

Minutes of the
RENEWABLE ENERGY COUNCIL

Tuesday, March 13, 2018 – 9:00 a.m. (CDT)
Icelandic Room, North Dakota Department of Commerce, Bismarck, ND

CALL TO ORDER

Members Present: Jay Schuler, Mark Nisbet, Al Christianson, David Douglas (phone)

Members Absent: Rod Holth, Randy Schneider
Terry Goerger

Others Present:

Andrea Pfennig, ND Industrial Commission
Karlene Fine, ND Industrial Commission
Denise Faber, ND Department of Commerce
Jason Ehlart, ND State Building and Construction
Trades Council
Chad Wocken, EERC
Brian Kalk, EERC
Joanne Beckman, Office of Senator Heidi
Heitkamp
David Ripplinger, NDSU
Mike Mann, UND (phone)
Corey Kratcha, c2renew (phone)

Jay Schuler, Chairman, called the Renewable Energy Council meeting to order.

WELCOME AND OPENING COMMENTS

Schuler welcomed everyone.

APPROVAL OF MINUTES

January 22, 2018, meeting minutes were reviewed.

Nisbet moved to approve the non-confidential and confidential minutes as presented. Christianson seconded the motion. All in favor. Motion carried.

OVERVIEW OF CURRENT POLICIES

Pfennig provided a handout with information on the program and a copy of the current Renewable

Energy Program policy on Disbursement of funds. (A copy of the handout is available in the files.) Pfennig stated the uncommitted cash balance is \$1.9 million. The uncommitted appropriated balance for the biennium would be \$3.76 million. One thing to note is the Terra Labs project that we had approved funding for has fallen through, so once all the paperwork is done we will be adding \$500,000 to each of those totals.

The award activity that we have had for the past few years is on the handout. Approximately \$2 million has been awarded on an annual basis.

Schuler asked Fine to provide history and how things look for the future.

Fine stated the funding comes from the Resources Trust Fund, up to \$3 million a biennium. This last session it was changed, so it comes in a little slower than what we've had before. Usually we received it up front within a couple of months; now it's going to take a bit longer each biennium. With the work of the Council members, we were able to maintain that during the last legislative session so that we stay at \$3 million. The funding for the Resources Trust Fund is from oil income.

The Resources Trust Fund was established based on an initiated measure so that a percentage of the oil production would go for different purposes, and over time, has gone primarily for water projects. But the initiated measure, when it was first established, carved out a portion for renewable and energy conservation projects. That portion was never appropriated by the Legislature until 2007.

Pfennig walked through the steps that occur when we get a proposal. When we get a proposal, the staff reviews it to make sure it's compliant with our policies, and if it is, we send it out to

technical review and we get three technical reviewers to look it over and give their feedback to the council. The council hears a presentation from the applicants, and makes the determination, and if the Council recommends to fund, it moves on to the Industrial Commission for final consideration. The Industrial Commission determines ultimately if the project will get funding.

DISCUSSION OF POLICIES FOR SUSTAINABLE FUNDING

Schuler asked a question for discussion. When we have something that is very successful, should we get the money we invested back? That is difficult when you include the EERC and the universities; private companies not so much. And how do you value that?

Christianson stated his opinion on repayment of funds if project is successful. He believes there should be ways to return the money. He understands with the universities and EERC it may be different. If the project is presented to make money, it should be repaid.

Discussion followed regarding how this should be worded in policy.

Kalk commented that the challenge is when is a project viewed as a success.

Kalk asked if there could be an IP discussion. Pfennig responded that at the last meeting, the way this policy stands, any grants with the universities or EERC, would not be applicable to this payback requirement. If a company partnered with the EERC or one of the universities, it would not trigger because the contract is with the university.

Nisbet asked what happens if the entity is a city. What are our thoughts on that? Pfennig commented that is a good point. She believes that the way it's written they would fall into the payback requirement because they are not a university or EERC. Nisbet commented that we may want to change that, because if it is benefitting the city, it is benefitting the state.

Kratcha commented he agrees that if a project hits a certain threshold, there should be language that addresses returning funds. He has a concern with the provision that excludes universities from returning funds. Is it doing a disservice to those entrepreneurs who are paying and taking a risk?

Douglas commented that he thinks municipalities should be added to exclusion list. He thinks that if we have some sort of claw back provision moving forward it may incentivize grant seekers to be more realistic and use more conservative projections in financial statements.

Pfennig commented that our policy currently states the project needs to have significant involvement from a North Dakota entity.

Wocken asked a question - Is the primary intent of the claw back provisions to get repayment on new technology development type projects or would that same sort of repayment apply to a manufacturing facility or a fuels plant located in North Dakota? There is not a new technology development, per se, but if something is being done to increase output at an ethanol plant or encourage more renewable output from an oil refinery, is the expectation that there would be a payback in those sorts of grant applications as well?

Schuler commented that it is a good question as it is hard to measure. Wocken agreed, and stated it is also hard to differentiate. When is it a new technology or when is it an application of commercial technology to enhance renewables within the state? Then there is the more traditional "shark tank" approach where you've got a start-up company with a new technology selling what they can do. If that's the target, maybe there's a way to separate pots of funds, with some different criteria or expectations, and tie a claw back provision to those, and maybe it's based on a dollar threshold. They do represent a different type of project.

Christianson commented that we need to have something in place to show that our dollars are not being given away to do research or grants. We need to be very cognizant of what's happened in the past legislative sessions.

Kratsha commented that their project is a prime example of funds going to a manufacturing facility. There are 10 employees that funds are paying to do the work. Legislators may debate this but these programs help companies like us at a very early stage of rolling the dice to see what we can become. We see it as how do we grow what is going on in North Dakota.

Ripplinger commented that this could possibly become another energy pot. Since it is a smaller one, then people may question if it is necessary. To defend it makes sense, but it becomes dangerous. A lot of the work that is done in the broader field, the projects that have been funded by this program have been very successful. But when you go to the other ones whose magnitude is bigger, that's simply what they require. From his perspective, although there are concerns and thoughts about changing the program to satisfy the Legislature, he thinks on its face it was very well designed and is still very close to what it should be in terms of the amount of funding.

Schuler commented that we are open to some abuse. If they are a private company, and they are going to make millions of dollars, it makes sense for the program to get funds back? We helped them to get over the hump.

ASSIGNMENT OF FUTURE ACTIONS

Schuler suggested tabling this and getting together with Christensen, Nisbet, Pfennig, and Fine to develop some suggestions and language. Possibly add Schneider. Kratsha added that he would like to participate to provide context.

Fine made a couple comments regarding claw backs that we've seen in our other programs. They have been primarily when you are building facilities. They've been large – Dakota Gasification, Great River-Spiritwood. We don't want to make this so unreasonable that this program can't go forward, and it will be gobbled up by the other ones because we have put too many barriers in. She thinks that you will have to talk about your threshold of the dollar amount, and for us, \$1 million of \$3 million was large. It's really important, and we've heard at EmPower many times, there is a research

component that we do need to support in the state that is just pure research. It can lead to commercialization, but there is a piece out front.

Ripplinger reiterates the idea of possibly classifying or ordering these different types of projects.

Wocken asked if metrics on leverage would be helpful. Schuler and Pfennig replied yes.

Kratsha asked a question for clarity regarding match and leveraging. The private sector entities are also required to go get additional matching funding to leverage other resources. Is that correct? Pfennig replied that for this program, the match is required. We don't specify where you get your match; we just need to have it. Christensen added that you can't use state dollars. Kratsha stated that the private entities are required to pay the match back, versus the research entities that do not. He likes the idea of classifying the projects.

Pfennig stated the current policy is "If an entity (other than the EERC and North Dakota universities) receives more than \$1,000,000 in funding within a five-year period through the REC, all future funding will be in the form of a loan." Do we still want to pursue this? Do we want to have all entities fall under this threshold? Schuler replied that we should add cities in the excluded category. In general, no they do not pay it back, but there might be a specific case where it might all go to a business so then that business would be subject to this. He doesn't think it will be completely black and white.

Wocken commented on there being more than one way to think about this. If we do a research project at the EERC or within UND or NDSU, and it gets to the point where it's ready for that commercial scale demonstration or scale up, it's almost by necessity going to be a commercial entity there or a spinoff or some sort of for-profit entity that can take the risk and bring it to the next step, so maybe that's the point at which that provision claw back might come into play. Because you've gone through that technology readiness levels from early and mid-stage technology development to that point where it

now has a commercial potential, and that could also be the threshold whereby some of things would apply.

Mann commented that in those cases the repayment would have to be put onto the company because the university or EERC are non-profits. There are no provisions for us to accumulate any funds for payment.

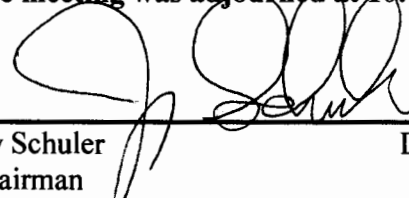
Ripplinger's question is in regards to NDSU partnering with a local business. NDSU develops IP. We own all the IP. We benefit from that IP as it is commercialized. You guys get nothing back. Is that ok? That is currently the status quo.

Pfennig stated that she will work with Schuler and the others, and they will have a draft for

consideration that we can put on the agenda for the April meeting

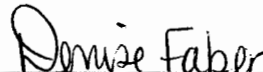
ADJOURNMENT

The meeting was adjourned at 10:05 a.m.



Jay Schuler
Chairman

Date 4/10/18



Denise Faber
Acting Recorder

Date 4/10/18