



NEBRASKA STATE RECORDS BOARD

MINUTES

Meeting of September 12, 2018

Agenda Item 1. CALL TO ORDER, ROLL CALL.

The meeting of the Nebraska State Records Board (NSRB) was called to order by Chairman John A. Gale at 8:58 a.m. on September 12, 2018, in Room 1507 of the State Capitol, Lincoln, Nebraska.

A Roll Call was taken. The following Board members were present:

John A. Gale, Secretary of State, State Records Administrator and Chairman;
Lt. Gov. Mike Foley, representing the Governor;
Phil Olsen, representing the Auditor of Public Accounts;
Tony Ojeda, representing the Insurance Industry;
Andrew J. Cano, representing the Libraries;
Leslie Donley, representing the Attorney General;
Brian Buescher, representing the Legal Profession;
Jason Walters, representing the State Treasurer;
M. John Steier, representing the Banking Industry
Walter Weir, representing the General Public
Angela Stenger, representing the Media
Peter Kroll, representing the Director of Administrative Services

Staff in attendance:

Steven Chase, Executive Director
Colleen Byelick, Agency Counsel
Tracy Marshall, Recording Clerk

Others in attendance

Brent Hoffman, Nebraska Interactive LLC (NI LLC), General Manager
Carmen Easley, Director of Operations & Marketing, NI LLC,
Scott Somerhalder, Vice President of Operations, NIC Inc.
Ed Toner, Chief Information Officer, Office of the Chief Information Officer (OCIO)
James Ohmberger, IT Manager II, Office of the Chief Information Officer (OCIO)
Terry Lowe, IT Applications Developer, OCIO
Rhonda Lahm, Director, Nebraska Department of Motor Vehicles
Greg Lemon, Director, the Nebraska Real Estate Commission

Agenda Item 2. ANNOUNCEMENT OF NEBRASKA OPEN MEETINGS ACT.

Chairman Gale announced that in accordance with the Nebraska Open Meetings Act, reproducible written materials to be discussed at the open meeting and a copy of the Nebraska Open Meetings Act are located to the left of the public seating area.

Agenda Item 3. NOTICE OF HEARING.

Chairman Gale announced public notice of the meeting was duly published in the Lincoln Journal Star on August 15, 2018, and on the state’s website Public Meeting Calendar. The public notice and proof of publication relating to the meeting will be attached to and made a part of the meeting minutes.

Agenda Item 4. ADOPTION OF AGENDA.

Mr. Chase indicated that there was no modification to the agenda. Mr. Weir moved to adopt the Agenda as presented; seconded by Lt. Gov. Foley.

Voting For:	Buescher	Cano	Donley	Gale	Foley
	Kroll	Ojeda	Olsen	Steier	Stenger
	Walters	Weir			

Voting Against: None

Absent: None

The motion carried.

Agenda Item 5. APPROVAL OF MINUTES.

Chairman Gale asked for a motion to approve the minutes of the June 12, 2018 meeting. Mr. Buescher moved to adopt the Minutes as presented, which Mr. Cano seconded.

Voting For:	Cano	Donley	Gale	Foley	Olsen
	Steier	Stenger			

Voting Against: None

Abstain	Buescher	Kroll	Ojeda	Walters	Weir
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Absent: None

The motion carried.

Agenda Item 6. PUBLIC COMMENT.

Chairman Gale asked the members of the audience if anyone wished to come forward to provide public comment on anything other than items listed on the agenda. No audience member indicated a desire to provide public comment.

Lt. Gov. Foley left the meeting at 9:28 a.m.

Agenda Item 7. CHAIRMAN'S REPORT.

Agenda Item 7.a. Agreements & Addenda:

Agenda Item 7.a.1. Mr. Chase introduced the Electronic Government Service Level Agreements (EGSLAs) between Nebraska Interactive, LLC (NI LLC), and the following entities: the City of Albion, the City of Atkinson, the City of Cambridge, Cheyenne County, Dakota County, Franklin County, Garfield County, Howard County, the City of Loup City, the City of Lyons, the City of Newman Grove, Perkins County, the City of Plattsmouth and the City of Stanton. Chairman Gale signed all agreements pursuant to Board authority.

Agenda Item 7.a.2. Mr. Chase introduced the following PIN-Debit Addenda to the EGSLAs between NI, LLC, the Nebraska State Records Board and the following entities: the City of Albion (REVISED), the City of Atkinson (REVISED), the City of Cambridge, Cheyenne County Treasurer (REVISED), Dakota County Treasurer (REVISED), the City of Fairbury (REVISED), the City of Franklin (REVISED), Garfield County (REVISED), Howard County Treasurer (REVISED), the City of Loup City (REVISED), the City of Lyons (REVISED), the City of Newman Grove, Perkins County Treasurer, the City of Plattsmouth, the City of Stanton (REVISED), and the City of Waverly (REVISED). Chairman Gale signed all agreements pursuant to Board authority.

Agenda Item 7.a.3. Mr. Chase introduced the Statement of Work agreements with Nebraska Interactive, LLC, the Nebraska State Records Board and the following entities: the Dry Bean Commission, and the Public Service Commission. Chairman Gale signed all agreements pursuant to Board authority.

Agenda Item 7.a.4. Mr. Chase introduced the following Real Estate Tax Payment Addendum to the EGSLAs between NI, LLC, the Nebraska State Records Board and Howard County. Chairman Gale signed all agreements pursuant to Board authority.

Agenda Item 7.a.5. Mr. Chase introduced the following Gov2Go Addendum to the EGSLAs between NI LLC, the Nebraska State Records Board and the Deaf and Hard of Hearing Commission. Chairman Gale signed the agreement pursuant to Board authority.

Agenda Item 7.a.6. Mr. Chase introduced Addendum 14 to the Nebraska Department of Motor Vehicles (NDMV) EGSLA that would update the online system for transferring high-risk insurance forms (SR-22 and SR-26) between insurance companies and the NDMV. Appearing on behalf of the NDMV was Director Rhonda Lahm, and Brent Hoffman for NI LLC. Ms. Lahm indicated that the system proposed would improve the current system by providing real time filing of documents while reducing the fees paid by insurance companies and the NDMV's costs of operation. Mr. Olsen did question the reasonableness of the fees in comparison to the profit generated for NI LLC. Lahm stated that profit generated from this project was reasonable in that it offset at least 10 non-revenue generating projects of NI LLC and NDMV. Mr. Buescher motioned to approve the addenda, which Ms. Stenger seconded.

Voting For:	Buescher	Cano	Donley	Gale	Kroll
	Ojeda	Stenger	Steier	Walters	Weir
Voting Against:	Olsen				
Absent:	Foley				

The motion carried.

Agenda Item 7.a.7. Mr. Chase introduced a fee proposal that arises from an agreement between the Nebraska Real Estate Commission (NREC) and iGov Solutions LLC, a Florida entity. Appearing on behalf of the NREC was director Greg Lemon. The agreement would update the NREC’s license database and management services. The NREC currently charges a three percent portal fee for all of its online services. The new agreement would increase fees to four percent to fund the new database. Ms. Donley motioned to approve the fee increase, which was seconded by Mr. Olsen.

Voting For:	Buescher	Cano	Donley	Gale	Kroll
	Ojeda	Olsen	Stenger	Steier	Walters
	Weir				
Voting Against:	None				
Absent:	Foley				

The motion carried.

Lt. Gov. Foley returned to the meeting at 10:12 a.m.

Agenda Item 8. Executive Director’s Report.

Agenda Item 8a. Cash Fund Balance: Mr. Chase presented the Nebraska State Records Board Cash Fund Balance update for the second quarter of 2018 calendar year and the fourth quarter of the 2017-18 budget year. Ms. Stenger moved to adopt the Cash Fund Balance, which was seconded by Mr. Olsen.

Voting For:	Buescher	Cano	Donley	Gale	Kroll
	Ojeda	Olsen	Stenger	Steier	Walters
	Weir				
Voting Against:	None				
Abstain:	Foley				
Absent:	None				

The motion carried.

Agenda Item 8b. Project Status Report: Mr. Chase presented a report on the projects performed by NI LLC, which is part of a quarterly review the executive director conducts with NI LLC and the OCIO. The report contained responses by the partner agencies and NI LLC as to the progress of the projects.

Agenda Item 8c. Department of Administrative Services Statement of Work (SOW): Mr. Chase presented a SOW to update the Department of Administrative Service’s (DAS) website. In the proposed SOW, NI LLC would update the website and the OCIO would provide hosting and maintenance. Because of the hosting and maintenance arrangement, the SOW deviates from the NSRB-approved template. The executive director asked the board whether it would prefer to modify the SOW template or allow the board to approve each deviated SOW on a case-by-case basis. At this time, the board preferred to review and approve each deviation of an SOW on a case-by-case basis. Ms. Stenger motioned to approve the SOW, which was seconded by Mr. Weir.

Voting For:	Buescher	Cano	Donley	Foley	Gale
	Kroll	Ojeda	Olsen	Stenger	Steier
	Walters	Weir			

Voting Against: None

Absent: None

The motion carried.

Agenda Item 8d. Loss of Portal Functionality: Mr. Chase a report from NI LLC that indicated the Portal experienced a loss of functionality from 8:00 a.m. on Sunday, June 24, 2018, to 8:00 a.m. on Monday, June 25, 2018. The incident occurred when NI LLC’s parent company, NIC, installed a software patch resulting in some transactions failing. Although it was difficult for NI LLC to monitor the situation, it has worked with NIC to prevent the incident from occurring in the future. Under Part IV.DD of the Network Manager agreement, “[i]n the event the loss of functionality of any Application(s) is attributable to a defect in the system or the Application(s) due to the acts or negligence of Contractor, Contractor shall pay a penalty of two thousand dollars (\$2,000) per hour for each hour an Application is not fully functional after the time periods set out above; if, however the State determines such non-functionality is caused by reasons other than the acts or negligence of Contractor, Contractor shall not be subject to this penalty.” Mr. Buescher indicated that a similar incident occurred on February 8, 2012, and the board assessed the maximum penalty because of the language of the penalty section and because attributable to a defect in the system and not force majeure. Chairman Gale stated that this incident was within the control of NI LLC and NIC and not force majeure. Mr. Buescher motioned to assess the full \$20,000.00 penalty against NI LLC, which was seconded by Lt. Gov. Foley.

Voting For:	Buescher	Foley	Gale	Kroll	Ojeda
	Olsen	Stenger	Steier	Walters	Weir

Voting Against: None

Abstain: Cano Donley

Absent: None

The motion carried.

A break occurred at 10:50 a.m.

The meeting resumed at 11:10 a.m.

Agenda Item 9. PORTAL MANAGER REPORTS.

Agenda Item 9.a. Project Priority Report: Mr. Hoffman presented the updated Project Priority Report for the first quarter of the 2018 calendar year (or third quarter of the 2018 budget year) and a Project Priority Report for the second quarter of the 2018 calendar year (or fourth quarter of the 2018 budget year). Mr. Hoffman indicated that the highlighted areas on the First Quarter (Q1) Project Priority Report were projects not reported on the original Q1 report submitted at the June 13, 2018 NSRB meeting. Mr. Hoffman also stated that the highlighted areas on the second quarter (Q2) report include target launch dates that changed from the Q1 report. Ms. Stenger motioned to adopt both the Q1 and Q2 Project Priority Reports, which was seconded by Mr. Ojeda.

Voting For:	Buescher	Cano	Donley	Gale	Foley
	Kroll	Ojeda	Olsen	Stenger	Steier
	Walters	Weir			

Voting Against: None

Absent: None

The motion carried.

Agenda Item 9.b. General Manager’s Report: Mr. Hoffman presented the General Manager’s report indicating that in the second quarter of 2018, NI LLC made 77 changes and deployed 51 programs along with 20 new services for state and local entities. Mr. Hoffman also noted that the Portal administered 3.4 million transactions and transmitted over \$49 million to state agencies. Two agencies, the NDMV and the Nebraska Department of Natural Resources received awards recognizing website design. The Center for Digital Government also announced that the State of Nebraska would receive awards for the Nebraska state website and the Nebraska State Patrol concealed handgun registration project. Along with Mr. Hoffman’s presentation was Bruce Rice, the Director of Development and Dave Pfister, Senior Developer. Both Mr. Rice and Mr. Pfister delivered a presentation on programing and development for the Portal.

Mr. Ojeda left the meeting at 11:40 a.m.

Agenda Item 10. THE NETWORK MANAGER REQUEST FOR PROPOSAL (RFP) AND THE NETWORK MANAGER CONTRACT. Mr. Cano moved that the Board go into a closed session at 11:55 a.m. on September 12, 2018, for the limited purpose of discussing the Network Manager RFP or alternatives, the current Network Manager’s contract renewals and extension, and possible new contract with Nebraska Interactive, LLC. The closed session is necessary for the protection of the public interest. Ms. Stenger seconded the motion for closed session.

Voting For:	Buescher Kroll Weir	Cano Olsen	Donley Stenger	Gale Steier	Foley Walters
Voting Against:	None				
Absent:	Ojeda				

The motion carried.

Mr. Cano moved that the Board adjourn from the closed session at 1:18 p.m. on September 12, 2018 regarding the Network Manager RFP or alternatives, the current Network Manager’s contract renewals and extension, and a possible new contract with NI LLC and return to the public meeting portion of the NSRB. Mr. Weir seconded the motion.

Voting For:	Buescher Kroll Weir	Cano Olsen	Donley Stenger	Gale Steier	Foley Walters
Voting Against:	None				
Absent:	Ojeda				

The motion carried.

Agenda Item 10a. Network Manager RFP or alternatives: Lt. Gov. Foley moved that the Department of Administrative Services cease from any further development activity on behalf of this Board of an RFP for a Portal Network Manager public bidding which had been previously initiated by this Board by public resolution for the reason that the Board intends to consider other options or alternatives than a public bidding. Ms. Stenger seconded the motion.

Voting For:	Buescher Kroll Weir	Cano Olsen	Donley Stenger	Gale Steier	Foley Walters
Voting Against:	None				
Absent:	Ojeda				

The motion carried.

Agenda Item 10b. Network Manager’s contract renewals and extension: Ed Toner, the Chief Information Officer of the OCIO and Peter Kroll, DAS procurement supervisor, both provided testimony as to how the NSRB should proceed in this matter. Mr. Toner indicated that the Network Manager administers over 900 applications and hosts over 100 websites. Because there is not a public or private entity that could assume the quality and particularity of applications, Mr. Toner stated that a sole source agreement is necessary. Furthermore, Mr. Toner also said a sole

source agreement would be in the best interest of the State of Nebraska because it increase the state’s revenue stream. Mr. Kroll testified that a sole source agreement would meet the criteria of Neb. Rev. Stat. §73-503 in that the services provided by NI LLC are of such a unique nature to warrant such an agreement and availability at the location requested. Because of the statements of Mr. Toner and Mr. Kroll, the NSRB took no action on Item 10b. regarding further contract renewals or extensions.

Agenda Item 10c. Authorization of a new Network Manager’s Contract: Lt. Gov. Foley moved to authorize the Secretary of State with the assistance of the Department of Administrative Services and the Office of the Chief Information Officer to draft a sole source Portal Network Manager Contract with Nebraska Interactive, LLC (NI LLC) and its parent company, NIC, Inc. to become effective April 1, 2019, that will include the same terms, conditions, and specifications of the current Portal Network Manager Contract that became effective April 1, 2016, with these exceptions: a new term of five (5) years from April 1, 2019, with a one, two-year renewal option of the Board; that the split of transaction fee revenues would be 20 percent to the Board with 80 percent to the Portal Network Manager; and subscription fees would increase from \$50.00 per subscription to \$100.00 per subscription. Mr. Cano seconded the motion.

Voting For:	Buescher	Cano	Donley	Gale	Foley
	Kroll	Olsen	Stenger	Steier	Walters
	Weir				
Voting Against:	None				
Absent:	Ojeda				


The motion carried.

Agenda Item 11. DATE FOR NEXT MEETING

Chairman Gale announced the next NSRB meeting will be held on December 12, 2018, at 9:00 a.m., in Room 1507 of the State Capitol.

Agenda Item 12. ADJOURNMENT

Ms. Stenger moved to adjourn the meeting, which was seconded by Mr. Walters. All members present signified their agreement by saying “aye”. Chairman Gale declared the meeting adjourned at 1:25 p.m.



 Colleen Byelick
 Secretary of State
 Acting Chairperson, State Records Board

12-12-18

 Date