



NEBRASKA STATE RECORDS BOARD

MINUTES

Meeting of September 15, 2009

Agenda Item 1. CALL TO ORDER, ROLL CALL. The meeting was called to order by Chairman John A. Gale at 9:00 A.M. on September 15, 2009, 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;
Leslie S. Donley, representing the Attorney General;
Brenda L. Decker, representing the Governor;
Michael D. Foley, Auditor of Public Accounts
Jason W. Hayes, representing the State Treasurer;
Carlos Castillo, Jr., Director of Administrative Services;
Ryne D. Seaman, representing the Banking Industry;
Thomas D. Freimuth, representing the Legal Profession;
Timothy L. Loewenstein, Representing the General Public

Absent:

John P. Curry, representing the Insurance Industry;
Julie A. Beno, appearing later, representing Libraries;
Michael P. Edgcombe, representing the Media

Staff in attendance:

Cathy Danahy, Executive Director;
Kacey Nelkin-Pedersen, Recording Clerk;
Ron Moravec, Legal Counsel

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 are located in the back of the meeting room. Also, a copy of the Nebraska Open Meetings Act is posted in the back of the meeting room.

Agenda Item 3. NOTICE OF HEARING. Chairman Gale announced public notice of the meeting was given by posting notice in the Lincoln Journal Star newspaper on August 14, 2009 and on the state's website public meeting calendar. A copy of the Notice and Affidavit of Publication by the printer is included in the Board records. A current copy of the agenda has been kept in the Secretary of State's office.

Agenda Item 4. ADOPTION OF AGENDA. Ms. Decker moved to adopt the agenda as presented; motion seconded by Ms. Donley.

Voting For:	Castillo Gale	Decker Hayes	Donley Loewenstein	Foley Seaman	Freimuth
Voting Against:	None				
Absent:	Beno	Curry	Edgecombe		

The motion carried.

Agenda Item 5. APPROVAL OF MINUTES. Ms. Donley moved to approve the July 22, 2009 meeting minutes as presented; motion seconded by Mr. Freimuth.

Voting For:	Castillo Gale	Decker Hayes	Donley Loewenstein	Foley Seaman	Freimuth
Voting Against:	None				
Absent:	Beno	Curry	Edgecombe		

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 any of the agenda items. No audience member indicated a desire to provide public comment.

Agenda Item 7. CHAIRMAN'S REPORT

Agenda Item 7. a. Agreements & Addenda

1. Chairman Gale presented Addendum Thirteen to the Interagency Agreement between the Office of the Secretary of State and the NE State Records Board. Mr. Hoffman explained the addendum. Mr. Freimuth moved to approve the addendum; seconded by Mr. Loewenstein.

Voting For:	Castillo Gale	Decker Hayes	Donley Loewenstein	Freimuth Seaman
Voting Against:	Foley			
Absent:	Beno	Curry	Edgecombe	

The motion carried.

2. Chairman Gale presented Addendum Fourteen to the Interagency Agreement between the Office of the Secretary of State and the NE State Records Board. Mr. Hoffman explained the addendum. Mr. Seaman moved to approve the addendum; seconded by Mr. Freimuth.

Voting For:	Castillo Gale	Decker Hayes	Donley Loewenstein	Freimuth Seaman
Voting Against:	Foley			
Absent:	Beno	Curry	Edgecombe	

The motion carried.

3. Chairman Gale presented Addendum Two to the Interagency Agreement between the Board of Engineers and Architects and the NE State Records Board. Mr. Hoffman explained the addendum. Mr. Freimuth moved to approve the addendum; seconded by Mr. Seaman.

Voting For:	Castillo	Decker	Donley	Freimuth
	Gale	Hayes	Loewenstein	Seaman
Voting Against:	Foley			
Absent:	Beno	Curry	Edgecombe	

The motion carried.

4. Chairman Gale presented Addendum One to the Interagency Agreement between the Board of Geologists and the NE State Records Board. Mr. Hoffman explained the addendum. Mr. Loewenstein moved to approve the addendum; seconded by Mr. Freimuth.

Voting For:	Castillo	Decker	Donley	Freimuth
	Gale	Hayes	Loewenstein	Seaman
Voting Against:	Foley			
Absent:	Beno	Curry	Edgecombe	

The motion carried.

5. Chairman Gale presented Addendum One to the Interagency Agreement between the Board of Landscape Architects and the NE State Records Board. Mr. Hoffman explained the addendum. Ms. Donley moved to approve the addendum; seconded by Mr. Seaman.

Voting For:	Castillo	Decker	Donley	Freimuth
	Gale	Hayes	Loewenstein	Seaman
Voting Against:	Foley			
Absent:	Beno	Curry	Edgecombe	

The motion carried.

Agenda Item 7. b. Acquisition of NII Software Source Code

Chairman Gale confirmed the receipt of a letter signed by Mr. Brent Hoffman on August 7, 2009 acknowledging the receipt of the State Records Board request to promptly deliver the Network application software, documentation and source code (collectively "The Software") upon expiration of the current contract on January 31, 2010 and his intention to promptly comply with the request.

Agenda Item 8. LEGAL COUNSEL'S REPORT

Agenda Item 8. a. Approval of the definition "Durable Medium" Mr. Moravec gave a history of why and how the definition of "Durable Medium" was authored, the membership of the authoring committee, the results of a Public Hearing and final approval by the Attorney General for incorporation into the Nebraska Administrative Code Title 430, Chapters 001-008, subject to approval of the Nebraska State Records Board. Ms. Decker moved that the Nebraska State Records Board adopt the definition of Durable Medium as proposed in the attached document, for the State Records Administrator

under the Records Management Act, to be found in Rule and Regulation, Nebraska Administrative Code, Title 430, Chapter 1, Definitions, number 001.18 through 001.18H; seconded by Mr. Loewenstein.

Voting For:	Castillo	Decker	Donley	Foley	
	Freimuth	Gale	Hayes	Loewenstein	Seaman
Voting Against:	None				
Absent:	Beno	Curry	Edgecombe		

The motion carried.

Agenda Item 8. b. Sample of Escrow Agreement to be attached to Network Manager

Contract Mr. Moravec presented a sample of the Escrow Agreement form to be used for the Escrow Agreement with NII and the Nebraska State Records Board for the contract beginning February 1, 2010.

Agenda Item 8. c. Approval of Disaster Recovery guarantee for Network Manager Contract

Mr. Moravec presented a revised version of the Disaster Recovery Plan submitted by NII. Chairman Gale moved to accept the revised Disaster Recovery Plan; seconded by Mr. Freimuth. Mr. Loewenstein explained the revised plan. After discussion, the parties agreed that the attached document, amending page 10 by addition of language, replaces and supersedes the original page 10 submitted with the vendor's RFP response regarding the disaster recovery plan of Nebraska Interactive, Inc.; seconded by Mr. Freimuth.

Voting For:	Castillo	Decker	Donley	Foley	Freimuth
	Gale	Hayes	Loewenstein	Seaman	
Voting Against:	None				
Absent:	Beno	Curry	Edgecombe		

The motion carried.

Chairman Gale asked for further discussion. Mr. Foley & Mr. Castillo expressed concern that errors were in the Disaster Recovery Plan regarding notification of federal agencies as one example. Mr. Hoffman agreed to work with Mr. Loewenstein and the OCIO to update the Disaster Recovery Plan which is a 'living document'. Chairman Gale asked Mr. Loewenstein and Mr. Hoffman to work together to make changes to the current Disaster Recovery Plan. Mr. Loewenstein agreed and requested the NIC Network Services Director Joel Van Schepen is included in those discussions.

Chairman Gale declared a recess at 11:15 A.M.

Chairman Gale reconvened the meeting at 11:25 A.M.

Agenda Item 8. d. LB 403 Implementation. Mr. Moravec explained LB 403 approved by the Governor on April 8, 2009 which states in part, "no state agency or political subdivision of the State of Nebraska shall provide public benefits to a person not lawfully present in the United States." The law goes into effect on October 1, 2009. Mr. Hayes said he understands the purpose of the inclusion of this statement in the grant application forms is to protect the Board and it shows the Board is putting the receivers of the grants on notice that (compliance with the law) is the intent of the Board.

The grant applications reflect this change on page 6 of both the local and state applications:

“IV. STATE LAW COMPLIANCE.

Nebraska law, sections 4-108 through 4-114 (LB 403, 2009), states that no political subdivision of the State shall provide public benefits, to include grants or contracts, to a person not lawfully present in the United States. The undersigned, on behalf of the political subdivision grant applicant, by signing this grant application, affirmatively states and acknowledges that the political subdivision will comply with this law.”

Ms. Donley stated she would like to discuss this addition with Mr. Dale Comer of the Attorney General’s office. Chairman Gale directed Ms. Donley in conjunction with Mr. Comer, Mr. Moravec and Ms. Danahy to discuss this issue after the meeting and determine the best approach to take, if any.

Agenda Item 9. EXECUTIVE DIRECTOR’S REPORT

9. a. State/Local Grant Status Report. Ms. Danahy presented the State/Local Grant Project Status Report for the 4TH quarter FY09. Ms. Danahy reminded the Board that fiscal year 2010 began July 1, 2009 which means the current available grant fund amount to be awarded for FY 2010 is \$250,000.00. She indicated if the Board chooses to increase the \$250,000.00 annual cap they may do so by Board action.

9. b. Reinvested Revenue Report. Ms. Danahy presented the Reinvested Revenue Report.

9. c. NSRB Cash Fund Balance Report. Ms. Danahy presented the NSRB Cash Fund Balance Report. Ms Danahy reported Sale of Service was down in the last three months due to the economy. Expenditures in June took a jump due to two grants at \$25,000 each were paid out and the last payment to Mr. Lemon as the RFP Contractor was \$6,275.00. Mr. Freimuth moved to approve the Cash Fund Balance Report; seconded by Mr. Hayes.

Voting For:	Castillo Gale	Decker Hayes	Donley Loewenstein	Foley Seaman	Freimuth
Voting Against:	None				
Absent:	Beno	Curry	Edgecombe		

The motion carried.

9.d. Post Grant Project Reports

Ms. Danahy reported the receipt of the following reports from applicants who have completed their grant projects:

1. **Thomas County Clerk/Assessor** – Land Record Information System Enhancement;
2. **Supreme Court** - Computerized Record Keeping for Public Submission of Applications for Mandatory Continuing Legal Education (MCLE) and Tracking MCLS Credits;
3. **Hayes County Assessor** –Geographic Information Implementation– post-grant project report.

Chairman Gale declared a recess at 12:00 Noon

Ms. Beno arrived at the meeting at 1:10 P.M.

Chairman Gale reconvened the meeting at 1:10 P.M.

Mr. Loewenstein did not return to the meeting.

9.d.4. DAS/CIO NE Geospatial Data Sharing & Web Services Network

Ms. Danahy introduced Mr. Larry Zink, GIS Coordinator, OCIO to present a post-grant project report and to update the Board on GIS efforts by the State. He explained how the GIS system components work, how data is collected by counties and what issues are created when the information is merged together into a state-wide system. He went on to explain that state agencies have a need for this information. He suggested it would be beneficial to the state if the counties receiving funds from the State Records Board for GIS projects were also asked to share this data with other interested parties in the state needing access to this data. Chairman Gale asked Ms. Decker to get with the Board staff – Ms. Danahy and Mr. Moravec and Mr. Zink and come back with a policy recommendation on how the applications should be amended and what the Technical Committee should do so the Board could adopt something to satisfy the issue of state accessibility. Ms. Decker expressed concern that there are many ways this data is being collected and that possibly the applications should be tabled until some standards are developed to allow the state to share in the data.

Agenda item 10. GRANT APPLICATION PRESENTATIONS

1. University of Nebraska Board of Regents – *Migrating from Tangible to Online:*

Digitizing Microfiche and Print Nebraska State Documents - \$24,998.00. Ms. Danahy introduced Mr. Richard Graham, Assistant Professor/Media Services & Ms. Beth Goble, Nebraska Library Commission who testified and answered questions regarding the grant application.

Ms. Danahy introduced Mr. Dale Hanna, GIS Technician, GIS Western Resources.

Mr. Hanna testified on behalf of **Arthur County, Blaine County, Logan County and McPherson County**.

2. **Arthur County Assessor** – *GIS System* - \$20,612.00

3. **Blaine County** – *GIS System for Blaine County Assessor's Office*- \$25,000.

4. **Logan County Assessor** – *GIS System for Logan County Assessor's Office* – \$25,000.00

5. **McPherson County Assessor** – *GIS System for McPherson County Assessor's Office* - \$25,000.00

6. **Hooker County Assessor** – *GIS System* - \$25,000.00. Ms. Danahy introduced Mr. Dave Sullivan, Hooker County Assessor who testified and answered questions regarding the grant application. Mr. Dale Hanna, GIS Technician, GIS Western Resources also testified.

7. **Lincoln County** – *Lincoln County/City of North Platte Enhanced Web Service* – \$25,000.00. Ms. Danahy introduced Mr. Dennis Sullivan, Lincoln County Assessor GIS Technician, who testified and answered questions regarding the grant application.

8. **Richardson County** – *Enhancement of Richardson County Land Record Information Management and Web Access* - \$25,000.00. Ms. Danahy introduced Ms. Regina Cummins, Richardson County Assessor who testified and answered questions regarding the grant application.

9. **Valley County Assessor** – *Geographic Information Implementation & Web Access* – \$25,000.00. Ms. Danahy introduced Ms. Pamela Arnold, Valley County Assessor who testified and answered questions regarding the grant application. Ms. Helen Culler, Supervisor, Valley County, also testified.

10. Hamilton County Surveyor – *Hamilton County Mapping Update* - \$25,000.00. (Tabled from May 27, 2009 State Records Board meeting). Ms. Danahy introduced Mr. Duane Katt, Hamilton County Surveyor, who testified and answered questions regarding the grant application. Mr. Adam Darbro, GIS Administrator, Hamilton County, also testified.

Mr. Freimuth left the meeting at 3:45 P.M.

11. Board of Barber Examiners – *Enhancement/Restructuring of Barber Licensing System* - \$4,391.00. Ms. Danahy introduced Mr. Ron Pella, Agency Director, who testified and answered questions regarding the grant application. Ms. Decker said the Technical review committee recommended the grant be increased by \$630.00 to allow the board of Barber Examiners to upgrade two software licenses on their two pc's if Mr. Pella chose to make the request. Mr. Pella requested the \$630.00 be included in the grant request.

12. NE State Treasurer – *NebraskaSpending.com – Third Phase* - \$20,000.00. (Tabled from May 27, 2009 State Records Board meeting). Ms. Danahy introduced Mr. Trent Fellers and Mr. Jason Hayes who testified and answered questions regarding the grant application.

Chairman Gale considered the hearing portion of the grant applications closed.

Agenda item 11. GRANT APPLICATION CONSIDERATIONS

11. Board of Barber Examiners – *Enhancement/Restructuring of Barber Licensing System* – \$4,391.00. Mr. Foley moved to approve the application in the amount of \$5,000.00; seconded by Mr. Castillo.

Voting For:	Beno Hayes	Castillo Seaman	Donley	Foley	Gale
Voting Against:	None				
Not Voting:	Decker				
Absent:	Curry	Edgecombe	Freimuth	Loewenstein	

The motion carried.

1. University of Nebraska Board of Regents – *Migrating from Tangible to Online: Digitizing Microfiche and Print Nebraska State Documents* - \$24,998.00. Mr. Hayes moved consideration of the University of Nebraska Board of Regents application; seconded by Ms. Donley. Ms. Decker asked for clarification if the motion was to approve. Mr. Hayes confirmed it was to approve. Chairman Gale said the Board does not often fund labor. Ms Donley said the University should go through their budget process and not to this Board for funding. Ms. Decker expressed concern for funding labor and indirect costs. Mr. Hayes amended his motion to approve the application in the amount of \$16,725.00 to include purchase of computer and monitor, software, and digitization equipment only; Ms. Donley agreed to the amendment.

Voting For:	Beno Hayes	Castillo Seaman	Decker	Donley	Gale
Voting Against:	Foley				

Absent: Curry Edgecombe Freimuth Loewenstein

The motion carried.

Carlos Castillo left the meeting at 4:15 P.M.

7. Lincoln County – *Lincoln County/City of North Platte Enhanced Web Service* – \$25,000.00. Chairman Gale motioned to approve the application in the amount of \$25,000.00; seconded by Mr. Foley. Ms. Decker proposed an amendment that requires the county will work to share the information with the State. Chairman Gale said that during testimony the counties made the commitment and in effect, have amended their applications by agreeing to the condition and will be part of what Ms. Danahy says in her communication to the counties.

Voting For: Beno Decker Donley Foley Gale
Hayes Seaman

Voting Against: None

Absent: Castillo Curry Edgecombe Freimuth
Loewenstein

The motion carried.

12. NE State Treasurer – *NebraskaSpending.com – Third Phase* - \$20,000.00. (Tabled from May 27, 2009 State Records Board meeting). Ms. Donley moved for the approval of the State Treasurer's grant application for \$20,000.00; seconded by Mr. Foley.

Voting For: Beno Decker Donley Foley Gale
Seaman

Voting Against: None

Not Voting: Hayes

Absent: Castillo Curry Edgecombe Freimuth
Loewenstein

The motion carried.

10. Hamilton County Surveyor – *Hamilton County Mapping Update* - \$25,000.00 (Tabled from May 27, 2009 State Records Board meeting). Chairman Gale moved to approve the grant for Hamilton County Mapping Update for \$25,000.00; seconded by Ms. Donley. A general discussion regarding the board approving grant funds for labor costs took place.

Voting For: Beno Decker Donley Foley Gale
Hayes Seaman

Voting Against: None

Absent: Castillo Curry Edgecombe Freimuth
Loewenstein

The motion carried.

8. **Richardson County** – *Enhancement of Richardson County Land Record Information Management and Web Access* - \$25,000.00. Ms. Donley moved to approve the Richardson County application for Enhancement of Richardson County Land Records Information Management and Web Access in the amount of \$25,000.00; seconded by Mr. Seaman.

Voting For:	Beno Hayes	Decker Seaman	Donley	Foley	Gale
Voting Against:	None				
Absent:	Castillo Loewenstein	Curry	Edgecombe	Freimuth	

The motion carried.

Chairman Gale declared a recess at 4:40 P.M.

Chairman Gale reconvened the meeting at 4:45 P.M.

Mr. Hayes did not return to the meeting.

9. **Valley County Assessor** – *Geographic Information Implementation & Web Access* – \$25,000.00. Ms. Decker moved to approve the Valley County Assessor application; seconded by Mr. Foley. After discussion, Ms. Decker made a friendly amendment to the motion to change the amount to \$15,000; seconded by Mr. Foley.

Voting For:	Beno Seaman	Decker	Donley	Foley	Gale
Voting Against:	None				
Absent:	Castillo Loewenstein	Curry	Edgecombe	Freimuth	Hayes

The motion carried.

- 2. **Arthur County Assessor** – *GIS System* - \$20,612.00
- 3. **Blaine County** – *GIS System for Blaine County Assessor’s Office*- \$25,000
- 4. **Hooker County Assessor** – *GIS System* - \$25,000.00
- 5. **Logan County Assessor** – *GIS System for Logan County Assessor’s Office* – \$25,000.00
- 6. **McPherson County Assessor** – *GIS System for McPherson County Assessor’s Office* – \$25,000.00.

Ms. Donley moved to approve all five grants for GIS systems at the requested amounts; seconded by Ms. Beno. Ms. Decker asked the Board if they wished to consider changing the amount awarded to Blaine County to \$13,742.00 and the amount awarded to Logan County to \$22,896.00. Ms. Donley said she would amend her motion to revise the amounts needed for Blaine County to \$13,742.00 and revise the amount needed for Logan County to \$22,896.00; seconded by Ms. Beno. Ms. Decker requested, as the “Chair of the Technical Committee” that the Board ask Mr. Hanna how the data will be collected and stored. Ms. Donley and Ms. Beno agreed to the condition Mr. Hanna provide the answers to how the data will be collected and how and where the data will be stored. When that information is received, the grant funds will be available for expenditure. Ms. Donley amended her motion to provide Arthur County

\$15,612.00; seconded by Ms. Beno.

Voting For:	Beno* Seaman*	Decker*	Donley*	Gale*
Voting Against:	Foley*			
Absent:	Castillo Loewenstein	Curry	Edgecombe	Freimuth Hayes

The Board questioned whether a 5-1 vote was sufficient to approve a motion under the Records Management Act, and was advised that it was.

UNFINISHED BUSINESS

Agenda Item 12. FINANCE REVIEW SUBCOMMITTEE

- a. NI Pricewaterhouse Annual Audit Report

Agenda Item 13. NEBRASKA.GOV REPORTS

- a. General Manager's Report
- b. **Action Item:** Project Priority Report

Agenda Item 14. DATE FOR NEXT MEETING

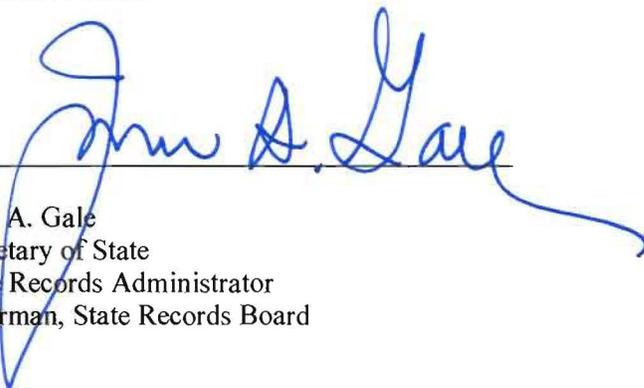
Wednesday, December 2, 2009
9:00 A.M.
Room 1507, State Capitol, Lincoln, NE

Agenda Item 15. ADJOURNMENT

- a. **Action Item:** Move to adjourn

All members present signified by saying "aye". Chairman Gale declared the meeting adjourned at 5:00 P.M.

* Neb. Rev. Stat. Section 84-1204(4) (2008) of the Records Management Act requires the affirmative vote of six members for any action to be taken by the Board. Consequently, this motion failed for lack of six affirmative votes.



John A. Gale
Secretary of State
State Records Administrator
Chairman, State Records Board