

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

September 16, 2022

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

Meeting and Hearings Notices:

- Statewide news release emailed and posted on Nebraska Department of Transportation website, September 9, 2022.
- Event posted on the State of Nebraska website (Public Meeting Calendar), September 9, 2022.
- Tentative agenda emailed to each board member and interested persons, September 9, 2022.
- 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, September 16, 2022.
- Relaxation of Standards hearing notice emailed to NDOT, September 9, 2022.

Board members present:

Roger Figard, Lincoln, Chairman  
James A. Litchfield, Wakefield, Vice Chairman  
Barbara Keegan, Alliance  
Lisa Kramer, Kennard  
Timothy W. Weander, Omaha  
Edward R. Wootton, Sr., Bellevue

Board members absent:

John F. Krager, Omaha  
Brandie Neemann, Lincoln  
Steven D. Rames, Norfolk  
Congressional District 3 representative seat is vacant.

Board member present but not voting:

Russell L. Kreachbaum, Jr., Central City

Staff members present:

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

Others in attendance:

Russell L. Kreachbaum, Jr., Merrick County Supervisor, and new board member  
Mick Syslo, Roadway Design, NDOT, Lincoln  
Nathan Sorben, Roadway Design, NDOT, Lincoln  
Syed Ataullah, Roadway Design, NDOT, Lincoln  
Kyle Christensen, Roadway Design, NDOT, Lincoln  
Cara Roesler, Roadway Design, NDOT, Lincoln  
Jared Wurtele, Roadway Design, NDOT, Lincoln  
Lynden VanderVeen, Bridge Division, NDOT, Lincoln  
Alan Swanson, Traffic Engineering, NDOT, Lincoln  
Mary Burroughs, Federal Highway Administration, Nebraska region  
Nhung Hoang, Federal Highway Administration, Nebraska region  
Jim Wilkinson, Yankee Hills Solution, LLC, Lincoln

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Chairman Figard called the meeting to order at 9:00 a.m. The meeting was open to the public. He welcomed new member, Russell L. Kreachbaum, Jr. and congratulated him on the appointment. Mr. Kreachbaum was appointed by Governor Ricketts as a County representative, replacing former member LeRoy G. Gerrard. His term expires November 30, 2023.

The appointment is contingent on approval by the Legislature.

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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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There were no changes from the originally published agenda.

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Mr. Wootton moved to approve the June 24, 2022, meeting minutes. Mr. Litchfield seconded the motion. Members Keegan, Litchfield, Weander, Wootton, and Figard voted YES. Member Kramer abstained. Members Krager, Neemann, and Rames were absent. The motion carried.

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Initial Status of the submission of the 2022 Annual Certification of Program Compliance and Signing Resolution.

- As of September 9, 2022, fifty (50) County, 169 Municipal, and NDOT certifications have been received. The filing deadline is October 31, 2022.

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At 9:06 a.m., the Board heard the NDOT relaxation request for Project No. STP-12-2(106), C.N. 80944, Structure No. S012 00398, Minnechaduza Creek. *(The hearing was held in an informal format, NDOT having declined the option of a formal hearing.)* The request is for a Relaxation of the 428 NAC 2 – 001.02G, New and Reconstructed Rural – State Highway System, Minimum Design Standards, on a Major Arterial /Major Collector State Highway, N-12, as specified in its letter of August 15, 2022, and received by email July 22, 2022, from Mick Syslo. Mr. Wurtele presented the request, and Mr. Syslo answered additional questions. No one appeared in opposition. The hearing concluded at 9:16 a.m. The Board then considered the request.

Mr. Wootton moved to grant in whole, the NDOT Relaxation limited to Nebraska Highway 12 from Reference Post 3+78 to Reference Post 4+18, for the 50-mph sag curve (K-value 110) within those reference posts, and for 428 NAC 2 001.02A Note (1), only as it applies to design speed but not to other design criteria in 428 NAC 2 001.02A that are not a function of speed, in view of the peculiar, special or unique local situation presented whereby the application of a specific Minimum Design Standard would work a special hardship. Mr. Weander seconded the motion. Members Keegan, Kramer, Litchfield, Weander, Wootton, and Figard voted YES. Members Krager, Neemann, and Rames were absent. The motion carried with the requisite majority vote.

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**NDOT Practical Design request for Bridge & Structure Replacement.** Mr. Syslo gave a presentation on the NDOT Practical Design request for Bridge & Structure Replacement.

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**Multi-Project Strategies Committee – Report & Recommendation.** Board members received a copy of a Memorandum of Understanding (MOU) Program 2022 – 1; Nebraska Department of Transportation Bridge or Culvert Replacement Projects, and the draft MOU Exhibit A.

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**Motion to Proceed or Stop with MOU.** Mr. Wootton moved to accept the MOU, contingent upon the finalization of Exhibit A, with the Practical Design Committee, and to bring back to the board at its next meeting. Mr. Weander seconded the motion. Members Keegan, Kramer, Litchfield, Weander, Wootton, and Figard voted YES. Members Krager, Rames, and Neemann were absent. The motion carried. *(See attachment #1.)*

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Other business:

- There was no Legislative Report.
- Implementation of LB113 (2017), LB339 (2017), LB1009 (2018), LB82 (2019), LB174 (2021) and other Statutes; and changes to the Board's Operating Procedures and 428 NAC 1 and 2 Regulations. Chairman Figard provided an update.
- Repeal of 428 NAC 4 Regulations. Chairman Figard reported the public hearing was held on August 3, 2022, 9:00 a.m. to 11:00 a.m., at the Nebraska Department of Transportation. Currently under review by the Nebraska Attorney General.

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There was no correspondence and general information to report.

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There were no comments from the Audience.

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Acknowledgement of Visitors.

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The next tentative meeting is scheduled to be held on October 21, 2022, at 9:00 a.m., in the Nebraska Department of Transportation Central Headquarters Building Auditorium, 1500 Highway 2, Lincoln, Nebraska.

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There being no further agenda items, Mr. Weander moved to adjourn. Mr. Wootton seconded the motion. Members Keegan, Kramer, Litchfield, Weander, Wootton and Figard voted YES. Members Krager, Neemann, and Rames were Absent. The motion carried and the business meeting adjourned at 10:34 a.m.

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

**Nebraska Board of Public Roads Classifications and Standards**

**Memorandum of Understanding**

**Neb. Rev. Stat. § 39-2113(7)**

**Program 2022-1; Nebraska Department of Transportation**

**Bridge or Culvert Replacement Projects**

**THIS MEMORANDUM OF UNDERSTANDING**, made and entered into by and between the Nebraska Board of Public Roads Classifications and Standards (the “Board”) and the State of Nebraska, Department of Transportation (the “State”), and collectively, the “Parties.”

**Recitals**

- A. Pursuant to Neb. Rev. Stat. § 39-2113(7), the Board has authority to develop, support, approve, and implement programs and project strategies that provide additional flexibility in the design standards established by the Board.
- B. Section 39-2113(7) allows the Board to set out such programs or strategies in Memorandums of Understanding (the “MOU”) between the Board and the State, the Counties, or the Cities.
- C. The State has the authority to submit a program or project strategy to the Board under Section 39-2113(7).
- D. The Board and the State have reviewed a program submitted by the State which is described in detail in Exhibit A, and which is known as: Bridge or Culvert Replacement Projects (the “Program”).
- E. The Board and the State believe that the Program qualifies as an eligible program under the provisions of Section 39-2113(7).
- F. The purpose of this MOU is to set out the terms and conditions applicable to this Program.
- G. Once this MOU has been properly executed by the Parties, this MOU will constitute State’s “pre-approval” for the design and construction of any project that includes use of the Program consistent with the terms and conditions of this MOU.

**NOW, THEREFORE**, in consideration of these facts, and other good and valuable consideration, the Board and the State agree as follows:

**Section 1. Purpose of the MOU.** The purpose of this MOU, as provided in Neb. Rev. Stat. § 39-2113(7), is for the Board to formally approve a program or project strategy intended to provide additional flexibility for State with Nebraska’s highway design standards. The details of the applicable Program are set out below, as are any program conditions or limitations.

**Section 2. Duration of the MOU.** The MOU will become effective beginning on the date of execution of the MOU by the Chair of the Board. The MOU will continue in effect until rescinded by formal action of the Board.

**Section 3. Description of the Program.** The Program is described in the attached Exhibit A; the Exhibit is hereby made a part of the MOU by this reference. This Program applies to all Functional Classifications within the jurisdiction of the Department, i.e., the State Highway System, including State highways located within the corporate limits of any municipality; refer to attached Exhibit A, paragraph III.

**Section 4. Conditions and Limitations of the Program.** The conditions and limitations applicable to the approval of the Program, if any, are set out in Exhibit A.

**Section 5. Program Approval.** This Program is approved upon the full execution of this MOU; State will hereinafter be “pre-approved” and authorized to design and construct Highway projects using the approved Program, so long as the conditions and limitations of the Program have been met and continue to be met by State.

**Section 6. Program Approval Reconsideration.** Board, by majority vote, may reconsider the Board Approval given to this Program as follows:

- (a) When the Board’s reason for reconsidering the Program Approval is an alleged breach of this MOU by State, Board shall provide State written notice of the alleged breach and allow State 90-days thereafter to cure the alleged breach or provide an acceptable plan to cure the alleged breach.
- (b) When the Board’s reason for reconsidering the Program Approval is related to the merits of the Program, Board shall provide State a written and complete statement of the Board’s concern for continuation of the Program. State shall have 90-days to consider and respond to Board’s concern prior to the Board formally considering Board’s concern at a duly scheduled Board meeting.
- (c) For an Approval Reconsideration under either (a) or (b) above, State will be given a full opportunity to present its response to Board’s concerns at the Board meeting. The Board may rescind the MOU and the Approved Program by formal action taken at a meeting of the Board.

- (d) Also, this MOU and the Program may be rescinded when the Board and the State jointly agree to do so.
- (e) This MOU and the Program may also be terminated if the Board's standards are changed to no longer make the Program necessary.

**Section 7. Contact Information.** Questions for the Board about this Program should be directed to the Board Secretary or to the Board Chair at the Board of Public Roads Classifications and Standards, Nebraska Department of Transportation Building, 1500 Highway 2, P.O. Box 94579, Lincoln, NE 68509. Questions for NDOT about this Program should be directed to the Roadway Design Engineer, at the NDOT mailing address set out in the previous sentence.

**Section 8. Change of Law.** If the Board's standards change, or Nebraska law changes, and either Party has a good faith question about whether this change affects the validity of the MOU, it may notify the other Party of the concern. The Board will meet within 180 days of the notice being given to discuss the continued validity of the MOU. The MOU will remain in effect as written unless revised or rescinded by action of the Board.

**IN WITNESS WHEREOF**, the Parties hereby execute this Memorandum of Understanding pursuant to lawful authority.

**EXECUTED** by the State this \_\_\_\_ day of \_\_\_\_\_, 202\_\_.

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Khalil Jaber, P.E.  
Deputy Director -Engineering  
STATE OF NEBRASKA  
DEPARTMENT OF TRANSPORTATION

**EXECUTED** by the Board of Public Roads Classification and Standards this \_\_\_\_ day of \_\_\_\_\_, 202\_\_.

WITNESS:

BOARD OF PUBLIC ROADS  
CLASSIFICATION AND  
STANDARDS

By

\_\_\_\_\_  
Board Secretary

\_\_\_\_\_  
Roger A. Figard, P.E.  
Board Chairperson

Attachment No.   1    
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