

Minutes of a Meeting of the Outdoor Heritage Fund Advisory Board
Held on September 16, 2013 at 2:30 p.m.
Peace Garden Room
Bismarck, ND

Present: Governor Jack Dalrymple, Industrial Commission Chairman
Agriculture Commissioner Doug Goehring, Industrial Commission member
Eric Aasmundstad, OHF Advisory Board
Randy Bina, OHF Advisory Board
Carolyn Godfread, OHF Advisory Board
Jon Godfread, OHF Advisory Board
Blaine Hoffman, OHF Advisory Board
Tom Hutchens, OHF Advisory Board
Bob Kuylen, OHF Advisory Board
Jim Melchior, OHF Advisory Board
Wade Moser, OHF Advisory Board
Patricia Stockdill, OHF Advisory Board
Dan Wogsland, OHF Advisory Board
Larry Kotchman, OHF Advisory Board
Terry Steinwand, OHF Advisory Board
Rhonda Vetsch, OHF Advisory Board
Mark Zimmerman, OHF Advisory Board

Also

Present: Jerod Tufte, Governor's Office
Andrea Travnicek, Governor's Office
Amanda Godfread, Governor's Office
Sandy Voller, Attorney General's Office
Dana Schaar Jahner, NDRPA
Kathy Strombeck, Tax Department
Terry Allbee, NACTWS
Kelvin Hullet, Bismarck Chamber
Eric Lindstrom
Members of the Press

Governor Dalrymple, Chairman of the North Dakota Industrial Commission (Commission), called the meeting to order with a quorum being present.

Governor Dalrymple welcomed everyone to the first and historic meeting of the Outdoor Heritage Fund (OHF) Advisory Board. He said it is a very important mission for North Dakota and said many people will soon realize this is a very significant step forward in our State's history. He welcomed all the members of the OHF Advisory Board and thanked them for their willingness to participate and take on this responsibility.

Governor Dalrymple asked each OHF Advisory Board member to introduce themselves and state the group or agency they represent.

Ms. Karlene Fine, Industrial Commission Executive Director, reviewed Chapter 54-17.8. (A copy is available in the Commission's files.) She pointed out the specific provisions regarding how the monies in the Fund cannot be used. One item she noted was that the Commission is to provide staffing for the OHF Advisory Board. Right now, she anticipates it will be a contract employee that the Commission will retain. The Commission will make the ultimate decision on staffing but is open to recommendations from the OHF Advisory Board members.

Governor Dalrymple stated Karlene is the administrator for the Industrial Commission so if a contract employee is hired that person will report to Karlene.

Ms. Fine pointed out that the OHF Advisory Board is the screening committee of applications and nothing goes to the Industrial Commission unless the OHF Advisory Board has given it a positive recommendation.

Ms. Fine discussed the conflict of interest disclosure requirements. (A copy is available in the Industrial Commission's files.) She said the Commission has an ethics policy for all of its advisory boards. The Commission requires that there be disclosure of conflicts and it is handled with this form. The OHF Advisory Board member can vote on the application after disclosing their conflict of interest.

In response to a question regarding an interest in a project, Ms. Fine stated it could be a financial interest as well as if the individual serves on a board that is submitting an application. The best advice is to err on the side of disclosure.

Ms. Fine presented the financial report (a copy of the report is available in the Commission files) and noted that the revenues through August 31, 2013 are \$715,111.06. She indicated that it would be her plan to provide a monthly update to the OHF Advisory Board members as funding is received.

Ms. Sandy Voller, Attorney General's Office, gave a brief overview of the open meetings law and made some comments about the open records law. She indicated that she would be available at future meetings if the OHF Advisory Board wanted a more in-depth review of the open meetings and open records laws. She stated that if you have a "record" that deals with public business, it is subject to open records law. Your e-mails, correspondence, notes, etc. – dealing with public business - that will be an open record.

Ms. Voller stated that in regards to the open meetings law, an open meeting has two elements. As soon as you have those two elements, you will be subject to open meeting laws – you need a quorum and you need to be discussing public business. (Ms. Fine noted that the law states that seven voting members of the OHF Advisory Board is a quorum.) Public business has a long lengthy definition under the law-- basically anything that's going to come before the OHF Advisory Board is going to be public business - any discussion, with a quorum, is an open meeting. She mentioned subcommittees – delegating any duties of the OHF Advisory Board to two or more people - you have created a committee. Anytime a quorum of that committee gets together to discuss what has been delegated to them, that is also a meeting subject to the open meeting laws. She cautions people about appointing an executive committee – her advice is to narrow what you delegate. If an executive committee consists of three people, a quorum of that is two, so anytime those two people get together to discuss anything related to the OHF Advisory Board work, they were going to be subject to open meeting laws. Her advice is to be careful what is delegated.

Ms. Voller reviewed the following ways that a meeting can occur:

- When an email is sent to other OHF Advisory Board members and public business is discussed and the e-mail is sent on to other OHF Advisory Board members, and all of a sudden there has been all these exchanges in the emails and you have created a meeting. Some emailing is fine – Karlene will distribute information to the Board by email about an upcoming meeting, etc. and that is fine. However, she cautioned the members to be very careful hitting the "reply all" button.

- A meeting can also occur when there is not a quorum present at one time if you are doing serial conversations. Let's say John calls Eric and says an application came through and what do you think of it and they discuss it – that is fine, but then John hangs up with Eric and calls Terry and says Terry, I just got off the phone with Eric and we had this discussion and what do you think of this and pretty soon, there is a quorum of you that have spoken about this application and that is not okay – it is called series conversation that even though a quorum is not present at one time, you are still collectively involving a quorum and you are not allowed to do that.
- Meetings can also occur in social settings, there will be times where there will be a social setting and a quorum of the OHF Advisory Board is present. Do not discuss public business when this happens. Another remedy is not to have a quorum present. If you are scheduled to attend a gathering and you believe there may be a quorum of the OHF Advisory Board present, notify the administrative staff and they can make a determination of whether they need to provide a notice of a meeting. So do not discuss public business or don't let a quorum be there. If you do have a quorum there, and you are going to discuss public business, you need to post notice. However, even that gets very tricky because you do not know what you are going to talk about.

Ms. Voller also discussed regular versus special meetings. She indicated that the OHF Advisory Board will need to set up a schedule of upcoming meetings – those will be the regular meetings and at those meetings, you can add agenda topics at the meeting that weren't posted in the meeting notice. The rule of thumb is when you post the notice of a meeting you need to include all the topics that are going to be discussed. If a notice goes out and something comes up the Advisory Board wants to talk about at the meeting, at a regular meeting that is fine, you just add it to the agenda. However, you are not allowed to do that at a special meeting. At a special meeting you have to stick to the topics that were included in the meeting notice.

Governor Dalrymple stated that, in accordance with the law, the OHF Advisory Board needed to determine the initial terms of the Board members; the terms are to be staggered. (A drawing was conducted with each board member drawing a card that had either a four, three, two or one year term.) He said members could swap term limits if they wished. Ms. Fine asked each member to let her know their term length before they leave the meeting.

Governor Dalrymple called for nominations to elect the Outdoor Heritage Fund Advisory Board Chairman.

Mr. Blaine Hoffman nominated Wade Moser as chairman.

Ms. Carolyn Godfread nominated Blaine Hoffman as chairman.

Governor Dalrymple asked for any other nominations. It was clarified that only voting members can nominate someone. Governor Dalrymple asked for a roll call vote to determine the chairman.

On a roll call vote, Bina, C. Godfread, Moser and Stockdill voted for Blaine Hoffman and Aasmundstad, J. Godfread, Hoffman, Hutchens, Kuylen, Melchior and Wogsland voted for Wade Moser. Governor Dalrymple indicated Wade Moser had been elected Chairman

Ms. Fine provided the following outline for discussing the development of guidelines and processes:

The Legislature stated the following:

The Industrial Commission shall use the Outdoor Heritage Fund to provide grants to:

- State agencies;
- Tribal governments;
- Political Subdivisions;
- Nonprofit Organizations.

These grants can be for the following purposes:

- Directive 1: Provide access to private and public lands for sportsmen, including projects that create fish and wildlife habitat and provide access for sportsmen;
- Directive 2: Improve, maintain, and restore water quality, soil conditions, plant diversity, animal systems, and to support other practices of stewardship to enhance farming and ranching;
- Directive 3: Develop, enhance, conserve, and restore wildlife and fish habitat on private and public lands; and
- Directive 4: Conserve natural areas for recreation through the establishment and development of parks and other recreation areas.

What we have used in other Industrial Commission programs are policies that include:

- 1) General Provisions
- 2) Eligibility
- 3) Maximum Grant Amount and Matching Fund Requirement
- 4) Application Requirements
- 5) Review and Award Contracts and Contract Terms

With that as background what should be included in the Advisory Board/Industrial Commission guidelines?

- Do you want to narrow the focus of the applications/projects by developing Requests for Proposals (RFP) and receive proposals based on those RFP's or utilize a more wide-open application process?
- Do you want to allocate a percentage of funding to each Directive?
- Will match funding be required? If yes, will in-kind costs be allowed and to what level? What level of match – 1 to 1 or 2 to 1? If no, then perhaps a higher score would be given if there is match funding—the more match funding the higher the ranking?
- Is there a minimum/maximum limitation on funding for each application?
- How many grant rounds do you want to have annually? The law requires that you meet at least twice a year. “The advisory board shall have at least two regular meetings each year and additional meetings as the chairman determines necessary at a time and place to be fixed by the chairman. Special meetings must be called by the chairman on written request of any five members.”
- What process should be used for evaluating the applications? Does this Advisory Board want to do the evaluation? Do you want to retain independent technical reviewers? If you want to use as the criteria for ranking the projects? Do you believe they will be different for each of the Directives? For example, the Minnesota Program uses the following criteria to evaluate their applications:
 - Design and Scope of Work – up to 20 points
 - The strategies are clear, effective and directly address the problem(s) outlined.
 - This is an urgent problem needing immediate attention.
 - Planning – up to 30 points
 - If funded, the request will effectively address pertinent conservations plans.
 - The request is fully grounded in conservation science.

- The request effectively addresses relevant priorities.
- Other Funds – up to 10 points
- The request maximizes leverage with other funding sources.
- Budget – up to 20 points
- The budget supplements the organization’s traditional funding sources and does not substitute.
 - The level of funding is reasonable for each component of the budget.
- Sustainability and Maintenance up to 10 points
- This request has a well-designed plan for sustainability and maintenance.
- Outcomes – up to 10 points
- The stated outcomes provide meaningful evaluative data.

Ms. Fine stated Kent Reierson could not be present today and he provided comments to her which she will share with the OHF Advisory Board as the questions are discussed. (A copy of his comments is available in the Commission files.) She suggested that the OHF Advisory Board give her direction at this meeting and then she will draft guidelines that the OHF Advisory Board can vote on at the next meeting.

In regards to the first question of whether the Board wanted to narrow the focus of the applications by developing Requests for Proposals (RFP) and receive applications based on the RFP or go wide open for applications, after discussion the consensus of the Board was that for this first grant round, within the framework of the four directives, the process should not be limited and all applications allowed. It was noted that if, after receipt of applications it appears that a directive is not being fulfilled the OHF Advisory Board may want to establish a grant round with a specific RFP to meet that directive.

In response to the second question – do they want to allocate a specific amount of funding to each directive, after discussion on the importance of maintaining flexibility the consensus was not to do so at this time.

In response to the third question of match funding, after discussion the consensus was to not require match funding but to give a higher priority in the scoring process for projects that have match funding.

During the discussion on the match the following points were made:

- It was noted that during the legislative session there was considerable discussion about the leveraging of the Outdoor Heritage Fund dollars.
- Match funding could be from all sources—private, public (state or political subdivisions), federal, etc.
- Match funding could be in-kind—sweat equity. Importance to have a commitment of some sort to the project—either cash or in-kind. However minor it might seem, it is really important in getting that ownership and local commitment, local pride whether it is a private land owner, wildlife club or whoever it might be.
- A 1-to-1 match is most frequently seen in these programs.

In response to Ms. Fine’s next question as to whether there should a minimum or maximum limitation, it was the consensus of the OHF Advisory Board after discussion, that for at least this first grant round there be no minimum or maximum. Several points were made during the discussion:

- Perhaps there should be a certain amount of dollars set aside for small projects allocation that didn’t have to compete with the larger projects;

- A small award to a small community may have a greater impact in that community than a large project;
- A statewide CRP program would be a large project but this type of program is very important to the entire state;
- You need to consider the amount of administrative costs that goes into evaluating each application. The administrative costs for the program are to come out of the Outdoor Heritage Fund so you need to make sure that the administrative costs don't use up the funding that would otherwise be used for projects—you don't want to spend more on evaluating the application than the application award.

The suggestion was made that Ms. Fine prepare an estimate of what the administrative costs are for evaluating an application and provide that to the OHF Advisory Board at a future meeting.

In response to a question regarding the money coming in month by month and having the authority to approve a project that would exceed the amount that is currently on hand, Ms. Fine stated yes. She indicated that the law provides for a \$30 million continuing appropriation and she will be monitoring the revenues. The financial report will reflect the amount of monies that are uncommitted before each grant round so the OHF Advisory Board/Commission will know how much can be awarded based on ongoing revenues and appropriation authority.

In response to a question regarding the grants having an end date, Ms. Fine said that is something that will be discussed as the guidelines are developed. She indicated that it has been the practice of the Commission that not all the money for a project is disbursed at the beginning of the project—monies are disbursed as the work is completed. There are milestones that must be achieved before funds are disbursed. Those provisions are outlined in the contract.

In response to a question if an application received a low score but the OHF Advisory Board thinks it is a valuable idea or plan could the OHF Advisory Board make recommendations to the applicant to revise their application, Ms. Fine said in the Commission's other programs, when an application comes in, after the technical staff looks at it and it appears it will come in low, they will suggest to the applicant that they go back and rework the application and resubmit it. Sometimes this can be done in a timely manner and the application will be considered during that particular grant round or it will be resubmitted during the next grant round.

There was discussion on who would be reviewing the applications. It was suggested that the OHF Advisory Board should depend heavily on the independent technical reviewers in the process.

It was moved by Mr. Aasmundstad and seconded by Mr. Wogsland to use technical reviewers in the first grant round to review the applications.

In response to a question, Ms. Fine clarified what a technical reviewer was as it related to the Commission's research programs. She gave an example of the Commission receiving an application on a process to capture Mercury which is very technical and the Commission seeks out scientists with that type of expertise to review the application and see if it is a feasible proposal. She is not familiar with the types of applications that this program will receive so she is not sure what expertise is needed. If this program would follow the same process used in the research programs she would seek input from the OHF Advisory Board members for the names of experts needed to review each type of application. Those experts would then complete the independent technical review, score the application and then the application would come to the OHF Advisory Board for their consideration.

It was indicated that not knowing what we are going to get for applications, it seems we may need some assistance, at least at the outset, to determine whether the costs associated with the project are accurate or relevant, etc. not just the technical aspect but other things too. It was important that the costs outlined in a project are consistent with best practices as it relates to that project.

Governor Dalrymple stated a lot of these applications might not need a lot of technical analysis. If you need more technical analysis then you can go get it. It will vary a bit, some will get complex but some will not be complex.

The suggestion was made that perhaps the ex-officio members – Game and Fish, Parks and Recreation, Soil Conservation, State Forester -- could provide that type of technical expertise and scoring of the applications. It was indicated that this is one of the ideas behind having the ex-officio members on the Board – to provide that technical advice and assistance.

There was discussion regarding uniformity of the scoring and using the same scorers all the time. Ms. Fine stated that with the research programs that was not possible because of the type of expertise needed for the technical nature of the applications.

Governor Dalrymple stated the staff could determine if an application needs a technical review.

Mr. Kotchman said their biggest challenge in the administration of their cost share programs and grant programs has been determining whether or not the projects being applied for are actually explained sufficiently so that you can determine whether or not they are going to be successful – whether the money is going to be spent in a manner in which it was intended. Secondly, we use a grant review committee that is made up of representation of professionals as well as interest groups we are trying to serve. We make sure we have people with technical expertise and we also make sure we have a balance of interests on that review group as well to look independently and objectively at those projects and give them a score. The scores come back to the advisory body with those recommendations and then the advisory body makes a decision.

In response to a question regarding the reviews, do the reviewers provide an explanation as to why the score was low or high, Mr. Kotchman stated yes. Many times the advisory board has specific questions about the projects and the review committee is prepared to answer those questions and provide the technical information needed as well as other information as whether or not those projects are really doable.

On a roll call vote, everyone voted yes with Mr. Reiersen absent and not voting. The motion carried unanimously.

In response to the question on the number of grant rounds, it was the consensus of the OHF Advisory Board to begin with having quarterly grant rounds. During the discussion on this question the following points were made:

- Because some of the projects involving planting and are weather sensitive it is important that there be more frequent grant rounds to assure that funding is provided in a timely manner;
- Frequent grant rounds can result in a considerable workload for the staff and for the OHF Advisory Board;
- There may be a need for monthly meetings of the OHF Advisory Board during the first six months to get this program up and running.
- There is often a lead time to get a contractor to do work so more frequent grant rounds may be useful in getting contractors—everyone is very busy.

In response to a question regarding the first deadline, Ms. Fine outlined the following schedule and noted that it is approximately a two month process if everything stays on schedule:

- December 1 grant application deadline;
- A list of all the applications would be provided to the OHF Advisory Board as quickly as possible;
- Four to six weeks for technical reviews, depending on the number of applications;
- OHF Advisory Board review in mid-January;
- Industrial Commission consideration of OHF Advisory Board recommendations;
- Contracts drafted for consideration by the successful applicants.

It was pointed out that with a two-month process that may even be too late for some of the projects—grass mixtures, trees, etc. all have to be ordered months in advance for planting. An example is that trees need to be ordered from the Lincoln Oakes Nursery by January 1.

There was discussion on how much time is needed for applications to be prepared. It was generally thought that a 30 to 45 day lead time would be adequate. Some entities are already working on what they will be proposing—just waiting for the guidelines and application form to be determined.

It was the consensus of the OHF Advisory Board that the first grant round deadline be set for December 1, 2013. Based on that determination, it was indicated that the OHF Advisory Board would need to meet the first part of October in order to meet the Industrial Commission's October 22 meeting date. The Board members indicated they would be willing to do that.

Ms. Fine discussed the criteria for ranking of projects. She had looked at Minnesota's program and commented on some of the criteria they used. She said she could put together a couple of different possibilities based on what some of the other states have used. She said she is open to any suggestions from the OHF Advisory Board members of best practices that they may already use in their organizations

Mr. Kotchman, Mr. Steinwand and Ms. Vetsch said they would provide samples of what is used in their organizations.

Mr. Eric Lindstrom with Ducks Unlimited said they met with Ms. Fine and looked at models that have worked well in other states and offered her a series of best management practices that they would be willing to share with the OHF Advisory Board members. By no means is it set in stone but it offers some good ideas. The ideas are scientific based, encourage collaboration and partnerships and rewards applicants for innovation and leveraging of funding.

There was further discussion regarding the scale and scoring. Ms. Fine explained how the other programs under the Commission rank, score and vote on applications. They discussed the difference in areas of focus and differentiating them in the scoring system or reconciling them. There was discussion regarding starting out and evolving the process. Ms. Fine will provide some options for the Board to look at.

Ms. Fine provided the OHF Advisory Board with a draft of what might be included in the application. (A copy of the draft is available in the Commission files.) She indicated that this was just a draft because you have to decide how you are going to "score" the applications before you know what you are going to request be included in the applications.

Ms. Fine provided the OHF Advisory Board with a sample contract to be used for state applicants. There would be a similar contract for private sector, political subdivisions and tribal governments. (A copy is available in the Industrial Commission's files.)

Ms. Fine discussed the solicitation of applications, getting letters out to political subdivisions or doing it by media.

Ms. Fine said now that the OHF Advisory Board has discussed the deadline of December 1 that word can already be getting out and we can post information on the website. We have developed a website currently available on Industrial Commission website <http://www.nd.gov/ndic/>. She noted that it was important that the process be very transparent and very public about the decisions made to build public trust, so the plan is to post as much information as possible on the website. We will develop a communication plan for news releases and she asked for the OHF Advisory Board members' organizations to help with getting the word out to the various groups.

It was pointed out that with the OHF Advisory Board's collective memberships, diverse nature and contacts just about every important stakeholder should be contacted and all the OHF Advisory Board members need to be committed to helping get the word out as far as the application award process, successful grant process, etc.

Governor Dalrymple stated he would like to see letters being sent out to every group you can think of and let them know about the program and initial grant application deadline.

There was discussion of getting lists to Ms. Fine or getting a letter for all the OHF Advisory Board members to send out to their lists. It was indicated that if information is provided to the OHF Advisory Board members they could do the distribution to their membership and contacts. Ms. Fine stated once the guidelines and the application form are approved, the information can be distributed stating that this is the deadline and an applicant can go to this website for the process, the application form, etc. After the first grant awards have been made there will be a press release on the projects receiving funding.

Ms. Fine discussed a schedule for upcoming meetings. She said they need to have something to the Commission by October 22 and asked if the week of October 7 would work. She said she would email the OHF Advisory Board with a couple of options for a meeting date.

In response to a question, Ms. Fine stated meetings can be done by conference calls. She will try to get the meeting materials out to the OHF Advisory Board members the first week of October in advance of the meeting.

Being no further business, Chairman Moser adjourned the meeting.



Wade Moser, Chairman



Recording Secretary