected today would then go to the first and second reading.

Chairman Mayer said the first reading would be March or May.

Judi Caron suggested using the venue of the CABMW workshop to discuss the policy and discuss the need and what the language would be. She said as to review of the director by the Commission, making a review annually to the governor, where did the need for that come from.

Chairman Raine said from the committee, and the history behind it which he is not familiar, and no formal process for which the Commission has much input on Director’s performance, everything done prior was informal, and formal would be better for everyone because of more transparency,

Judi Caron said when she read this first after being involved in public input process, that she understands by statute the Governor appointed the director and Commission appointed by Governor as well, and both are serving at his will, and is not aware of term limits at this time. She said if we do performance review and changing this part of regulation, public process is to bring forth public input, and with the Commission being appointed as well, and to keep this on a level playing field and write into this that the CABMW’s give input on review of the Commission on an annual basis as well.

Commissioner Wallace said in regard to review of director, the Commission is making recommendation for Director to the Governor and this is a way to look at their recommendation later. He said that was what he got out of the Commission as the Commission involved in selection and reason for the review in his mind.

Director Mayer said the director process selection is a national search by the Commission and they whittle it down on resumes to a group that is interviewed, then the Commission sends three names to the Governor and he selects, and the Governor is not bound.

Chairman Raine said they are only recommendations.

Tom Wilson asked if Commission was asked by the Governor to do this.

Chairman Raine said the Governor has not been to a meeting to ask this.

Tom Wilson said they do not know if that would be accepted.

Chairman Raine said they do not know.

Tom Wilson said depending on who is Governor that review may not be well received. He said the Commission has prescribed duties and may have legal position to target areas, but talking about performance outside those duties not sure if it will make it outside the Attorney General.

Chairman Raine closed public comment on and took the discussion back to the Committee.

Commissioner Cavin said new language with agenda and he wanted to make sure everyone had the same policy.

Director Mayer read the policy DAG Nguyen sent to him, then Chairman's Raine's policy.

Director Mayer said he has had not met a Commissioner yet who was not able to talk to him.

Chairman Raine said none of the changes are about individuals it is about what happens to NDOW after the current Commission is gone and the Director is different, and to keep the processes transparent when others run it. He said this is not personal because personalities change and wanted to make that clear.

Commissioner Cavin said with previous additions of language he had more heartburn and questions. He only sees a word or two that are issues from what he is hearing from the public and from public before the meeting and is not seeing huge conflicts raised initially and these things can be changed as we move forward, it will be sent to the CABMWs and the problem is rooted in the rumors about not having language and now we have language.

Commissioner Wallace said what we decide today will go to the CABMWs and then to the Commission.

Commissioner Cavin said he will move that we send the changes that were attached to the minutes – with stipulation that DAG Stockton review language to insure that nothing is being overstepped and is legal and maybe he can do that before Commission meeting on Feb. 6 and 7.

COMMISSIONER CAVIN MOVED THAT WE SEND CHANGES ON POLICY 1 TO THE COMMISSION FOR FULL REVIEW, HE READ THE CHANGES: POLICY 1 UNDER PURPOSE, THE PARAGRAPH THAT WE ARE ADDING TO ALLOW COMMISSION AN OPPORTUNITY TO OFFER INPUT ON THE PERFORMANCE OF THE NDOW DIRECTOR AND HIS DUTIES AS PRESCRIBED IN NEVADA REVISED STATUTES. TO ENSURE THAT THE COMMISSION FORMALLY RECOGNIZES INDIVIDUALS AND ENTITIES THAT PROVIDE ANY GIFTS, GRANTS, AND DONATIONS, OR BEQUESTS TO NDOW; AND TO ALLOW THE COMMISSION TO OFFER INPUT ON WHICH PROGRAMS MONETARY GIFTS SHOULD BE ALLOCATED; (9) ANNUALLY OR AS NEEDED, THE COMMISSION WILL REVIEW THE PERFORMANCE OF THE DIRECTOR OF NDOW. THE COMMISSION MAY ELECT TO FORWARD THIS REVIEW TO THE GOVERNOR OF NEVADA IN ACCORDANCE WITH THE DUTIES AS PRESCRIBED IN NEVADA REVISED STATUTES. (10) ACCEPTANCE OF GIFTS GRANTS, DONATIONS AND BEQUESTS. ALL GIFTS, GRANTS, DONATIONS, AND BEQUESTS MADE TO THE DEPARTMENT OF WILDLIFE, OR ANY SUB-AGENCY THEREOF, WILL BE PRESENTED TO THE COMMISSION FOR ACCEPTANCE AND RECOGNITION. THE COMMISSION SHALL BE ALLOWED TO OFFER INPUT ON WHICH PROGRAMS MONETARY GIFTS SHOULD BE ALLOCATED. STATE GRANTS, FEDERAL GRANTS, PIW DONATIONS, AND OPERATION GAME THIEF DONATIONS ARE SPECIFICALLY EXCLUDED FROM THE REQUIREMENTS OF THIS POLICY. HE STIPULATED IN THE MOTION THAT IT BE REVIEWED BY DAG STOCKTON TO MAKE SURE COMMISSION WITHIN LEGAL RIGHTS. MOTION SECONDED BY COMMISSIONER WALLACE. VOTE ON MOTION: CARRIED UNANIMOUSLY.

Commissioner Cavin said correspondence from Rex Flowers and Jim Jenne which will be included in the exhibit file.

Meeting adjourned at 9:55 a.m.

Note: The minutes are a synopsis of the meeting. At the Department of Wildlife headquarters in Reno is a complete record of the meeting, including recordings; and all the exhibits received/referenced during the meeting. The record is available upon request for review.