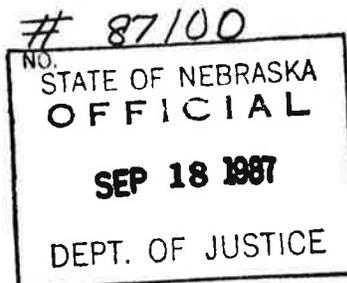


DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509



ROBERT M. SPIRE
Attorney General
A. EUGENE CRUMP
Deputy Attorney General

DATE: September 14, 1987

SUBJECT: Requirements of Area-Specific Public Hearings (LB 189, 1987 Session)

REQUESTED BY: Eugene Mahoney, Director, Nebraska Game and Parks Commission, 2200 North 33rd Street

WRITTEN BY: Robert M. Spire, Attorney General
Linda L. Willard, Assistant Attorney General

You have inquired whether the area-specific public hearing required by Neb.Rev.Stat. §84-908 (Reissue 1981) as amended by LB 189 of the 1987 legislative session need to be held by the Game and Parks Commission or whether staff members of the Commission could hold the meeting. It is our opinion that staff members could hold the area-specific hearing provided a complete and accurate copy of comments made is provided to the Commission members prior to their voting on the regulations in question.

The express legislative purpose of LB 189 is "to give the public greater access to the process of government." (See Committee Statement LB 189, Jan. 29, 1987). While an area-specific public hearing is not required before action by an agency, the Governor can refuse to approve the adoption, amendment, or repeal of agency rules and regulations that are area-specific if a public hearing was not held in the affected area. The bill does not address whether those individuals voting on the changes in rules and regulations must also conduct the public hearing or if other agency staff can conduct the hearing. However, the intent is clear that local input in the agency decision be optimized.

Whenever agency personnel other than the Commission members themselves conduct a public hearing regarding the adoption, amendment, or repeal of agency rules and regulations a transcript of the public comments should be made and distributed to the Commission members prior to their voting on the subject. We would discourage having agency personnel summarize the testimony since their own personal biases may influence how and what they

L. Jay Bartel
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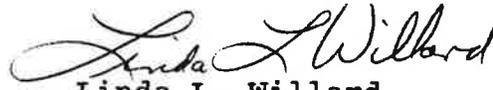
LeRoy W. Sievers
James H. Spears
Mark D. Starr
John R. Thompson
Susan M. Ugai
Linda L. Willard

Mr. Eugene T. Mahoney
September 14, 1987
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might report. Providing individuals an opportunity for local comment on area-specific regulations and then assuring when Commission members are not present that the comments are relayed in their entirety to the members of the Commission would satisfy the intent of LB 189.

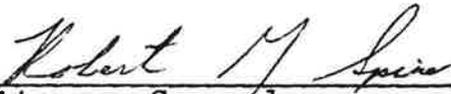
Sincerely,

ROBERT M. SPIRE
Attorney General


Linda L. Willard
Assistant Attorney General

LLW:bmh

APPROVED:


Attorney General