

STATE OF NEBRASKA  
Minutes of the  
Board of Public Roads Classifications and Standards

September 21, 2018

Nebraska Department of Transportation,  
Central Headquarters Building Auditorium, Room 139A  
1500 Highway 2, Lincoln, Nebraska

Meeting and Hearings Notices:

- Statewide news release emailed and posted on Nebraska Department of Transportation website September 14, 2018.
- Event posted on the State of Nebraska website (Public Meeting Calendar) on September 14, 2018.
- Tentative agenda emailed to each board member and interested persons on September 14, 2018.
- Meeting agenda kept current and on public display in Liaison Services Section, Room 123B, Nebraska Department of Transportation, 1400 Highway 2, Lincoln, Nebraska.
- Meeting agenda posted in the main entrance of the Nebraska Department of Transportation's 1500 Highway 2 building on September 21, 2018.
- Relaxation of Standards hearing notice emailed to Sherman and Webster Counties on September 17, 2018.

Board members present:

Roger Figard, Lincoln, Chairman  
James A. Litchfield, Wakefield, Vice Chairman  
Barbara Keegan, Alliance  
John F. Krager, Omaha  
Lisa Kramer, Kennard  
Mick Syslo, Lincoln  
Darold E. Tagge, Holdrege  
David Wacker, Hastings  
Timothy W. Weander, Omaha  
Edward R. Wootton, Sr., Bellevue

Board member absent:

LeRoy G. Gerrard, Stromsburg

Staff members present:

LeMoyne D. Schulz, Board Secretary & Highway Local Liaison Coordinator, NDOT, Lincoln  
Dennis R. Smith, Highway Local Coordinator, Liaison Services Section, Nebraska  
LTAP/NDOT, Lincoln  
Barbara Hasterlo, Office Associate, Liaison Services Section, Nebraska LTAP/NDOT, Lincoln

Others in attendance:

Andy Cunningham, Government Affairs, NDOT, Lincoln  
Lance Harter, Oak Creek Engineering, Kearney, representing Sherman County and Webster County  
Bill Cook, Nebraska Concrete Paving Association, Lincoln  
Jeff Wagner, Mainelli-Wagner Associates, Lincoln representing Colfax County  
Mike Owen, Roadway Design, NDOT, Lincoln

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Chairman Figard called the meeting to order at 9:00 a.m. The meeting was open to the public.

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Chairman Figard made the following announcements in compliance with the Open Meetings Act.

- A copy of the Open Meetings Act is available for inspection and is posted by the entrance to this room.
- The Meeting Agenda and a copy of all materials that were provided to the Board Members, prior to the start of this meeting, are available on the table by the entrance to this room.
- A sign in sheet is available. Visitors are not required to sign, but are encouraged to do so.

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Mr. Schulz noted the following changes from the originally published agenda:

Additional revisions received, changing the total number of revisions from '4' to '6'

Added: Colfax County revision

Added: Webster County revision

Added: "Consideration of request" to the 9:20 a.m. Informal Hearing – Sherman County

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Mr. Wacker moved to approve the July 20, 2018 meeting minutes. Mr. Wootton seconded the motion. Members Keegan, Krager, Kramer, Litchfield, Tagge, Wacker, Weander, and Wootton voted YES. Members Figard and Syslo abstained. Member Gerrard was absent. The motion carried.

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Mr. Wootton moved to approve the revised minutes of the May 19, 2017 meeting, corrected on August 1, 2018, page 5, referencing the City of Omaha relaxation request, and added (in red), "*NDOR approved the request.*" Ms. Kramer seconded the motion. Members Keegan, Krager, Kramer, Litchfield, Syslo, Tagge, Wacker, Weander, Wootton and Figard voted YES. Member Gerrard was absent. The motion carried.

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Mr. Wootton moved to approve the revised minutes of the April 20, 2018 meeting, corrected on August 1, 2018, page 5, referencing the City of Omaha relaxation request, and added (in red), "*NDOT approved the request.*" Ms. Kramer seconded the motion. Members Keegan, Krager,

Kramer, Litchfield, Syslo, Tagge, Wacker, Weander, Wootton and Figard voted YES. Member Gerrard was absent. The motion carried.

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The board considered the Status of the submission of the 2017– 2018 Standardized System of Annual Reports.

- A total of 93 County, 528 Municipal and the Nebraska Department of Transportation's Reports have been received.
- A total of 93 County, 528 Municipal and the Nebraska Department of Transportation's Reports were accepted at previous meetings.
- One (1) municipality has not submitted a Report: Maskell. The Report has been delinquent since January 1, 2018. Highway Allocation Funds are under suspension beginning with the May 10 distribution. Currently in the fifth month of suspension.

Mr. Wootton moved to accept the Status Report of the Standardized System of Annual Reports for 2017– 2018, as presented. Mr. Tagge seconded the motion. Members Keegan, Krager, Kramer, Litchfield, Syslo, Tagge, Wacker, Weander, Wootton and Figard voted YES. Member Gerrard was absent. The motion carried.

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The board considered the Saunders County One- and Six-Year Plan revision adding Work/Project Nos. C-78(610) and C-78(770) to the 2018 One-Year Plan. A copy of the County Board Resolution No. 15-2018, adopted August 7, 2018, was received on August 15, 2018. No one was present to present the request.

Work/Project Nos. C-78(610) and C-78(770), replace bridges with culverts on Local roads. The total estimated cost is \$38,000 (Funding source unknown).

Mr. Wotton moved to accept the Saunders County revisions. Ms. Keegan seconded the motion. Members Keegan, Kramer, Krager, Litchfield, Syslo, Tagge, Wacker, Weander, Wootton and Figard voted YES. Member Gerrard was absent. The motion carried.

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The board considered the City of Aurora One- and Six-Year Plan revision adding Work/Project No. M-126(188) to the 2018 One-Year Plan. A copy of the City Resolution No. 18-07, adopted July 10, 2018, was received on July 26, 2018. No one was present to present the request.

Project M-126(188) consists of Work Type N&R, change limits of project and type of surfacing from asphalt to concrete surfacing on an existing asphalt surfaced Local street. The estimated cost is \$86,000 (Municipal Funding).

Mr. Wootton moved to accept the City of Aurora revision. Mr. Krager seconded the motion. Members Keegan, Krager, Kramer, Litchfield, Syslo, Tagge, Wacker, Weander, Wootton and Figard voted YES. Member Gerrard was absent. The motion carried.

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The board considered the Village of Yutan One- and Six-Year Plan revision adding Work/Project No. M-638(24) to the 2018 One-Year Plan. A copy of the Village Resolution No. 2018-4, adopted July 17, 2018, was received on August 6, 2018. No one was present to present the request.

Project M-638(24) consists of Work Type 3R, asphalt surfacing on an existing asphalt surfaced Local street. The estimated cost is \$65,000 (Municipal Funding).

Mr. Wootton moved to accept the Village of Yutan revision. Mr. Krager seconded the motion. Members Keegan, Krager, Kramer, Litchfield, Syslo, Tagge, Wacker, Weander, Wootton and Figard voted YES. Member Gerrard was absent. The motion carried.

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The board considered the Village of Hemingford One- and Six-Year Plan revisions adding Work/Project Nos. M-336(63) and M-336(64) to the 2018 One-Year Plan. A copy of the Village Resolution No. 2018-05, adopted June 18, 2018, was received on July 13, 2018. The applications were tabled at the July 20, 2018 meeting for further clarification on drainage for project M-336(63). The additional information for M-336(63) was received on September 19, 2018. No one was present to present the request.

Projects M-336(63) and M-336(64) consist of Work Type 3R, asphalt surfacing on existing asphalt surfaced Local streets. The total estimated cost is \$420,000 (Municipal Funding).

Mr. Wacker moved to accept the Village of Hemingford revisions. Mr. Wootton seconded the motion. Members Keegan, Krager, Kramer, Litchfield, Syslo, Tagge, Wacker, Weander, Wootton and Figard voted YES. Member Gerrard was absent. The motion carried.

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The board considered the Colfax County One- and Six-Year Plan revision adding Work/Project No. C-19(482) to the 2018 One-Year Plan. A copy of the County Resolution No. 9-11-18(8), adopted September 11, 2018, was received on September 17, 2018. Mr. Wagner presented the request.

Project C-19(482) consists of Work Type N&R, grade and gravel surfacing on an existing gravel surfaced Local road. The estimated cost is \$65,000 (County Funding).

Mr. Wootton moved to accept the Colfax County revision. Mr. Tagge seconded the motion. Members Keegan, Krager, Kramer, Litchfield, Syslo, Tagge, Wacker, Weander, Wootton and Figard voted YES. Member Gerrard was absent. The motion carried.

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The board considered the Webster County One- and Six-Year Plan revision adding Work/Project No. C-91(651) to the 2018 One-Year Plan. A copy of the County Resolution No. 28-2018, adopted August 21, 2018, was received on September 17, 2018. Mr. Harter presented the request.

Project C-91(651) consists of Work Type N&R, replace bridge with culvert on a Minor Collector/Collector road. The estimated cost is \$180,000 (County Funding).

Mr. Wacker moved to accept the Webster County revision. Mr. Wootton seconded the motion. Members Keegan, Krager, Kramer, Litchfield, Syslo, Tagge, Wacker, Weander, Wootton and Figard voted YES. Member Gerrard was absent. The motion carried.

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At 9:20 a.m., the Board heard the Sherman County request for a Relaxation for County Project No. C-82(314), on a Major Collector/Other Arterial road. *(The hearing was held in an informal format, Sherman County having declined the option of a formal hearing.)* The request is for a Relaxation of the 428 NAC 2-001.03H, New and Reconstructed County Road – 50 MPH Design Speed, Vertical Alignment Crest K Value and Stopping Sight Distance. The request was continued from the July 20, 2018 meeting for a revised County Board Resolution to include the Vertical Curve K Value, and Stopping Sight Distance, and Design Speed (ref. 428 NAC 2-004.01G). A copy of the revised County Board Resolution No. 20-18, August 28, 2018, was received on September 6, 2018 and included an additional request for an increase in grade from 7% to 8% which was not considered at this meeting, in that 428 NAC 2-001.03B Note 14 of the Standards already provides for such an increase. Mr. Harter presented the request. No one appeared in opposition. The hearing concluded at 9:28 a.m. The Board then considered the request.

Mr. Wacker moved to grant the Sherman County Relaxation request in view of the peculiar, special or unique local situation presented, whereby the application of the specific Minimum Design Standards would work a special hardship. Mr. Wootton seconded the motion. Members Keegan, Krager, Kramer, Litchfield, Syslo, Tagge, Wacker, Weander, Wootton and Figard voted YES. Member Gerrard was absent. The motion carried with the requisite majority vote.

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At 9:20 a.m., the Board heard the Webster County request for a Relaxation for County Project No. C-91(579), Bridge No. C009124015 on a Minimum Maintenance road. *(The hearing was held in an informal format, Webster County having declined the option of a formal hearing.)* The request is for a Relaxation of Standards for Construction of a Low Water Crossing and roadway realignment. A copy of County Board Resolution Nos. 24-2018 and 25-2018, adopted August 7, 2018, was received on September 7, 2018. Mr. Harter presented the request. No one appeared in opposition. The hearing concluded at 9:28 a.m. The Board then considered the request.

Mr. Wacker moved to deny the Webster County Relaxation request without prejudice in that the requested design speed is below the 35 MPH minimum legal speed limit and, therefore, does not comply with Neb. Rev. Stat. §60-6,190. Mr. Wootton seconded the motion. Members Keegan, Krager, Kramer, Litchfield, Syslo, Tagge, Wacker, Weander, Wootton and Figard voted YES. Member Gerrard was absent. The motion carried with the requisite majority vote.

Other business:

- Mr. Cunningham provided a state and federal Legislative Report.
- Repeal of 428 NAC 5. Mr. Cunningham advised a public hearing was held on August 24, 2018; that no one appeared against or in favor; and, the hearing transcript is now available. Following the review of the Assistant Attorney General, the Governor will sign the repeal.

Mr. Wootton moved to 1) repeal 428 NAC 5, and 2) accept the Public Hearing Transcript from the August 24, 2018 public hearing. Mr. Tagge seconded the motion. Members

Keegan, Krager, Kramer, Litchfield, Syslo, Tagge, Wacker, Weander, Wootton and Figard voted YES. Member Gerrard was absent. The motion carried. (See Attachment #1.)

- Update on the Status of proposed changes to the State Statutes, and rules and regulations for OneAndSix, SSAR, and Construction and Maintenance Standards. Mr. Cunningham advised it is the intent of the NDOT to present proposed changes to state statutes in the Legislature's 2019 session. NDOT is coordinating with the Governor's Policy Research office. This is in follow-up to the Governor's 2017 Executive Order No. 17-04 review of existing and pending agency regulations.
- Discussion need for annual Outstate Meeting. The board discussed the need for an Outstate meeting. Chairman Figard concluded that in the interest of being good stewards of state resources, the NBCS will meet in Lincoln.

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Mr. Schulz reported the following correspondence and general information:

- Board members received a copy of the *Board of Examiners for County Highway and City Street Superintendents* May 4, 2018 and July 27, 2018 meeting minutes.

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There were no comments from the Audience.

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Acknowledgement of Visitors.

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The next regular meeting will be held on October 19 at 9:00 a.m., in the Nebraska Department of Transportation Central Headquarters Building Auditorium, Room 139A, 1500 Highway 2, Lincoln, Nebraska.

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There being no further agenda items, Chairman Figard adjourned the meeting at 10:14 a.m.

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LeMoyne D. Schulz  
Secretary for the Board  
<https://dot.nebraska.gov/business-center/lpa/boards-liaison/>

STATE OF NEBRASKA  
DEPARTMENT OF TRANSPORTATION

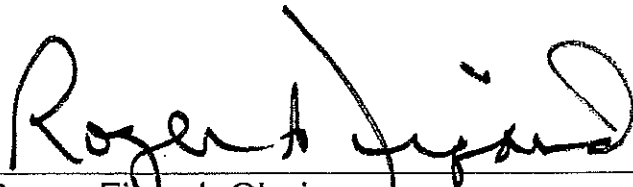
CERTIFICATE OF ADOPTION

I, Kyle Schneweis, Director, hereby certify that Title 428, Nebraska Administrative Code, Chapter 5 – Hearing Practice and Procedure of the Board of Public Roads Classifications and Standards, is submitted for repeal on this date by me as provided by law. The Public Hearing was held on August 24, 2018, at the Nebraska Department of Transportation in Lincoln, Nebraska.

The regulation was previously updated on September 27, 1983.

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Kyle Schneweis, Director  
Nebraska Department of Transportation

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Date

  
\_\_\_\_\_  
Roger Figard, Chairman  
Nebraska Board of Public Roads Classifications  
and Standards

\_\_\_\_\_  
9/12/18  
Date

NEBRASKA DEPARTMENT OF TRANSPORTATION

TITLE 428, CHAPTER 5 – Hearing Practice and Procedure of the Board of Public Roads Classifications and Standards

CONCISE EXPLANATORY STATEMENT

The Nebraska Department of Transportation in concert with the Nebraska Board of Public Roads Classifications and Standards have repealed the above referenced regulation as provided by law and hereby submits this concise explanatory statement to accompany the regulation and describe its reasons and the changes made during the rulemaking process.

The regulation governs Hearing Practice and Procedure of the Board of Public Roads Classifications and Standards. No fiscal impact to the department or the public is anticipated.

The following changes were proposed:

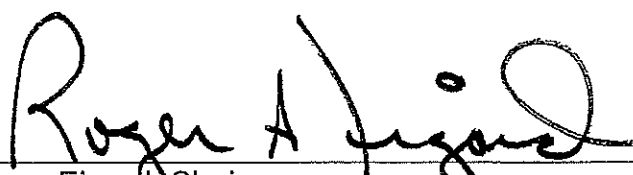
Repeal the regulation in its entirety.

Post-Hearing Changes:

No changes have been made to the proposed rule as published.

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Kyle Schneweis, Director  
Nebraska Department of Transportation

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Roger Figard, Chairman  
Nebraska Board of Public Roads Classifications and Standards

\_\_\_\_\_  
9/12/18  
Date