

**APPROVED MEETING MINUTES**  
**ADMINISTRATIVE PROCEDURES, REGULATIONS, AND POLICY COMMITTEE OF THE**  
NEVADA BOARD OF WILDLIFE COMMISSIONERS  
THURSDAY, FEBRUARY 18, 2016 – 10:00AM

NDOW Western Region Office and via teleconference, Conference Room at 1100 Valley Road, Reno, NV 89512

**For more information, contact Committee Staff:** Kim Jolly, Management Analyst 3/Legislative Liaison, (775) 688-1510, [kjolly@ndow.org](mailto:kjolly@ndow.org).

**Thursday, February 18, 2016 – 10:00am**

**ATTENDANCE:** Commissioners David McNinch, Grant Wallace, and Paul Valentine on phone, NDOW Administrative Asst. 4 Katie Simper, Management Analyst 3 Kim Jolly, Deputy Attorney General Harry Ward, Rex Flowers- Representing himself and Coalition for Nevada’s Wildlife, Don Molde, Bob Brunner-Coalition for Nevada’s Wildlife, Fred Voltz, and A. Souligny.

**1\* Call To Order and Approval of Agenda - Chair David McNinch (For Possible Action)**

Called to order at 10:00, No comment on agenda, Wallace moved to approve the agenda, Valentine second, passed all in favor.

**2\* Review Draft Amendments to Policy “General Guidelines for the Commission” and possible Recommendation to the Commission – Management Analyst 3 Kim Jolly and Chair McNinch (For Possible Action)**

Commissioner David McNinch - Goal of meeting to take another look at Policy 1 and take recommendations to Commission at March meeting. Move 1 and 3.

The Committee Chairman asked committee if they had all reviewed the support materials (online and attached to these minutes), and then proceeded to provide input.

McNinch provided specific edits to keeping the numbering titles, edits to the Purpose section, section number 2-Meetings, to section 6-Adoption of Commission Policies.

Sub section deleted under purpose needs to be modified. Subsection 2 clean up recognize a calendar with an appendix. The Planning Calendar should be a living document. Section 5, under 6A needs discussion to respect of the last section. Problem is we are limited to a certain number of meetings each year hearing one day and action the next.

Harry Ward, if you consider separate meeting you will have more than 9 regular meetings. I perceive these to be one meeting.

McNinch, 2day commission meetings count as one in 6-A?

Harry Ward, I think NRS 501.177 you can have a special meeting for a hearing that will not be considered in the 9 meetings

Jolly, Strike the green added language and for clarification in second line 2 meetings in separate months, perhaps? Hearing on something on Friday, and no intent to take action on Saturday.

DAG Harry Ward, Consider the two day meetings as a one day meeting.

McNinch asked for further committee member input. There was discussion of textual wording.

Commissioner Valentine: would be hog tying ourselves if we make this change ?  
McNinch, 6-c strike the number

Commissioner Wallace - On 6a, were there any other proposed changes?  
McNinch said we could use the language Kim Jolly proposed.  
Kim read to Committee. Committee agreed that is reasonable.

Opened to Public Comment.

**Public Comment:**

- Rex Flowers – provided suggestions in support of keeping the numbering system, and asked questions related to sections Commissioners attending meetings, to the meetings section and Appendix Planning Calendar, provided suggestions to section 5-Compensation, questions about the edits in the mockup related to travel policy, comments on section 6, and to section 7 which was being replaced with reference to Wildlife Trust Fund where all gifts and grants go now.
- Bob Brunner – made comments related to Commissioners attending meetings.
- Fred Voltz- made suggestions again relative to requiring videoconferencing of all meetings, and prohibiting travel to meetings not closest to the home/location of the Commissioner/staff, and had questions about the mockup related to the roll call for Commissioner attendance and processing of compensation, and comments about the section 7 being replaced with the Wildlife Trust Fund 7 gifts need to be directed where donor wants it to go. Also suggested changing the emergency reading of policies to two days, if expanding the regular policy adoption across separate commission meetings.
- Don Molde, Item #7 gifts to certain projects

There was discussion about being more specific on which year (even or odd) in the biennium does the Commission set the biennial calendar, about removing the reference to the Planning Calendar which should be used as a tool but not a voted on item, and discussion under section 6-Adoption of Commission Policies, about being more specific as to whether a reading was two-day meeting or is two days was one meeting.

There was general agreement that they do not want to push through changes within one 2-day Commission Meeting. Mgmt. Analyst 3 Jolly suggested adding clarifying language to reflect that, “a minimum of two readings not on consecutive days”, which they accepted. Also, they provided guidance to staff to change emergency reading to two days.

Finally, the committee held discussion about maintain a semblance of section 7, but incorporating more information about where people can go to donate monies to the Wildlife trust Fund for whatever they desire, and how often the Department provides a formal reporting of that Fund.

McNinch asked if we are at a point to vote on changes or do we want to see another mock up. Everyone agreed we needed another mock up.

**There were no formal motions or action on Item 2. However, Staff will prepare another mockup to reflect this meeting’s changes and suggestions by the Committee.**

**3\* Review Draft Amendments to Policy “Appeals” and possible recommendation to the Commission, and Review Associated Change Ideas in Appeals Code (NAC) 501.140-190 - Management Analyst 3 Jolly and Chair McNinch (For Possible Action)**

Committee Chairman McNinch asked for committee member input.

Comm. Valentine – no changes to mockup.

Commissioner Wallace – no changes to mockup.

Comm. McNinch – I have a few thoughts, let's take policy first then talk on the NAC.

There was Committee Discussion about the process and desire to improve overall appeals meetings He provided thoughts. There was discussion of textual wording. He asked the DAG for input.

DAG Ward made comments about the mockup:

Section A. Pre-Appeal; Hearing Advisement and Education, he suggested different language on notifying the appellant. If someone seeking appeal says they are represented by a lawyer then the DAG cannot talk to them. Also, sometimes the point of a person's appeal is just to be heard and explain, even if they pleaded guilty and Relief is "unlikely" due to court actions rather than the mockup. Perhaps include description instead on the Commission's jurisdiction, rather than commenting on the relief possibilities.

Section B. Dual Legal Representation - suggesting changing title to Legal representation, and agreed with requiring the Commission to get a second DAG during appeals. It's more than just a suggestion - per attorney ethics rules he cannot serve as both prosecuting DAG for the Department and advising DAG for the Commission-when they are serving as the appellant board.

There was Committee Discussion about the process and desire to improve. Committee Chair opened public comment.

**Opened to Public Comment:**

- There was public comment by Rex Flowers, Fred Voltz on the scheduling of appeals so as not to burden the regular business of the Commission and the public and CABs who are attending.
- Suggested language under C. Scheduling to replace "cannot participate" with not allowed or not authorized to participate. Rex flowers (self), Sect B. strike from the sentence, "This is not appropriate."
- Fred Voltz, have an Ad Hoc committee meet only when an appeal is pending. Troubled pg. 2 sect. c. It is not necessary to schedule for people to attend only as observers. This should be stricken or dramatically revised.
- Don Molde on the edits to Policy 3 interested in A. second sentence, concerned about the tone of this is a bit negative and harsh.

Comm. McNinch the intent to A, people are making deals in court, not knowing they are locking themselves out of the appeal process. Then, they come to us wanting relief and we cannot provide.

DAG Harry Ward - Legally always recommends NDOW to put appeals on the very next agenda because of the NAC, and then we will deal with the continuance. I suggest should leave alone, recommend when hearing an appeal have two DAGS present.

Comm. Valentine, don't see a problem with leaving in the notification to the appellant before their hearing that relief unlikely if they've taken certain actions in court. Gives the appellant the message there is nothing they can do with the appeal.

DAG Harry Ward, Sometimes an appellant knew he had no chance of changing anything, but still wants to plead his case. When you are going to have a contested case with an attorney, expect it to be a long hearing.

Take Appeals Policy 3 mockup back to commission to get their input?

Commissioner Valentine, leave in does not hurt anything

Commissioner Wallace -same.

McNinch, get with Kim draft of and take it to Commission, if they are interested in pursuing it.

DAG Harry Ward - Someone traveling says if we would have told them they wouldn't have wasted their time and money coming.

**Sub Sect B.**

McNinch, recommend to remove that last line. I would recommend removing the whole first paragraph. Harry Ward, agreed we should remove first paragraph. McNinch, second paragraph change word "may" to shall. Also, delete out the last sentence in the second paragraph.

**Sect. C.** take out "in blocks of time." Commissioner Valentine requested to change "who cannot participate" to a different language.

Harry Ward, put in the words "or by special meeting", also going to get input from the different attorneys regarding when and where the appeal should be heard.

Commissioner McNinch - Bottom line we don't want our public having to sit for hours.

Commissioner McNinch will work on this with Kim and bring back a new mark up. McNinch, if we feel strong enough we could change NAC 501.150, but for now let's see if we can make things work in policy.

DAG Harry Ward, I would prefer the change in NAC eventually. Previous appeal one of the points brought up was that we did not follow NAC.

Mgmt. Analyst 3 Kim Jolly -Is there a direction you would like to see this changed? DAG Harry Ward said he liked what she had here.

Commissioner McNinch - If we do changes we have to have them heard by May meeting. Quick turnaround will only get one more meeting.

**There were no formal motions or action on Item 3. However, Staff will prepare another mockup to reflect this meeting's changes and suggestions by the Committee.**

- 4\* **Review Draft Amendments to Policy "Petition Process and Regulatory Changes (P4)" and possible Recommendation to the Commission, and Review Associated Change Ideas in Petitions Code (NAC) 501.195. - Management Analyst 3 Jolly (For Possible Action)**

Changes to the Commission Policy on Petitions may necessitate consideration of possible changes to the actual Petitions Regulation, which is law. (NOTE: Any discussion of regulation change ideas are just conceptual for the committee to consider, as any actual regulatory changes would obviously have to go through the full Commission in accordance with the Admin. Proc. Act Process, etc.)

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Commissioner McNinch, filters, what thoughts need to get from Commission. Valentine – do not see any changes, Wallace, no changes

### **Public Comment**

Fred Voltz, 2A pg. 2, 3 b delay involvement with it. Sect c, d, e, (Economic impacts, conflicting NRS, etc.) puts a burden on the petitioner. E) How would the petitioner know this, should be optional not a requirement.

Rex Flowers, under procedures item 1 – made comments.

Don Molde asked if there was a plan to make a new form. Petition Form doesn't guide petitioner well, and should be the starting point. Concerned that a petitioner should not have to hire a lawyer.

### **Discussion**

Commissioner McNinch, we are up against the wall and not enough meetings to address them. We will provide update, lot of suggestions made today. Concentrate on 1 and 3. Target what we want to do with 1 and 3 then we can work on 4. These are part of the Rules of Practice and we are due.

Mgmt. Analyst 3 Jolly, the two most constrictive portions of the NAC is the time periods (within 30 days). We can't do anything more. DAG agreed.

**No action was taken, but guidance provided that Policies 1, 3, 4 will be mocked up again, and Committee to finalize at next April Committee meeting, and then bring to Commission at the May meeting.**

### **5\* Future Committee Meetings and Agenda Items –Chair McNinch (For Possible Action)**

The next committee meeting is tentatively scheduled for Wednesday, April 13 at 3-5pm in Reno, and future committee meetings and the topics will include items listed on the Policy Review Schedule. The chairman may designate and adjust items or meeting dates, times, and locations at this time.

Commissioner McNinch - April 13<sup>th</sup>, next meeting. See the Support material Schedule is a rough draft; the question about wildlife contests has not been forgotten. This is a fluid document and we will try to put some dates to these. Wallace agreed let's focus on 1, 3, 4 since we're almost complete with them.

**6 Public Comment Period – Chair McNinch**

Persons wishing to speak on items not on the agenda may do so in the Public Comment Period. No action may be taken by the Committee. However, the Committee may consider items brought up in the Public Comment Period to be scheduled on a future Committee agenda.

**Rex Flowers** – Coalition for Nevada Wildlife thanks you, Commissioners need to be attendance of meetings and committee meetings. This shows lack of respect by individual.

**7 Adjourned at 12:16pm.**

Attachments include: Support Materials and agenda.