

**APPROVED MINUTES
NEVADA BOARD OF WILDLIFE COMMISSIONERS
ADMINISTRATIVE PROCEDURES, REGULATIONS, AND POLICY
COMMITTEE**

FRIDAY, SEPTEMBER 22, 2017

AT THE CONCLUSION OF THE NEVADA BOARD OF WILDLIFE COMMISSIONER'S MEETING
OR AT 6:00 P.M., WHICHEVER OCCURS LATER
CLARK COUNTY GOVERNMENT CENTER, COMMISSION CHAMBERS
500 S. GRAND CENTRAL PKWY, LAS VEGAS, NV 89155

1. Call to Order and Roll Call of Committee Members

Chairman McNinch called the meeting to order at 6:00pm.

Members present: Chairman McNinch, Commissioners Wallace, Hubbs and Valentine.

Nevada Department of Wildlife staff present: Deputy Director Jack Robb, Game Division Administrator Brian Wakeling and Management Analyst III Jordan Neubauer.

Attorney General present: Senior Deputy Attorney General Bryan Stockton.

County Advisory Board to Manage Wildlife (CABMW) members present: Glenn Bunch, Mineral CABMW.

2. Approval of Agenda

No member comment. No public comment.

COMMISSIONER WALLACE MOVED TO APPROVE THE AGENDA AS PRESENTED. COMMISSIONER VALENTINE SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

3. Approval of Minutes

No member comment. No public comment.

COMMISSIONER VALENTINE MOVED TO APPROVE THE AUGUST 10, 2017 MEETING MINUTES AS PRESENTED. COMMISSIONER HUBBS SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

4. Review of Commission Policy 26 – Re-establishing, Introducing, Transplanting and Managing Pioneering Rocky Mountain Elk

Game Division Administrator Brian Wakeling explained Commission Policy 26. He said it has not been updated in a long time. It deals specifically with pioneering elk. This policy preceded the development of the statewide elk plan. The Department removed the time specific references. We have tried to simplify this policy. The purpose states that we want to manage elk to benefit the public. Since the initiation of elk in Nevada we have had Chronic Wasting Disease become an issue. We have a lot of brucellosis too and it can become problematic.

This policy defined the specific units within Nevada and rather than listing them all out we tried to incorporate a definition that includes the documentation or the incorporation of those units where elk exists and do so by including those in an elk management plan. This is so the policy does not have to be revised each time something changes. The policy statements seemed relevant for the most part. Any activity that could have been undertaken under the original policy will still be allowed under this policy as revised. We just tried to clean it up and make it more pertinent to this time.

Commissioner Hubbs asked about the transplanting of elk. She remembers a heated conversation about an area opening up in the Northwest where naturally expanding elk populations were moving and individuals were concerned about water rights and it was stated that those elk were pioneering into the area, they were not transplanted. Is the Department still transplanting elk or just pioneering at the time?

Game Division Administrator Brian Wakeling said Commission Policy 22 is the policy that deals with the introduction, transplant, and exportation of elk and other species. The Department has not conducted an intentional translocation for elk for quite some time. He said there is nothing that would preclude that, but if the Department was to go forward with an introduction or reintroduction the Department would want to involve any of the land management agencies and any of the landowners that are in the livestock or agricultural production in the decision. He is not sure when the last translocation occurred.

Chairman McNinch appreciates the clean-up. It is nice to have a lot of information and the historical perspective, but there is a place for that and this policy is better served to be more dialed in like you've done here. It puts more focus on it and it gets to the point. He is in a decent place with the policy.

Public Comment –

Glenn Bunch, Mineral CABMW, said he was curious about this policy. He said his CABMW has asked for a transplant of elk. He said they were looking to put them in the U.S. Forest Service areas. He provided some history on Mineral County wanting elk. Week after week he is asked about the status.

Commissioner Wallace is comfortable with what is in front of him.

COMMISSIONER WALLACE MOVED TO PLACE COMMISSION POLICY 26 ON THE NOVEMBER COMMISSION AGENDA FOR A FIRST READING AS PRESENTED BY THE DEPARTMENT. COMMISSIONER VALENTINE SECONDED THE MOTION. THE MOTION PASSED UNANIMOUSLY.

Game Division Administrator Brian Wakeling clarified that the title of the policy was also renamed to focus more on the management and less on the introduction and pioneering.

Chairman McNinch said he noticed that and is comfortable with it.

5. *Review of Commission Policy 3 – Appeals

Senior Deputy Attorney General Bryan Stockton said he discussed this policy with his office. He does not think there are any changes that are needed. The procedure is appropriate. The policy is adequate as is. He said there was a change in the Nevada Open Meeting Law to

make quasi-judicial hearings subject to the Nevada Open Meeting Law. There was an initial opinion that it might include public comment, but it is being reconsidered. This policy is appropriate.

Commissioner Hubbs asked about the exclusionary rule.

Senior Deputy Attorney General Bryan Stockton said yes, but it is like a court, it is not automatic, someone has to initiate the action to exclude the witnesses. The procedure is set forth within Nevada Administrative Code (NAC). This is just the policy. The procedure is set forth within NAC.

Commissioner Wallace asked if this policy needed to go to the Commission even though there are not any changes.

Senior Deputy Attorney General Bryan Stockton said we can take it to the Commission to reaffirm it, but it does not have to go to the Commission for action. These policies are just guidelines for the Commission.

Chairman McNinch said this policy relates to the rules of practice.

Commissioner Wallace said it might not hurt to take this to the Commission.

Chairman McNinch said that he would like to bring it to the Commission to reaffirm it, update the date reviewed and the signature. He said he has been around a long time and when the appeals started back up he didn't realize the rules of practice needed to be submitted to the Secretary of State's office every once in a while. There are two policies that needed to be reviewed and submitted. He is pretty sure this was one of them.

Commissioner Wallace said he thinks it should go to the Commission for awareness. It will not take a lot of time.

Commissioner Hubbs asked about the two appeals she has sat through and how different they were. The first appeal there was no presentation of testimony. We just looked at the factual evidence. That was confusing for the Commission to know what to do and even under the NAC it was not very clear.

Senior Deputy Attorney General Bryan Stockton said NAC outlines the procedures and it was clear. In that instance neither party designated witnesses in writing by the deadline. They were based on the record and argument. That was a choice by the parties. They could have brought witnesses, they just chose not to.

Commissioner Hubbs said the witnesses were not disclosed. She said it was confusing as to the deliberation and questioning. She said the Chairman and Vice Chairman of the Commission were directing and all other members were quiet. She didn't understand if she could question or just wait until they were done and then deliberate openly.

Senior Deputy Attorney General Bryan Stockton asked if she was talking about asking questions of the attorneys.

Commissioner Hubbs said yes.

Senior Deputy Attorney General Bryan Stockton said that there is no formal procedure in the NAC for that but he doesn't see a reason why she couldn't ask a question if she is clarifying a point made by counsel. It does say that if it is a witness that the member of the Commission can ask questions.

No public comment.

COMMISSIONER HUBBS MOVED TO PLACE COMMISSION POLICY 3 ON THE NOVEMBER COMMISSION AGENDA FOR A FIRST READING AS PRESENTED BY THE DEPARTMENT. COMMISSIONER WALLACE SECONDED THE MOTION. THE MOTION PASSED UNANIMOUSLY.

6. Future Committee Meetings and Agenda Items

Commissioner Wallace said the meeting will be in Carson City, not Reno.

Chairman McNinch said he has a meeting on November 2, but he is still open.

Senior Deputy Attorney General Bryan Stockton said the meeting on November 2 should not go too long.

Chairman McNinch said the Department likes to schedule Committee meetings in the early afternoon.

Management Analyst III Jordan Neubauer said we can meet Friday night if we wanted to, the meeting room can be used until 8:00 p.m. There are only 2 policies that will be scheduled for November.

Commissioner Wallace said Thursday evening is fine with him. Whatever is convenient for staff. Maybe we can meet in Reno. What about Friday morning before the Commission meeting?

Chairman McNinch said the Committee would like to meet on Friday morning at 8:30 a.m. in Carson City.

No public comment.

7. Public Comment Period

No public comment.

Chairman McNinch adjourned the meeting at 6:30 p.m.

Note: The minutes are only a summary of the meeting. A complete record of the meeting can be obtained at the Nevada Department of Wildlife, 6980 Sierra Center Parkway, Suite 120, Reno, NV 89511