

COMMITTEE MEMBERS: CHAIRMAN AND
COMMISSIONER DAVID MCNINCH,
COMMISSIONER TIFFANY EAST,
COMMISSIONER TOMMY CAVIGLIA,
COMMISSIONER ALANA WISE

STAFF TO THE COMMITTEE:
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DRAFT MINUTES
NEVADA BOARD OF WILDLIFE COMMISSIONERS
ADMINISTRATIVE PROCEDURES, REGULATIONS, AND POLICY COMMITTEE
THURSDAY, NOVEMBER 4, 2021 AT 3:00 PM VIA ZOOM

1. Call to Order, Pledge of Allegiance, Roll Call of Committee Members

The Meeting was called to order at 3:00pm.

Commission Members Present: Committee Chairman McNinch, Commissioners East and Caviglia. Commissioner Wise was absent.

Department Staff Present: Deputy Director Jack Robb, Deputy Director Bonnie Long, Habitat Division Administrator Alan Jenne, Game Division Administrator Mike Scott, Fisheries Division Administrator Chris Crookshanks, Conservation Education Division Administrator Chris Vasey, Management Analyst 3 Kailey Musso, Management Analyst 3 Megan Manfredi, Executive Assistant Missy Stanford, and Administrative Assistant Alejandra Medina.

Members of the Public Present: Rex Flowers, Tina Nappe, Matt Melarkey

2 Approval of Agenda

The Committee will review the agenda and may take action to approve the agenda. The Committee may remove items from the agenda, continue items for consideration or take items out of order at any time.

There were no changes to the agenda.

No Public Comment.

COMMISSIONER EAST MOVED TO APPROVE THE AGENDA OF THE NOVEMBER 4th ADMINISTRATIVE POLICIES, REGULATIONS AND PROCEDURES COMMITTEE MEETING. COMMISSIONER CAVIGLIA SECONDED THE MOTION. THE MOTION WAS APPROVED 3-0. COMMISSIONER WISE WAS ABSENT.

3. *Approval of Minutes

The Committee will review and may approve the DRAFT Minutes from the meeting on September 23, 2021.

Commissioner East had two changes to the minutes on page 8.

COMMISSIONER CAVIGLIA MOVED TO APPROVE THE MINUTES WITH THE TWO CHANGES NOTED. COMMISSIONER EAST SECONDED THE MOTION. THE MOTION WAS APPROVED 3-0. COMMISSIONER WISE WAS ABSENT.

4. *Review Commission Policy List

The policy list will be reviewed and prioritized for the Committee to begin the policy review process.

Management Analyst 3 Kailey Musso explained to the Committee that the accompanying Nevada Administrative Code (NAC) to Commission Policy 3 was not posted in time to discuss at this meeting and will be brought back in January. Other than that, the policy spreadsheet should be accurately color-coded and updated.

Committee Chairman McNinch added to the explanation regarding the policies that will be heard at the upcoming Commission Meeting.

Commissioner East asked if we will be discussing Policy 24 in this Committee meeting. Management Analyst Musso answered that the Tag Allocation and Application Hunt Committee (TAAHC) will be discussing that policy but in discussions with TAAHC staff it was moved to January.

Committee Chairman McNinch gave a brief explanation of where each policy was in the process, as shown by the spreadsheet.

5. *Commission Policy 3 – Appeals

The Committee will review Commission Policy 3 and may take action to recommend revising, suspending or repealing the policy.

Management Analyst Kailey Musso explained the appeal process as outlined by the policy. Nevada Administrative Code 501 also gives a very detailed explanation of how the appeal process works. Policy 3 gives guidance to commissioners on how to engage with the appellant, but the Department does not have any changes to propose.

Committee Chairman McNinch explained that there are many appeals where the appellant shows up and does not realize that the Commission does not have the authority to address their issue. He wondered if there was a way to let these people know what purview the Commission acts under.

Deputy Director Robb explained that the Department does try to engage with the appellant before the hearing, even so far as sending them videos of past Commission meetings. We are doing everything we can to avoid people making unnecessary trips.

Commissioner East asked if we could hear appeal cases virtually now, if possible.

Management Analyst Musso committed to working with DAG Burkett and bringing this policy back to the next meeting.

No Public Comment

Committee Chairman McNinch gave Management Analyst Musso editorial authority to make each Commission Policy consistent as far as language and formatting.

6. *Commission Policy 4 and NAC 501.195 Language Change – Petition Process and Adoption of Regulations

The Committee will review Commission Policy 4 and the accompanying NAC 501.195 and may take action to recommend revising, suspending or repealing the policy and updating the regulation. **The NAC was not discussed at this meeting**

Committee Chairman McNinch gave some formatting edits and one change to the zip code. On page 2, he brought up the timeframe for bringing repetitive petitions back to the Commission.

The Committee was in agreement that they wanted to leave a hard timeframe in the policy.

No Public Comment

Commission Policy 4 and NAC 501.195 will be brought in January.

7. *Commission Policy 31 – Lahontan Cutthroat Trout Management Guidelines

The Committee will review Commission Policy 31 and may take action to recommend revising, suspending or repealing the policy.

Commissioner East wanted to address item 10. She asked if Walker Lake was ready for the water treatments. Habitat Division Administrator Alan Jenne confirmed that they are currently preparing for that.

Committee Chairman McNinch gave a few editorial changes.

No Public Comment.

COMMISSIONER EAST MOVED TO APPROVE POLICY 31 WITH THE NOTED CHANGES. COMMISSIONER CAVIGLIA SECONDED THE MOTION. THE MOTION WAS APPROVED 3-0. COMMISSIONER WISE WAS ABSENT.

8. *Commission Policy 33 – Fisheries Management Program

The Committee will review Commission Policy 33 and may take action to recommend revising, suspending or repealing the policy.

Committee Chairman McNinch had two minor edits on page 6.

No Public Comment.

Commissioner East asked if the reference to social media on page 2 included the FishNV App.

Conservation Education Division Administrator Chris Vasey explained that the FishNV App isn't an application like you would download on your phone, it has its own URL so we consider it a tool, it is a part of the Department's website so it would be included in the term "internet."

COMMISSIONER EAST MOVED TO APPROVE POLICY 33 WITH THE NOTED CHANGES. COMMISSIONER CAVIGLIA SECONDED THE MOTION. THE MOTION WAS APPROVED 3-0. COMMISSIONER WISE WAS ABSENT.

9. *Commission Policy 40 – Statewide Boating Safety

The Committee will review Commission Policy 40 and may take action to recommend revising, suspending or repealing the policy.

Management Analyst Kailey Musso explained that the Department reviewed Commission Policy 40 and the Law Enforcement Division recommended no changes. It was last updated in 2002 but everything in the policy is still current.

No Public Comment

Commissioner East asked about providing life vests at certain locations and why it is not included in the policy.

Deputy Director Robb explained how the life jacket [vests] loaner stations work and that there are more areas without loaner stations than places with them. We would like to have them everywhere, but we don't have the funding to do so.

Commissioner East asked if we wanted to emphasize the importance of life vests.

Deputy Director Robb asked the Committee if they would consider adding "paddle craft" to the policy because we were unable to incorporate it into a bill last session.

Committee Chairman McNinch and Commissioner East emphasized that we would like to see the life jacket loaner station efforts supported and that education for paddle craft and boaters will be emphasized.

10. *Commission Policy 51 – Wayne E. Kirch Conservation Award

The Committee will review Commission Policy 51 and may take action to recommend revising, suspending or repealing the policy.

Management Analyst Kailey Musso explained that the Department did not have any changes to make on Policy 51 but that there was a clarifying question asked. In the past, Department staff have been nominated for this award, but we have never known whether that was allowed.

Deputy Director Robb also noted that cooperating agencies have individuals submitted for the award as well but that we were under the impression this award was geared towards volunteers and those that spend their own time and money for wildlife.

Commissioner Caviglia also added that the Commission and Department staff vote on the award so it could get murky.

Committee Chairman McNinch sees the importance of recognizing staff but that the Ted C. Frantz award provides that opportunity. He asked how the Committee felt about other agency employees.

Commissioner East said she would prefer a volunteer but that we have had some NGOs nominated in the past.

Public Comment:

Tina Nappe, Public, I was a member of this committee a few years ago and was very impressed with the backgrounds of the people nominated. I think that those applications should be collected and provided for historical reference. I would also like you to consider emailing past recipients to be submitted to a repository. So many people do this work and we often forget about them.

Committee Chairman McNinch appreciated Ms. Nappe's comments.

Commissioner East asked if we have a place where a repository could be housed.

Deputy Director Robb said the Department has been looking for this information since Ms. Nappe originally brought the idea forward. Our ability to recover who was nominated in the past is extremely limited but we can start one going forward from when Julie Bless took over the Committee. We need to do a better job of communicating with nominees and keeping a record but the ability to put historical documents together would be difficult.

Commissioner East recommended starting that repository or list of winners moving forward and we can add those to a special collection moving forward.

Deputy Director Robb would also like to let the people who are nominated know that someone nominated them and that we appreciate their work.

The Committee agreed and gave direction to the Department to update the policy.

11. *Commission Policy 63 – Protecting Wildlife from Toxic Ponds

The Committee will review Commission Policy 63 and may take action to recommend revising, suspending or repealing the policy.

Management Analyst Kailey Musso explained that the Department reviewed Commission Policy 63 and does not have any changes to bring forward.

Habitat Division Administrator Alan Jenne explained that this policy is fairly up to date because the Department went through the mining regulation renewal on industrial artificial ponds right around the same time this was last updated.

Committee Chairman McNinch acknowledged that some of these policies really are up-to-date.

Commissioner East asked if there are other industries we may be missing in the policy?

Habitat Division Administrator Alan Jenne said that this is not just pertaining to mining and that temporary permits for oil and gas drilling and permits for energy developers. Any industry with any pond that could cause harm to wildlife would have to come through us.

There was no further discussion and the policy will remain as is.

12. *Commission Policy 64 – Input on Land, Sales, Transfers, and Exchanges

The Committee will review Commission Policy 64 and may take action to recommend revising, suspending or repealing the policy.

Management Analyst Kailey Musso explained that the Department did not have any changes to bring forward.

Commissioner East asked if the Department could make “in put” one word and then asked to remove the extra space between numbers 3 and 4.

No Public Comment

COMMISSIONER EAST MOVED TO APPROVE POLICY 64 WITH THE NOTED CHANGE AND TO FORWARD TO THE COMMISSION FOR APPROVAL. COMMISSIONER CAVIGLIA SECONDED THE MOTION. THE MOTION WAS APPROVED 3-0. COMMISSIONER WISE WAS ABSENT.

13. *Commission Policy 65 – Designation of Wildlife Management Areas

The Committee will review Commission Policy 65 and may take action to recommend revising, suspending or repealing the policy.

Management Analyst Kailey Musso explained that the Department would like to add Carson Lake and Pasture to the list of Wildlife Management Areas. She also noted that the accompanying NAC will need to be updated as well, but that the Habitat Division is not quite ready for the regulation.

Committee Chairman McNinch brought up the fee at Carson Lake and Pasture and if there was a desire to make the fees consistent for each WMA.

Habitat Division Administrator Alan Jenne did confirm that Carson Lake and Pasture is the only WMA that charges a fee but that since it is noted in NRS, we do need to comply. Greenhead Duck Club intended this fee structure be used for maintenance of the property.

Committee Chairman McNinch noted that the policy discusses designated acquired lands and waters to effectuate a coordinated and balanced program, but it seems that the fee could upset that balance.

No Public Comment.

COMMISSIONER CAVIGLIA MOVED TO APPROVE POLICY 65 AND TO FORWARD TO THE COMMISSION. COMMISSIONER EAST SECONDED THE MOTION. THE MOTION WAS APPROVE 3-0. COMMISSIONER WISE WAS ABSENT.

14. *Commission Policy 67 – Federal Horses and Burros

The Committee will review Commission Policy 67 and may take action to recommend revising, suspending or repealing the policy.

Management Analyst Kailey Musso explained that Habitat Division Administrator Alan Jenne worked with Ms. Stetson on the most recent version. The Path Forward was also posted as support material for the Committee and public.

Commissioner East asked about the first paragraph under the background section and also made an addition to number 6. Discussion around commenting periods occurred. Commissioner East also asked if other species needed to be added to number 7. Habitat Division Administrator noted the addition of “other threatened or sensitive wildlife” and that they were satisfied with that.

Public Comment:

Tina Nappe, Private Citizen, thanked Habitat Division Administrator Alan Jenne for working on the policy. We hope that this policy now meets the Commission’s satisfaction and that it will be supported.

Rex Flowers, Private Citizen, applauded everyone’s work but doesn’t think the policy forces the issue enough. He thinks it allows for too many loopholes for federal agencies to have a way out of taking responsibility. In the background section, second paragraph, the first sentence starting with “expanding populations...” should remain in the policy. However, the following two sentences should be dropped from the paragraph. On page 2 in the third paragraph, the word “however” should be removed. In the sentence starting with “yet”, “yet” should be removed. this policy is about free roaming horses and burros, not about any other issues on the landscape. On page 3, there is nothing about “if no efforts are taken to address removal of wild horses and burros, NBWC will give guidance to NDOW to take legal action against the appropriate agencies.”

The Committee asked Deputy Director Robb how the Department felt about Rex’s proposed addition.

Deputy Director Robb explained that the State of Nevada would need to take legal action on behalf of the Department of Wildlife after the direction from the Governor’s Office and

Attorney General's Office. It isn't as simple as the Commission directing the Department to do something. In the early 2000s, former Chairman JT Moran wanted to take legal action and the governor at that time told us we didn't have that authority.

Committee Chairman McNinch remembered that scenario and would like to develop cooperative relationships so that when NDOW and the Commission express concern, they will put resources towards those concerns. That is why this effort is so important, we are trying to take a new approach to moving the dial.

Habitat Division Administrator Alan Jenne wanted to thank the Coalition for their efforts on this policy. He noted that this is a collaborative document and that it is hitting on the entire rangeland ecosystem, a system that is already challenged. It is the wild horse and burro policy, but it effects the entire system.

Commissioner Caviglia believes the legal action clause is harsh but that we could always escalate it to extent we can.

Committee Chairman McNinch wanted to clarify if Commissioner Caviglia wanted to add some sort of clause as a number 10 but that he feels collaborative partnerships and proactive focuses should be the main priority.

Commissioner Caviglia didn't want to make any of the groups panic, but that he thinks a discussion at the Commission level would be prudent.

The Committee asked the Department to work with the Coalition on the possibility of a legal action clause and whether or not that would strike the collaborative tone we are trying to focus on.

Habitat Division Administrator Alan Jenne confirmed that the Department and Coalition will work on the noted changes including removing the quotation mark on item 8, adding "NBWC" to number 6, adding a web address to *The Path Forward*, and removing the terms "however" and "yet." Commissioner McNinch confirmed those were the changes and noted that he would prefer to take those changes straight to the Commission to finalize details there.

COMMISSIONER CAVIGLIA MOVED TO FORWARD POLICY 67 AS PRESENTED, WITH THE NOTED CHANGES AND A POTENTIAL ITEM 10, TO THE COMMISSION FOR REVIEW. COMMISSIONER EAST SECONDED THE MOTION. THE MOTION WAS APPROVED 3-0. COMMISSIONER WISE WAS ABSENT.

15. Future Committee Meetings and Agenda Items

The Committee will take action to determine future committee agenda items, or meeting dates, times, and locations.

Management Analyst Kailey Musso explained that we will meet again the week of the January Commission Meeting and will coordinate with TAAHC. We will discuss Policy 3, Policy

4 and the accompanying NAC, Policy 26A, Policy 40, Policy 51, and possibly Policies 21,22, 23, and 25

The Commission should hear Policy 31, Policy 33, Policy 63, Policy 64, Policy 65 and Policy 67 in January.

Deputy Director Jack Robb wanted to warn the Committee that the Department will need to bring the First Come First Serve and Tag Transfer regulations back to this Committee or the Commission to work out issues that have come to head after the first year implementing both.

Public Comment:

Tina Nappe, Public, asked if Policy 67 would be approved at the next Commission meeting?

Committee Chairman McNinch confirmed that the changes discussed at this meeting would be taken straight to the Commission for a discussion. If everything goes smoothly, the decision could be made to move it to a second hearing.

Management Analyst Kailey Musso explained to the Committee and the public that the Commission needs to hear Commission policies twice before adopting any changes.

16. Public Comment Period

Persons wishing to speak are requested to sign in. Public comment will be limited to three minutes. No action can be taken by the Committee at this time; however, the Committee may consider items brought up to be scheduled on a future Committee agenda.

Tina Nappe, Public, thanked the Committee for reviewing all of the policies.

17. Adjourn

The meeting was adjourned at 5:23pm.

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