



Commission on Off - Highway Vehicles

Full Commission Meeting

February 4, 2016

Meeting Minutes**DRAFT**

Meeting Locations:

<i>Nevada Public Utilities Commission 1150 East Williams Street Hearing Room B Carson City, Nevada 89701</i>	<i>Nevada Public Utilities Commission 9075 West Diablo Drive Suite 250 Hearing Room B Las Vegas, Nevada 89148</i>	<i>Phone in Number 712-432-1212 Meeting ID-957-738-378</i>
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I. MEETING OF THE NEVADA COMMISSION ON OFF-HIGHWAY VEHICLES

1. CALL TO ORDER

Chair McKay called the meeting to order at 9:10 am.

2. PLEDGE OF ALLEGIANCE

The pledge was recited.

3. ROLL CALL OF THE COMMITTEE MEMBERS

Commissioner Cox - Present, Las Vegas

Commissioner Baker - Present, Las Vegas

Commissioner Gerow – Present, Carson City

Commissioner Jackson - Absent

Commissioner Lambert – Present via teleconference, arrived in Carson City 9:55am

Commissioner Lee – Present, Las Vegas

Chair McKay - Present, Carson City

There is a quorum.

4. PUBLIC COMMENT

No public comment.

5. MEETING MINUTES

The NCOHV will vote to approve the January 14, 2016 NCOHV meeting minutes.

AG Palmer, unless there are material corrections other than the grammatical ones I have noted, the Commission can make a motion to accept.

MOTION: Commissioner Cox makes a motion to accept the minutes with the grammatical corrections; seconded by Commissioner Gerow.

The motion passed unanimously.

6. AUTHORIZATION OF THE EXECUTIVE SECRETARY SEARCH COMMITTEE

The Commission will discuss the re-authorization of the Executive Secretary Search Committee to re-start the hiring process for the NCOHV Executive Secretary. The Commission may also authorize the Executive Secretary Search Committee to hire a candidate and to possibly contract with Manpower Associates to hire temporary help until the Interim Finance Committee authorizes a State position anticipated in April 2016.

MOTION: Commissioner Cox makes a motion to re-authorize the Executive Search Sub-Committee.

Commissioner Baker, she would like to update the Commission on other related developments in this process. Chair McKay and herself have been in touch with State HR Director Lee-Ann Easton and Personnel Lead Rachel Baker to develop an updated job description. This job description would assist the Commission in getting an individual more suited to where the Commission needs to go, which is an Executive Director. This job description would also assist the Commission in the legislative process in 2017; to change the statute from hiring an executive secretary to hiring an executive director. Chair McKay, as a point of order, there is a motion and not a second. Commissioner Cox withdraws his motion in light of what was just discussed. DAG Palmer, there should be more specifics regarding the authority to be granted to the Sub-Committee and the composition of its members. Will the members of the Executive Secretary Search Sub-Committee stay the same (i.e. Commissioners Baker, Gerow, and McKay), and clearly define what authority the Sub-Committee would be granted (i.e. begin the search with the job posting, select qualified candidates for an interview, hire the best candidate, and work with the State to get the person in the State personnel system, with the possibility of using Manpower Associates as a possible interim arrangement).

MOTION: Commissioner Cox makes a motion for the Commission to authorize the Executive Secretary Search Sub-Committee consisting of Commissioners Baker, Gerow, and McKay. They are to begin the search for an Executive Secretary in properly-noticed, open meetings that will include: posting a job description on the state website, accepting applications, selecting qualified candidates to interview, interviewing, and selecting a candidate to recommend for hiring to the full Commission at a later date. Seconded by Commissioner Lee. Commissioner McKay, would the Commission consider giving the Sub-Committee full authority to select a candidate and complete the hiring process without having to come back to the Commission for approval, as long as the process of doing so was done in compliance with the open meeting law? Commissioner Cox amended his motion to grant the Sub-Committee full authority to complete the hiring process for the Executive Secretary with the assistance of State administration and in compliance with any open meeting law requirements, without having to come back to the full Commission for candidate selection approval. Commissioner Lee accepts the amendment.

Motion was passed unanimously.

7. DISCUSSION AND CONSIDERATION OF DRAFT INTER-LOCAL AGREEMENT WITH THE CLARK COUNTY CONSERVATION DISTRICT

The NCOHV previously agreed to partner with the Clark County Conservation District ("CCDCP") in a joint public education/outreach effort. The NCOHV will vote whether to approve the proposed contract, including the revised scope of work and monetary commitment.

Chairman McKay, the Commission had previously agreed to enter into an agreement, but there were a few changes to the agreed upon terms. It was prudent to bring this back for today's meeting to discuss these changes and get the approval of the Commission. He asked Commissioner Baker and DAG Palmer if they would like to comment on the changes.

Commissioner Baker, the original dollar amount committed from Clark County was \$200,000.00, with \$100,000.00 for the OHV program and \$100,000.00 for responsible OHV use. They have since decided to hold off on the marketing of the responsible OHV use until a future date. They just recently put out an RFP for brand marketing. The marketing component is premature at this time. Clark County is still committing \$100,000.00 to the OHV program for awareness of the OHV Commission and the OHV registration process. The Commission's share will be \$49,999.00. The CCDCP can't fund marketing outreach outside of Clark County, and that some of the \$49,999.00 from the OHV Commission can go towards the marketing outside of Clark County. To clarify, the Commission will decide how the full \$150,000.00 is to be allocated once the successful company meets with the Commission and provides details on products and pricing of each component. The change from the original

commitment of \$50,000.00 to \$49,999.00 was so the agreement could be approved by the State Board of Examiners Clerk versus waiting for a future full State Board of Examiners meeting. This will shorten the processing time. CCDCP's future marketing plans for responsible OHV use may focus on the Tread Lightly Program. Kimberley Jenkins attended the meeting held earlier in the month and liked the programs and messaging. Kimberly, Manager of the Clark County Conservation District, was present on the telephone, agreed with Commissioner Baker's assessment.

DAG Palmer, the contract meets with the State Attorney General's approval as to form and content. The statute describing the requirements for the Board of Examiner's contract approval is cited in NRS 277.180 and also in the State Administrative Manual.

MOTION: Commissioner Lee makes motion to approve the proposed contract with the Clark County Conservation District for \$49,999.00; seconded by Commissioner Cox.

Motion passed unanimously.

DAG Palmer added that the contract would still require the approval of the State Board of Examiners Clerk.

Chair McKay, what would be the next step in the process? DAG Palmer, she would work with the Chairman on researching the steps in the approval process with the Board of Examiners.

8. ELECTION OF SECRETARY POSITION FOR THE COMMISSION

The NCOHV may vote to approve a replacement for the Secretary position on the Commission. The current Secretary is on military duty for the next year.

Chairman McKay, the Commission elected Jim Richardson to be Secretary in June of 2015. He has not been able to attend Commission meetings due to his commitment to military service. He is committed to being in Afghanistan all of 2016. Commissioner Jackson asked to put this item on the Agenda for action. Are there any volunteers? There were none. Commissioner Cox, why does the secretary position have to be filled? Commissioner Lee, the statute requires it. Chairman McKay, Commissioner Jackson had expressed an interest in serving as Secretary.

MOTION: Commissioner Baker makes a motion to nominate Commissioner Jackson for Secretary; seconded by Commissioner Lee.

Motion passed unanimously.

DAG Palmer, when are the annual elections generally held? Chair McKay, they are scheduled for June of 2016.

9. PRESENTATION FROM THE DEPARTMENT OF MOTOR VEHICLES "DMV"

The NCOHV will receive a report from a representative of the DMV on the status of NCOHV state registrations and the revenue and expense reports related to the quarterly distribution of NCOHV funds.

Denise Engle and Marty Elzy from the DMV read their January Statements. Chairman McKay, he received the reports on Tuesday and they will be posted to the website for further review. They have a few minor issues with the DMV and they will schedule a future meeting between the two agencies to resolve it very soon.

10. RE-AUTHORIZATION OF 2015 LAW ENFORCEMENT AWARD TO WASHOE COUNTY SHERIFF'S OFFICE FOR DIFFERENT EQUIPMENT

Washoe County Sheriff's Office has changed its request for funding from a Polaris Razor 1000 4-seater to a Yamaha 6-seater. No change in funding amount has been requested. The Nevada Office of Criminal Justice Assistance ("NOCJA") recommended approval of the modified request. The NCOHV will vote whether to approve the recommendation of the NOCJA.

Chairman McKay, Washoe County Sheriff changed its mind from purchasing a Polaris 1000 4-seater to a Yamaha 6-seater. The NOCJA recommended the change of equipment in an email to Chairman McKay. There was no difference in the grant award. Commissioner Gerow, in his opinion this change of equipment is more in line with what their operational needs are.

MOTION: Commissioner Lee makes a motion to approve the change of equipment; seconded by Commissioner Gerow.

Commissioner Lee, he disclosed that he was the Sheriff of Lincoln County. He believed he did not have a conflict of interest.

This purchase had no effect on his agency's award, which was totally separate and had already been awarded. DAG Palmer, suggested that Commissioner Gerow disclose his relationship and whether he had a conflict. Commissioner Gerow, he disclosed his relationship as an OHV dealer and that he served on the Commission as the dealer representative. He did not believe that he had a conflict of interest. Although he has two dealerships in Northern Nevada, he has had no discussions and presently has no knowledge of where this equipment will be purchased.

Motion passed unanimously.

11. CONSIDERATION OF APPEALS CHALLENGING THE NCOHV'S DENIAL OF GRANT AWARDS ON DECEMBER 14, 2016

The NCOHV will consider any appeal(s) arising from grant award denials on January 14, 2016.

There were no appeals filed by the due date of January 29, 2016.

12. TREASURER'S REPORT AND 2016 BUDGET

The NCOHV Treasurer will report on the NCOHV's account activity, including income and expenses and current bank balances. The Treasurer will also present proposed 2016 Budget for the NCOHV. The NCOHV may vote to approve a 2016 Budget.

Commissioner Cox, the profit / loss for January: there was no income in January and there were four expenses: reimbursements for accounting for yearend books, room rents that occurred earlier in the year, and travel expenses for two commissioners which totaled \$1,232.42. Chair McKay, Commissioner Lambert will submit a mileage request for his attendance at the last meeting. Commissioner Cox, DAG Palmer stated that her expenses will be submitted as well. The balance sheet as of January 28th, the general fund \$1,748,471.73. The commitments are listed for the grants previously approved for law enforcement making the checkbook balance at the end of January \$1,954,905.71. The liabilities of those law enforcement awards are \$206,433.98. Chair McKay, the invoice for the White Pine County grant award agreement for \$10,000.00 was signed last week.

Commissioner Cox, here is the proposed budget for the coming year. The numbers for the accounting fee's, salaries, insurance, and office expense will all be flexible based on what the Commission hears back from the state. He was more interested in coming up with a total of \$65,600.00 for what it will cost the Commission to have an executive secretary. As a point of information some things have happened since these reports were printed that will affect the Commission; the state has said that the executive secretary must be considered an employee. The IRS has sent the Commission paperwork that they are delinquent in paying back taxes and withholding's on current and past employees going back to 2013. He has to go back and calculate how much money the Commission owes the IRS. Since the checks have already been written, he has to figure out what the withholdings should have been and bring it back down to the net amount that was written. He has accomplished that for 2015. For 2015 is cost right around \$3,100.00 for those back taxes and withholdings. Going back to 2014 and 2013 it will affect the beginning-year balances. The state says that they are to operate on what was in the account as of January 1st. He will need direction whether all of these expenses are going to come out of 2016 or if they will go back and be corrected in 2013 and 2014. DAG Palmer, the important figure is the law enforcement award. Since you have been accruing and deducting the balance for the 2014 awards in determining the 2015 amount and in also determining the 2016 amount; from an accounting stand point it probably does not matter, but if you got the information and you can do that it will probably make a small percentage difference. Commissioner Cox, it will make about a \$10,000.00 difference over those years and 20% of that is minimal. Returning to Sue's questions 5% administration is \$87,844.68 and he is looking at it costing the Commission \$65,600.00 in operating expenses. DAG Palmer, regarding the IRS, it is not the fact that the Commission has decided to make it a state position or the state is calling it a state position that resulted in the IRS letter. That was going to happen no matter what. It was brought to the Commission's attention last year regarding the unemployment insurance, at that point it was suggested that there might be an IRS concern as well. It came about when one secretary claimed unemployment and it was not handled correctly. Commissioner Lee, he thought they were hired as contractors. Commissioner Cox, they were hired as independent sub-contractors. Where they ran into problems is the fact that the Commission required them to attend meetings; independent sub-contractors get to set their own schedule. Commissioner Baker, why would the Commission not want to allocate the full 5% to allow room for other opportunities? Commissioner Lee, he agrees. We should budget for it, but do not

have to spend it. Chair McKay, that takes care of the salary but benefits have to be included and that figure could be 30% higher than what the salary is. Commissioner Cox, Commissioner Lee brought up a good point, we can budget the full \$87,844.00 and we cannot spend over what we budget. Chair McKay, the office expense needs to be clarified. If an agreement is executed with state parks, the rent is \$300.00 a month / \$3,600.00 a year and they allowed \$4,000.00 for furniture and office equipment; that is \$8,000.00. The \$24,000.00 can be cut in half in that category. Commissioner Lee, whatever the cap is, the Commission should budget the full amount. A budget is a guess. We should budget the full amount and then funds can be moved around if necessary. Commissioner Gerow, he agrees with Commissioner Lee. In looking at this and the way funds are appropriated for administration, which he does not agree with about using a balance of a starting date money whether you have it or not seems backwards. Taking that into consideration, by budgeting the full amount on a year with a lot of funds, if it is not used it is still budgeted in the administration section. That might provide a little buffer when say next year they have only \$1,000,000.00 on that certain date. Chair McKay, Commissioner Lambert suggested a miscellaneous category to provide a little float. There also needs to be added a section for the lobbyist. They will need to start earlier this year if the Commission plans on drafting its own bill. He would like to see \$3,500.00 for the lobbyist in the budget. Since there were discussions on several components that were not included in the budget, would it be appropriate to bring back a proposed budget reflecting the full account being allowed and some of the other categories that were not accounted for in this budget. Then the Commission can discuss and pass the full budget at the next meeting. Commissioner Cox, he suggests passing it at the next meeting. DAG Palmer, will someone speak to the grant award on the ORBA off road business. There was an error in the last meeting and some confusion on the matching funds. Chair McKay, in the last meeting there was some confusion on the amount that the Commission awarded to the Off Road Business Association economic impact study. It was listed as \$54,594.00, the correct figure is \$36,500.00. The difference being the \$18,000.00 match that ORBA had included and not a commitment from the Commission.

Larry Caulkins, Nevada Four Wheel Drive Association, looking over the budget he sees the carryover from the previous year being the 2016 unrestricted balance showing the monies available. He does not understand. He does not see a projection of income for 2016 on this budget to provide a bottom line for what the proposed budget really is going to be. Commissioner Cox, the way the law is written, the Commission is only allowed to use the money that is in the account as of January 1st. The income received during 2016 will be spent in 2017. Commissioner Cox, there is still the question with the carryover in law enforcement, the categories cannot be maxed out. He is looking for suggestions as to where to take out the \$83,000.00 difference. Commissioner Lambert, he suggest to use "other" category to use this year. DAG Palmer, the other category because you have to keep each one of those individual categories under other at the 30% of what you actually spend based on the grant awards that have already been awarded this year, particularly sub category (V), the construction for trails and facilities. Right now in that particular category the commission is at 45.94% of spending. The Commission has to award another \$153,833.33 this year in order to ensure that category does not exceed the 30% amount that the Commission is allowed to spend. Before December 31, 2016 the Commission must award at least that much more money in grants or direct spending.

13. COMMISSIONER BRIEFINGS

Commissioners may brief the NCOHV on any emerging issues of interest to the NCOHV arising after the agenda is set. No deliberation or action will be taken on any information presented until the matter itself has been specifically included on an agenda as an item upon which action may be taken.

Commissioner Baker, in Tread Lightly it was BLM, the Forest Service and several other agencies represented. The regional folks from Tread Lightly were there to present all the things they can do to help unite a state and the different entities; federal, state and local groups together. They also reviewed successes they have had in other states. Chair McKay, although this program has been around for over 25 years, there is a considerable effort in the western states to promote a common message.

Commissioner Gerow, he has had correspondence with DAG Palmer regarding a tax issue and he wanted to bring it up to the Commission as something to look at in the future. In the industry if you have a car and it is traded in for another car, you get a

tax for the trade in. This is something that taxation will need to be involved with, if you take your OHV, which is registered, by statute it should be a vehicle. A vehicle defined in NRS would allow for a tax credit. Currently it is a gray area and the public is not receiving the credit for their trade-in's. The people right now are getting cheated. Commissioner Cox, the Commission needs to start working on a list of items that need to be changed in the law to make sure nothing is forgotten. Commissioner Gerow, that is where he was alluding to the gray area. The way NRS defines a vehicle, now that OHV's are registered they should be considered a vehicle. It might not need a change in the law, there needs to be a discussion with the director of taxation. Previous to OHV's being registered they were not a vehicle in the eyes of the state of Nevada.

Chair McKay, he has had several meetings with different people over the past month. He has been working with state personnel, budget, finance, and HR all related to getting the executive secretary position formalized, along with the budget and checking account finalized. The governor's chief of staff checked in to see what the Commission has done and has not been able to get done. It was a positive conversation. The governor's chief of staff is going to appoint a liaison with the governor's office directly to this commission to help with this process. He was encouraged by the conversations. He also visited the state authorities for BLM and the Forest Service and held conversations about what their priorities, needs and plans are. It is his intention to come back at the next meeting and discuss with the Commission some of the problems and opportunities they presented in partnering with them, with the intention possibly of generating a rough long term plan for OHV improvements in the state.

14. PUBLIC COMMENT

Via teleconference:

Alyse McCallister, she wants to thank the commission for awarding the restroom proposal funding. People are very happy about it. They want to make sure they emphasize to people that this is their registration money that is providing the restroom. It is a direct benefit to the users. She also supports the partnership with the Desert Conservation Program. They asked her to participate when drafting their initial survey for OHV education. It is a wonderful opportunity to work together. She also sits on the research advisory counsel for the BLM and that might be a great place to also do partnerships for education and outreach. Tread Lightly has an excellent program, one of the areas they are a little light in is the southern Nevada desert. The Arizona OHV commission has an excellent outreach and education program going on that might be good to check into.

15. NEXT SCHEDULED MEETING

Chair McKay, he was floating a date of March 24th. The meeting can be held in the legislature buildings. Some suggested topics for the meeting: 2016 law enforcement awards, changes in the grant process to make it an easier program, components of an OHV bill, taxation issue, and some potential partnership opportunities with BLM, Forest Service and other agencies. He also might have the 3 replacements for Commissioner's at that meeting.

13. ADJOURNMENT

MOTION: Commissioner Lambert makes a motion to adjourn; seconded by Commissioner Gerow.
The meeting adjourned at 10:40 am.