

Meeting #388  
Nebraska Educational Telecommunications Commission  
Nebraska Educational Telecommunications Center  
1800 No. 33<sup>rd</sup> Street  
Lincoln, Nebraska  
April 28, 2005

PRESENT: Commissioner Randy Bretz  
Commissioner Stan Carpenter  
Commissioner Polly Feis for Commissioner Doug Christensen  
Commissioner Bill Griffin  
Commissioner Mary Harbaugh  
Commissioner John Heil  
Commissioner Paul McIntosh (via videoconference/Norfolk site)  
Commissioner Dara Troutman

ABSENT: Commissioner Fred Brown  
Commissioner Mike Kneale  
Commissioner Ann Pickel

Advance notice of the public meeting was sent to Nebraska news media by means of a news release forwarded from the Commission office with Agenda posted in the NET Lobby, NET elevator bulletin board and on the State and NET web sites.

Chairman Griffin called meeting #388 to order at 9:35 a.m.

After the call of the roll, the Secretary determined a duly constituted quorum of Commissioners to be present.

It was moved by Heil and seconded by Troutman that the Commission move to executive session to discuss two items: 1) a special project that would involve contractual negotiations; and, 2) Great Plains National (GPN) negotiations. Roll call vote was recorded as follows:

Commissioner Randy Bretz	- aye
Commissioner Fred Brown	- absent
Commissioner Stan Carpenter	- aye
Commissioner Polly Feis	- aye
Commissioner Bill Griffin	- aye
Commissioner Mary Harbaugh	- aye
Commissioner John Heil	- aye
Commissioner Mike Kneale	- absent
Commissioner Paul McIntosh	- aye
Commissioner Dara Troutman	- aye
Commissioner Ann Pickel	- absent

NET Executive Council members: Michael Winkle, Randy Hansen, David Feingold and Mike Beach were asked to remain. The NET Commission convened in executive session at 9:38 a.m. and adjourned at 11:12 a.m.

Commissioner McIntosh left the meeting at 10:15 a.m.

It was moved by Heil and seconded by Carpenter to return to public session at 11:20 a.m. Roll call vote was recorded as follows:

Commissioner Randy Bretz	- aye
Commissioner Fred Brown	- absent
Commissioner Stan Carpenter	- aye
Commissioner Polly Feis	- abstained
Commissioner Bill Griffin	- aye
Commissioner Mary Harbaugh	- aye
Commissioner John Heil	- aye
Commissioner Mike Kneale	- absent
Commissioner Paul McIntosh	- absent
Commissioner Dara Troutman	- aye
Commissioner Ann Pickel	- absent

It was further moved by Heil and seconded by Harbaugh that the Nebraska Educational Telecommunications Commission approves the negotiations of all contractual or other arrangements for NET to provide production, distribution and traffic services and facilities for a commercial television service in partnership with the University of Nebraska with the authorization of the State of Nebraska. NET's General Manager is authorized to obtain the advice and opinion of the Attorney General in connection with such negotiations and arrangements. Roll call vote was recorded as follows:

Commissioner Randy Bretz	- aye
Commissioner Fred Brown	- absent
Commissioner Stan Carpenter	- aye
Commissioner Polly Feis	- aye
Commissioner Bill Griffin	- aye
Commissioner Mary Harbaugh	- aye
Commissioner John Heil	- aye
Commissioner Mike Kneale	- absent
Commissioner Paul McIntosh	- absent
Commissioner Dara Troutman	- aye
Commissioner Ann Pickel	- absent

It was moved by Troutman and seconded by Bretz to approve minutes of Meetings #386 & 387 as presented. Roll call vote for approval of minutes #385 was recorded as follows:

Commissioner Randy Bretz	- aye
Commissioner Fred Brown	- absent
Commissioner Stan Carpenter	- aye
Commissioner Polly Feis	- abstained
Commissioner Bill Griffin	- aye
Commissioner Mary Harbaugh	- aye
Commissioner John Heil	- aye
Commissioner Mike Kneale	- absent
Commissioner Paul McIntosh	- absent
Commissioner Dara Troutman	- aye
Commissioner Ann Pickel	- absent

The Chairman called for public comment. There was none.

Assistant General Manager-Content Development David Feingold reported on Nebraska public radio and television activities including the February 2005 Nielsen Media Research. The audience indications for full-day viewing shows that the Lincoln audience remained steady from one year ago while Omaha experienced a small decline. The NET radio news team received six first-place awards, four second-place awards and three honorable mentions at the 2005 Nebraska Associated Press Broadcast News Awards event. The NET Television news team also received two Eric Sevareid Awards from the Northwest Broadcast News Association. He also reported on the Digital Classroom Pilot project with initial results indicating that more training and better content material may be needed.

Commissioner McIntosh re-joined the meeting in progress at 11:38 a.m.

AGM-Administration & Finance Randy Hansen presented the 3<sup>rd</sup> quarter budget report for period ending March 31, 2005 for both the Television and Radio Divisions. He indicated that the NETC Finance Committee met prior to the regular meeting to review the financial report. Following discussion, it was moved by Troutman and seconded by Heil to approve the 3<sup>rd</sup> quarter budget reports as presented and attached to the minutes. Roll call vote was recorded as follows:

Commissioner Randy Bretz	- aye
Commissioner Fred Brown	- absent
Commissioner Stan Carpenter	- aye
Commissioner Polly Feis	- aye
Commissioner Bill Griffin	- aye
Commissioner Mary Harbaugh	- aye
Commissioner John Heil	- aye
Commissioner Mike Kneale	- absent
Commissioner Paul McIntosh	- aye
Commissioner Dara Troutman	- aye
Commissioner Ann Pickel	- absent

AGM-Administration & Finance Hansen next reviewed DTV expenditures. It was moved by Troutman and seconded by Feis to approve the acquisitions of items from January 1, 2005 through March 31, 2005 related to the DTV project totaling \$570,790. It is further recommended that the Commission approve pending acquisitions related to the DTV project, as represented by the listings of Outstanding Purchase Orders totaling \$385,656 and Outstanding Purchase Requisitions totaling \$70,000 (as attached to the minutes). Following discussion, roll call vote was recorded as follows:

Commissioner Randy Bretz	- aye
Commissioner Fred Brown	- absent
Commissioner Stan Carpenter	- aye
Commissioner Polly Feis	- aye
Commissioner Bill Griffin	- aye
Commissioner Mary Harbaugh	- aye
Commissioner John Heil	- aye
Commissioner Mike Kneale	- absent
Commissioner Paul McIntosh	- aye
Commissioner Dara Troutman	- aye
Commissioner Ann Pickel	- absent

AGM-Administration & Finance Hansen reviewed the Terry Carpenter Building Renovation project including a quarterly status report of construction projects and expenditures that included actual, committed and budgeted costs.

Secretary Bates extended his thanks and appreciation to Commissioners for attending the NET Ribbon Cutting Event April 4.

He also presented an update on the status of the National Cable and Telecommunications Association (NTCA) digital cable carriage agreement. APTS, PBS and the National Cable and Telecommunications Association signed a nationwide digital cable carriage agreement. The agreement includes the term that during the period when public television stations are broadcasting both in analog and digital formats, upgraded cable systems that offer high-definition television will carry up to four streams of free non-commercial digital broadcast programming. Following a question regarding indemnification from Commissioner Heil, General Manager Bates received legal counsel from Nebraska's Attorney General's office and the University of Nebraska legal counsel, Dick Wood. The following language was included: *Notwithstanding the second sentence in Section 20 of the Agreement, Licensee agrees, but only to the extent permitted by Nebraska law, to indemnify, defend and hold harmless the MSO(s) and cable system(s), their parents, subsidiaries, affiliates, and licensees and the present and/or former officers, shareholders, directors, employees, partners and agents of each of the foregoing from and against any and all claims, losses, damages, liabilities, costs and expenses (including, without limitation, reasonable attorney fees and disbursements and court or administrative costs) arising out of an allegation that the content of any PTV Digital Programming under the control of and carried by Licensee and also carried by the MSO(s) or cable system(s) is obscene or libels, slanders or defames any person or violates or infringes any common law or statutory right of any third party, including, but not limited to, contractual rights, patent rights, privacy rights, and publicity rights, provided that the affected MSO or cable system promptly notifies the Licensee of any such claim. Licensee shall have the right to assume the defense of any such claim against the MSO(s), cable system or other indemnified party, but shall not enter into any settlement that adversely affects any rights or interests of the indemnified party without the indemnified party's prior written consent, which shall not be unreasonably withheld, denied, delayed or conditioned. The indemnified party shall have the right, but not the obligation, to join in and be represented by its own counsel, at its own expense. The indemnification obligations in this paragraph shall survive termination or expiration of the Agreement. Notwithstanding the above, nothing contained herein shall act to limit in any manner the constitutional, statutory or common law immunities, rights, responsibilities, or obligations of the State of Nebraska, the Office of the Governor, the Office of the Attorney General of Nebraska, or any agency or instrumentality of the State of Nebraska.* This was submitted to APTS and become part of NETC Participation Form.

Commissioner McIntosh left the meeting at 11:50 a.m.

Secretary Bates also reported that the ALERT contract with the Nebraska National Guard will end as of June 30, 2005. The Nebraska National Guard will be entering a federal contract. This necessitated the elimination of additional positions from NET.

Chairman Griffin called for old business. There was none. He then called for any new business. There is no NETC meeting scheduled for May; the June 23<sup>rd</sup> meeting will be a regular face-to-face meeting at NET. Chairman Griffin suggested inviting the chairs of NET Foundation for Radio and Television to future NETC meetings.

There being no further business, meeting #388 adjourned at 12:00 p.m.

Respectfully submitted,

Rod Bates,  
Secretary