

NEBRASKA STATE RECORDS BOARD

MINUTES

Meeting of November 14, 2012

Chairman Gale introduced, welcomed and administered the Oath of Office to new board member Greg Osborn, appointed by Governor Heineman on August 21, 2012. Mr. Osborn represents the General Public and replaces Mr. Tim Loewenstein.

Agenda Item 1. CALL TO ORDER, ROLL CALL

The meeting of the Nebraska State Records Board was called to order by Chairman John A. Gale at 9:05 A.M. on November 14, 2012, 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;
Michael D. Foley, Auditor of Public Accounts;
Don Stenberg, State Treasurer;
Ryne D. Seaman, representing the Banking Industry;
Scott Keene, representing the Insurance Industry;
Carlos Castillo, Director of Administrative Services;
Julie A. Beno, representing Libraries;
Brian Buescher, representing the Legal Profession;
Mike Konz, representing the Media;
Greg Osborn, representing the General Public

Absent:

Brenda L. Decker, representing the Governor;

Appearing later:

Leslie S. Donley, representing the Attorney General

Staff in attendance:

Cathy Danahy, Executive Director;
Colleen Byelick, Legal Counsel;
Tracy Marshall, Recording Clerk

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 right 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 October 12, 2012 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. Stenberg moved to adopt the agenda as presented; seconded by Mr. Keene. Mr. Foley requested Agenda Item 8. PRICEWATERHOUSECOOPERS ANNUAL AUDIT OF NEBRASKA INTERACTIVE, LLC DECEMBER 31, 2011 AND 2010 be moved up in the agenda order to accommodate testimony by Craig Kubicek, CPA, Office of the Auditor of Public Accounts. Chairman Gale granted the request and said Agenda Item 8. will be considered after Agenda Item 6.

Voting For:	Beno Keene	Buescher Konz	Castillo Osborn	Foley Seaman	Gale Stenberg
Voting Against:	None				
Absent:	Decker	Donley			

The motion carried.

Agenda Item 5. APPROVAL OF MINUTES

Chairman Gale asked for a motion to approve the minutes of the July 25, 2012 meeting. Ms. Beno moved to approve the minutes; seconded by Mr. Stenberg. Mr. Brent Hoffman, General Manager, Nebraska Interactive, LLC and Mr. Keene pointed out "Sommerhalder" was misspelled on several pages. Chairman Gale said Ms. Danahy will make the necessary changes.

Voting For:	Beno Gale	Buescher Keene	Castillo Konz	Decker Seaman	Foley Stenberg
Not Voting:	Osborn				
Voting Against:	None				
Absent:	Donley				

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.

Ms. Donley arrived at the meeting at 9:10 A.M.

Agenda Item 8. PRICEWATERHOUSECOOPERS ANNUAL AUDIT OF NEBRASKA INTERACTIVE, LLC DECEMBER 31, 2011 AND 2010 (Auditor Mike Foley, Chair).**Agenda Item 8.a. Report by Finances Review Subcommittee**

Mr. Foley reported the Subcommittee (Mr. Foley, Mr. Keene and Mr. Seaman) met and reviewed the annual audit report. Mr. Foley introduced Mr. Craig Kubicek, a member of the staff of the Auditor of Public Accounts. Mr. Foley pointed out the audit was in good form, there were no problems with the audit and the Subcommittee will recommend the Board formally receive the report.

He said the report contained a number of important disclosures. He said they were seeing something different this year than was seen in prior years. A chart was passed out to the members. Mr. Foley said chart on the top and numbers on the bottom of the handout related to cash flows from the NIC subsidiary, Nebraska Interactive, to the parent corporation, NICUSA in Kansas.

Mr. Foley asked Mr. Kubicek to walk the Board through the numbers on the handout. Mr. Kubicek explained that dating back to 2004 cash advances to the parent company have been occurring. On June 1, 2011 the company declared a \$1.3 million non-cash dividend to NICUSA. As a result of the dividend Nebraska Interactive relieved NICUSA of \$1.3 million in amounts due. On June 1, 2012 the company declared an additional \$1.3 million non-cash dividend. Included in the handout was a chart showing the General & Administrative Expenses Nebraska Interactive paid to NICUSA and Nebraska Interactive payments made to the NSRB. Mr. Foley said the Subcommittee has asked some additional questions as a result of what they have seen in this chart and are waiting for the responses from Nebraska Interactive. As the Subcommittee receives more information, they will be able to report back to the Board.

Mr. Foley recommended the Board formally receive the audit report. Mr. Foley moved to accept the receipt of the PricewaterhouseCoopers annual Audit Report of Nebraska Interactive, LLC for December 31, 2011 and 2010; seconded by Mr. Seaman.

Voting For:	Beno Gale Stenberg	Buescher Keene	Castillo Konz	Donley Osborn	Foley Seaman
Voting Against:	None				
Absent:	Decker				

The motion carried.

Agenda Item 7. CHAIRMAN’S REPORT

Agenda Item 7. a. AGREEMENTS & ADDENDA

Agenda Item 7.a.1. Electronic Government Service Level Agreements between Nebraska Interactive, LLC, the NE State Records Board and the following: Gage County, City of Long Pine, Village of Potter, Polk County, York County and City of Loup City. Signed by Chairman Gale pursuant to Board authority. Mr. Brent Hoffman, General Manager, Nebraska Interactive, LLC explained the Electronic Service Level Agreement between Nebraska Interactive, LLC, the Nebraska State Records Board and the identified government agencies.

Agenda Item 7.a.2. Addenda (PayPort Payment) to the Electronic Government Service Level Agreements between Nebraska Interactive, LLC, the NE State Records Board and the following: Gage County Sheriff, Gage County Treasurer, City of Long Pine, Village of Potter, Sarpy County Clerk, Sarpy County Register of Deeds, City of Loup City, and Polk County Treasurer. Signed by Chairman Gale pursuant to Board authority. Mr. Brent Hoffman, General Manager, Nebraska Interactive, LLC explained the Electronic Service Level Agreement between Nebraska Interactive, LLC, the Nebraska State Records Board and the identified government agencies. Mr. Stenberg noted for the record he continues to object to percentage fees since it violates the VISA rules but since the Legislature did not fix the situation when asked, he had no further comment.

Agenda Item 7.a.3. Addendum Three to the Electronic Government Service Level Agreement between Nebraska Interactive, LLC, the NE State Records Board and the State Electrical Division – Contractor and Homeowner Electrical Installation Permits.

Mr. Brent Hoffman, General Manager, Nebraska Interactive, LLC explained the addendum.

Agenda Item 7.a.4. Addendum Four to the Electronic Government Service Level Agreement between Nebraska Interactive, LLC, the NE State Records Board and the State Electrical Division – Contractor License Renewals. Mr. Brent Hoffman, General Manager, Nebraska Interactive, LLC explained the addendum.

Mr. Beuscher asked Mr. Hoffman to provide a report in the 3rd quarter next year on specific services or applications where the rate is being increased, and what the increase in revenue has been to Nebraska.gov. Mr. Hoffman agreed to provide this report. Mr. Randy Anderson, Executive Director of the State Electrical Division, explained the reason for the upgrades/changes in the applications, how they have been improved and have increased adoption rates.

Ms. Donley moved to approve Addendum Three - Contractor and Homeowner Electrical Installation Permits and Addendum Four - Contractor License Renewals - to the Electronic Service Level Agreement between Nebraska Interactive, LLC, the NE State Records Board and the State Electrical Division; seconded by Ms. Beno.

Voting For:	Beno Keene	Buescher Konz	Castillo Osborn	Donley Seaman	Gale Stenberg
Voting Against:	Foley				
Absent:	Decker				

The motion carried.

Agenda Item 7.a.5. Addendum One to the Electronic Government Service Level Agreement between Nebraska Interactive, LLC, the NE State Records Board and the Polk County Treasurer – Property Tax Payments. Mr. Brent Hoffman, General Manager, Nebraska Interactive, LLC explained the addendum. Ms. Beno moved to approve Addendum One; seconded by Ms. Donley.

After discussion, Chairman Gale asked Mr. Hoffman to provide the following in all future Addenda Summaries: Provide information on what the fee presented is based upon; the anticipated volume of users of the application, what percentage of the total potential users is the anticipated volume, the expected rate of return over a period of time, what is NI’s investment, what other costs does NI incur and what is NI’s risk.

Voting For:	Beno Keene	Buescher Konz	Castillo Osborn	Donley Seaman	Gale Stenberg
Voting Against:	Foley				
Absent:	Decker				

The motion carried.

Agenda Item 7.a.6. Addendum One to the Electronic Government Service Level Agreement between Nebraska Interactive, LLC, the NE State Records Board and the York County Treasurer – Property Tax Payments. Mr. Brent Hoffman, General Manager, Nebraska Interactive, LLC explained the addendum.

Ms. Donley moved to approve Addendum One to the Electronic Government Service Level Agreement between Nebraska Interactive, LLC, the NE State Records Board and the York County Treasurer – Property Tax Payments; seconded by Ms. Beno. Chairman Gale said, if the Board approves the Addendum, he would contact the York County Treasurer, Ms. Scavo, to confirm her understanding of the Addendum and the fees identified in Addendum One (3% for credit card payments and \$3.00 for electronic check payments) and to confirm York County wishes to move forward with the service at the rates identified in the addendum before signing the agreement.

Voting For:	Beno Osborn	Castillo Seaman	Donley	Gale	Keene
Voting Against:	Buescher	Foley	Konz	Stenberg	
Absent:	Decker				

The motion carried.

Agenda Item 7.a.7. Approval of Fees – Storefront Application - Nebraska Department of Roads. Mr. Bill Wehling, Department of Roads, submitted the Storefront Application developed by the Department of Roads for approval of fees. Ms. Danahy explained she and Ms. Byelick researched the statute regarding the approval of fees and the application submitted and determined there were no fees being passed on to the user of the application, therefore there were no fees for the Board to approve.

Chairman Gale declared a recess at 10:50 A.M.

Chairman Gale reconvened the meeting at 11:10 A.M.

Agenda Item 7.b. PORTAL OUTAGE REPORT

On February 8, 2012 the state’s portal (Nebraska.gov) experienced an outage for a period of 3 hours and 24 minutes. The issue was discussed at the July 25, 2012 Board meeting and tabled until this meeting. Mr. Brent Hoffman, General Manager, Nebraska Interactive, LLC, presented an update on the remediation activities by NIC.

Mr. Stenberg said he received several emails from NIC documenting an incident that occurred on September 30, 2012 regarding disbursement records. Credit card transactions were processing but they were not creating distribution records. Mr. Stenberg said he would give Mr. Hoffman copies of the emails and requested Mr. Hoffman to report back to the Board next quarter.

After further discussion, Mr. Buescher moved to assess Nebraska Interactive, LLC a \$20,000 penalty. Chairman Gale offered a friendly amendment that states the loss of functionality on February 8, 2012 was attributable to a defect in the system or due to acts or act of negligence of the contractor and that the loss of functionality was not due to force majeure or beyond the control of the contractor and that the penalty of \$20,000.00 as determined should be assessed. Mr. Buescher acknowledged and accepted the friendly amendment as specifically stated by the Chairman; seconded by Mr. Stenberg.

Voting For:	Beno Gale	Buescher Keene	Castillo Konz	Donley Seaman	Foley Stenberg
Voting Against:	None				
Not Voting:	Osborn				
Absent:	Decker				

The motion carried.

Mr. Seaman left the meeting at 11:45 A.M.

Agenda Item 7.c. NEBRASKA INTERACTIVE CONTRACT

The current contract with Nebraska Interactive, LLC expires January 31, 2014. A 2 year extension (through January, 2016) may be granted by the Board or the Board may choose to allow the contract to

expire on January 31, 2014.

Chairman Gale asked the Network Manager Operations Review Subcommittee to explore the options and discuss the issue prior to the January, 2013 Board meeting and report back to the Board with recommendations and/or points of view. Additionally, Chairman Gale identified the Department of Motor Vehicles, the Court System and the Secretary of State’s Office as the drivers of the portal in terms of the volume of online services and revenues and will invite them to testify to the Board members at the January, 2013 meeting regarding the quality of services provided to them and their recommendation with regard to a two year extension.

Chairman Gale asked Ms. Byelick to prepare a report on the legality of the contract and determine what steps need to take place and when, if the extension is approved or if the extension is not approved. Mr. Foley said the Finances Review Subcommittee will report to the Board after Mr. Hoffman answers some additional questions.

Mr. Buescher volunteered to reach out to a large user of the Court System – possibly Douglas County. He will report to Chairman Gale when he finds a potential candidate for testimony on the quality of service from a user’s perspective.

Chairman Gale also reminded the Board that the issues of identifying and hiring an independent contractor would need to be addressed as soon as possible whether immediately or within the next two years. The decision to have a special board meeting to discuss the contract will be decided later on in this meeting.

Agenda Item 9. ORIENTATION AND POLICIES/GUIDELINES SUBCOMMITTEE

Agenda Item 9.a. Grant Review Subcommittee (GRC) – Large Grant Funding Survey

Ms. Beno reported on the survey sent to all Board members to gather responses to questions relating to larger grants. Ms. Beno said if a large grant were to be offered, the GRC would need time to review the current application and determine if changes needed to be made to the criteria, questions, etc. There is a process for “rating” technology projects for state agencies during the budget process. Mr. Keene suggested using that avenue for considering large grants. Mr. Stenberg suggested the Board may want to wait a year before committing to a large grant since the development of an RFP will need to be budgeted for. Chairman Gale said he would have his office get together some projections on what the RFP might cost. Chairman Gale asked the GRC to have some more discussions and come back to the Board with some recommendations at the February 2013 meeting.

Mr. Castillo left the meeting at 12:16 P.M.

Agenda Item 10. EXECUTIVE DIRECTOR’S REPORT

Agenda Item 10.a. NSRB Cash Fund Balance Report

Ms. Danahy presented the September 30, 2012 Cash Fund Balance report. Mr. Foley moved to approve the Cash Fund Balance Report; seconded by Mr. Keene.

Voting For:	Beno	Buescher	Donley	Foley	Gale
	Keene	Konz	Osborn	Stenberg	
Voting Against:	None				
Absent:	Castillo	Decker	Seaman		

The motion carried.

Mr. Castillo returned to the meeting at 12:27 P.M.

Mr. Keene left the meeting at 12:35 P.M.

Mr. Keene returned to the meeting at 12:40 P.M.

Agenda Item 10.b. NSRB Grant Status Report

Ms. Danahy presented the September 30, 2012 State/Local Grant Project Status Report.

Agenda Item 10.c. 2011 Final Grant Reports

Ms. Danahy presented the final grant report received for the Seward County GIS Grant.

Agenda Item 11. NEBRASKA.GOV REPORTS

Agenda Item 11.a. General Manager's Report

Mr. Brent Hoffman, General Manager, Nebraska.gov presented the General Manager's Report.

Agenda Item 11.b. Project Priority Report

Mr. Hoffman gave the Project Priority Report. Mr. Buescher moved to approve the Project Priority Report; seconded by Mr. Konz.

Voting For:	Beno	Buescher	Castillo	Donley	Foley
	Gale	Keene	Konz	Osborn	Stenberg
Voting Against:	None				
Absent:	Decker	Seaman			

The motion carried.

Agenda Item 11.c. Addenda to the Electronic Government Service Level Agreement between Nebraska Interactive, LLC, the NE State Records Board - Online Real Estate Tax Payments – Chairman's approval.

Mr. Hoffman proposed the Chairman sign all future Real Estate Tax Payment addenda providing each addenda follow the template presented and the rates remain the same for each addenda (3% for credit card payments and \$3.00 for electronic check payments). No action was taken.

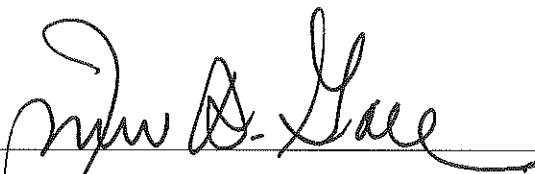
Agenda Item 12. DATE FOR NEXT MEETING

Chairman Gale announced the next NE State Records Board meeting will be held in January 2013 and will address only the Nebraska Interactive Contract. Date to be determined.


The first quarterly meeting will be held on Wednesday, February 13, 2013 at 9:00 A.M. in Room 1507, State Capitol Building, Lincoln, Nebraska.

Agenda Item 13. ADJOURNMENT

Scott Keene moved to adjourn the meeting; seconded by Ms. Beno. All members present signified by saying "aye". Chairman Gale declared the meeting adjourned at 1:05 P.M.



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



 Date