

**South Dakota Veterans Commission Meeting  
February 8-9, 2010  
Gallery G – Ramkota Hotel – Pierre, SD**

The meeting of the South Dakota Veterans Commission was called to order at 1:15 PM (CT) on Monday, February 8, 2010, in Gallery G of the Ramkota Hotel in Pierre, South Dakota by Chairman Hubbard. Chairman Hubbard led the Commission and guests in the “Pledge of Allegiance” and then welcomed all guests.

Roll Call: Chairman Hubbard requested that roll call be taken. Roll call indicated a quorum was present. Commissioners present were: Mike Birnbaum, Wade Hubbard, John Noyes, Bill Locken, Gene Murphy and Don Loudner.

Staff Present: General Doohen, Deputy Secretary Harding, Larry Person and Audry Ricketts.

Guests in Attendance: Gary Knudson (VFW), Bob Voeltz (DAV), Robert Hill (DAV), Nancy Lemieux (American Legion), Jerry Lolley (Meade County CVSO), and Rod Martens (American Legion).

Review of Agenda – Chairman Hubbard asked if there were any additions or changes for the proposed agenda. Chairman Hubbard requested that a report be given by General Doohen, and that we be flexible on some of the reports to accommodate everyone’s schedules. He also noted that Paul Evenson would not be able to attend due to weather conditions and that we would reschedule this presentation at a later date. A motion was made by Commissioner Locken, seconded by Commissioner Murphy to approve the agenda with these modifications and additions noted. Motion carried.

Review and Approval of Commission Meeting Minutes - Chairman Hubbard asked the Commission how they wished to dispose of the December 9-10 Veterans Commission meeting minutes. Commissioner Murphy requested that the word “absent” in the section on roll call be changed to read “excused.” Commissioners Murphy and Loudner shared some questions with regard to the review of SDCL statutes regarding veterans. A motion was made by Commissioner Locken, seconded by Commissioner Birnbaum, that the December 9-10, 2010, Veterans Commission meeting minutes be approved with the change of excused vs. absent. Motion carried.

Veterans Service Organization Reports – Chairman Hubbard noted that we would have the reports from the Veterans Service organizations at this time and that we would accommodate the American Legion when Rod Martens arrived.

Chairman Hill then called on Robert Hill, State Commander for the DAV. Hill reported on nomination of Dr. Robert Petzel, national legislative issues, Chapter 3’s upcoming auction, upcoming events and DAV’s position on state legislative

issues and asked for the Commission's support. Commissioner Murphy noted that Ryan Green would be going to D.C. to testify on national legislative issues.

Chairman Hubbard then called on Gary Knudson for the VFW report. Knudson noted that Bill Barlow and Rick Barge were both involved with the state meeting. Knudson then updated the Commission on Honor Flight, hours donated to driving veterans for medical visits, state convention and legislative issues. Knudson concluded his report by asking for the Commission's support on legislative issues.

Department of Military and Veterans Affairs Report – Chairman Hubbard then called on General Doohen for the report from the Department of Military and Veterans Affairs. General Doohen thanked everyone in attendance for all they do for South Dakota's Veterans. Doohen then reported on his trip overseas during December – he noted the troop's moral was high. General Doohen then reviewed the Department's legislative initiatives. Doohen then updated the Commission on the search for the Division Director Division. He asked that the Commission nominate a maximum of five individuals and a minimum of three for the General's review and consideration.

Veterans Service Organization Reports (continued) - Chairman Hubbard then called on Don Loudner for the National American Indian Veterans report. Loudner updated the Commission on the National Cemetery project and the status of the BLM land. He then noted that he would like to bring the VA National Advisory Committee to South Dakota for a meeting this spring and provide them a tour of the state and national cemeteries in western South Dakota. He suggested that perhaps the Commission could partake in this meeting and inquired about the possibility of having the meeting at Camp Rapid. He then again asked for resolutions of support from the Commission, the Department and the Veterans service organizations with regard to the study for a Veteran cemetery in eastern South Dakota and in support of the land acquisition in western South Dakota. Commissioner Loudner noted the Governor of California had called him with regard to his creation of a Deputy for Veterans Affairs for Minority. Loudner also noted that President Obama has notified them that he has approved a position within the VA for minority Veterans.

Commissioner Birnbaum noted that prior to hosting the VA National Advisory Committee we should have the following items in our hand: a letter of support from the Governor, a letter of support from the Veterans Commission, a resolution from the Legislature, letters of support from all Veterans service organizations and letters from family members.

It was also suggested that we get letters of support from Iowa and Minnesota veterans group and Commissions in support of the study for a national cemetery in eastern South Dakota.

General Doohen noted that he would work on getting a resolution from the Legislature.

Department of Military and Veterans Affairs Report (continued) – Chairman Hubbard then called on Deputy Secretary Harding for a report from the Department of Military and Veterans Affairs. Deputy Secretary Harding briefed the Commission on the Department's legislative initiatives. He briefed the Commission on House Bills 1048, 1049, 1130, 1144, 1185 and Senate Bills 69, 76, 88 and 150. He also reported that the Department's budget hearing was scheduled to be heard the morning of February 9.

Commissioner Loudner thanked Harding for his report

Chairman Hubbard recessed the meeting for a short break.

Review of Legislative Issues --- Chairman Hubbard noted that the Commission had reviewed many of the legislative bills and took action respectively during the January 29, 2010 Veterans Commission meeting. Chairman Hubbard then presented all Commissioners with their lobbyist badges and reminded the Commissioners of the policy for lobbying on behalf of the Commission.

Commissioner Murphy moved for reconsideration of the Commission's action with regard to Senate Bill 76. Commissioner Loudner seconded the motion. Commissioner Murphy asked the Commission to change their position on SB 76. He noted that these organizations would appoint a veteran advocate. Commissioner Noyes questioned the legality of this bill. Murphy noted that at one time he thought there was a gentlemen's agreement that the Commission be comprised of veterans groups. Discussion ensued regarding appointment vs. nomination. Commissioner Locken noted that we have never excluded any input from any of the organizations. He noted that there was a time when those organizations chose not to participate --- they have never been denied an ear at this commission. He reiterated that this commission is the Governor's commission. Questions ensued with regard to why these three organizations when there are numerous other organizations and does the new Governor have the authority then to wipe the Commission clean? Locken referenced other Commissions and the makeup of those commissions and the concern that referencing specific groups could have controlled agendas. After considerable discussion, Commissioner Locken noted that he did not mean anything derogatory about his comments, he asked that the Commission keep in mind this is a Governor's commission. Locken apologized if his comments offended anyone.

Chairman Hubbard asked for input from the guests in attendance. Gary Knudson from the VFW noted that the organizations wanted a complete job description for the director position. They believe that now that will happen. If the three big organizations were to select their memberships – they would have votes and that the Governor would welcome the input from the organizations. In 1972 change started, in 1976 it changed and it just got worse.

Nancy LeMeiux noted that the American Legion is the largest Veteran organization in the state and they don't feel they have a voice on the Commission. We need to continue to work together.

Mike Birnbaum shared his concerns with the section that addresses dissolving this existing Commission and the reappointment of new members.

Locken noted that the Commission as a group does not get invited to the Veteran service organization meeting. He suggested that the Commission should have a presence at all of the Veteran service organization's state conventions.

Lemieux extended a verbal invitation to all the Commissioners to the American Legion's state convention and noted that the Commander would be sending printed invitations.

Chairman Hubbard turned the gavel over to Vice Chairman Noyes. Hubbard noted that when he came on the Commission he was supposed to be a peacemaker. He noted that SB 76 frustrated him and noted the Legislature should not have the authority to cross over the separation of powers and fire members that a Governor has appointed to a Commission. He noted he has no objection to expanding and had no objection to veteran service organizations nominating members.

Roll call vote on the motion to reconsider the Commission's stand on SB 76 was as follows: Birnbaum (no), Noyes (no), Hubbard (no), Locken (no) Murphy (aye), Loudner (aye). Roll call indicated four nays and two ayes. Motion failed.

Review and consideration of SB 134 - Chairman Hubbard opened the floor to discussion on SB 134. Hubbard noted that he would remove himself from any action on SB 134.

Commissioner Murphy moved that the Commission support SB 134. Commissioner Noyes seconded the motion.

Discussion ensued. Roll call vote to support SB 134 was as follows: Birnbaum (aye), Noyes – (aye), Hubbard (abstain), Locken – (aye), Loudner – (aye), and Murphy – (aye). Roll call indicated 5 ayes and one abstention. Motion carried.

Review and Consideration of SB 21 – Chairman Hubbard opened the floor for discussion on Senate Bill 21. After considerable discussion, no action was taken.

Commissioner Murphy will make contact with the sponsors of SB 134, leadership and committee chair's noting that the Commission's position on SB 134 was to support with Commissioner Hubbard abstaining.

Commissioners assigned to testify or speak to legislative leadership on Commission legislative issues is as follows:

HB 1130 – Commissioner Hubbard

SB 69 – Commissioners Hubbard and Birnbaum

SB 76 – Commissioners Birnbaum and Hubbard

SB 150 – Commissioners Birnbaum and Hubbard. Commissioner Murphy noted that SB150 would give us a voice at the table, it could eliminate the deputy, it could provide cost savings – we won't know the answers until the issue is studied.

HB 1185 – Commissioner Hubbard

HB1176 – Commissioner Hubbard

Commissioner Locken noted that this day should go down in history because the Commission has taken positions on legislative issues and we are moving issues forward.

The Commission meeting recessed at 4:35 pm.

The Commission meeting reconvened at 8:00 am on Tuesday, February 9, 2010, and opened with the Pledge of Allegiance.

Chairman Hubbard asked staff to take the roll. Roll call indicated a quorum was present ---Commissioners in attendance were: Gene Murphy, Don Loudner, Bill Locken, Mike Birnbaum, John Noyes and Wade Hubbard.

Commissioner Loudner noted that he had the opportunity to tour the CBOC facilities in Wagner.

Commissioner Murphy wanted to thank Doug Brown for his leadership in organizing the pheasant hunt for Disabled American Veterans. Commissioner Locken made a motion to send a letter to Doug for his efforts in organizing the hunt. Commissioner Murphy seconded the motion and motion carried.

Veterans Service Organizations Reports (continued) – Chairman Hubbard called on Rod Martens, SD American Legion State Commander. Martens noted that the American Legion was appreciative of the way things were moving legislatively and noted the dates of the upcoming mid-winter conference in Oacoma.

Review of Legislative Position –Discussion followed with regard to Commission's position when a bill is amended. It was agreed that Commissioners cannot speak on behalf of the Commission if the legislation is amended and the Commission has not had the opportunity to review it and act on it as a Commission.

Continuous review of SDCL – Chairman Hubbard asked that the Commission continue with their review of South Dakota Codified Law with regard to statutes dealing with veteran's issues.

Chairman Hubbard did note that the Commission's legislation with regard to the director nomination process had been drafted and forwarded to the Governor for review. The bill was not introduced by the Department or the Governor this year but will be introduced at the time that the Commission moves forward their packet of changes with regard to veterans' issues.

The Commission then embarked on their continued review of SDCL 33-17.

Recommended changes are as follows:

SDCL 33-17-6 – no change

SDCL 33-17-7- through 33-17-11 have been repealed.

SDCL 33-17-12 – Commissioner Locken recommended that we defer action on this and SDCL 33-17-13 and seek input from the veterans service organizations.

SDCL 33-17-14 - no change.

SDCL 33-17-15 has been repealed.

SDCL 33-17-15.1 - no change.

SDCL 33-17-16 – Commissioner Locken noted that if we make any changes to the definition of veteran, we will need to come back and revisit this statute to make sure that our definition of veteran vs. wartime veteran does not change the intent of this law.

SDCL 33-17-17- superseded.

SDCL 33-17-17.1 – Commission agreed this statute should be changed to read “shall be administered by the Division with oversight of the administrative rules by the Commission”.

SDCL 33-17-18 superseded.

SDCL 33-17-19 – add the verbiage “the director shall use existing veteran preference laws when employing personnel”.

SDCL 33-17-20 – no change.

SDCL 33-17-21 - no change.

SDCL 33-17-22 –no change.

SDCL 33-17-23 - no change.

SDCL 33-17-24 - no change.

SDCL 33-17-25 – no change.

SDCL 33-17-26 – no change.

SDCL 33-17-27 – no change.

SDCL 33-17-28 – no change.

SDCL 33-17-29 – no change.

SDCL 33-17-30 – no change.

SDCL 33-17-31 – no change.

SDCL 33-17-32 – no change.

SDCL 33-17-33 – no change.

SDCL 33-17-34 – no change.

SDCL 33-17-35 – no change.

SDCL 33-17-36 – no change.

SDCL 33-17-37 – no change.

SDCL 33-17-38- no change.

SDCL 33-17-39 – no change.

SDCL 33-17-40 - no changes at this time.

Commission then embarked on review of SDCL 33-17A. Recommended changes are as follows:

- SDCL 33-17A-1 – no change.
- SDCL 33-17A-2- no change.
- SDCL 33-17A-3- no change.
- SDCL 33-17A-4-no change.
- SDCL 33-17A-5-no change.
- SDCL 33-17A-6-no change.
- SDCL 33-17A-7-no change.
- SDCL 33-17A-8-no change.
- SDCL 33-17A-9-no change.
- SDCL 33-17A-10-no change.
- SDCL 33-17A-11- no change.
- SDCL 33-17A-12-no change.
- SDCL 33-17A-13-no change.
- SDCL 33-17A-14-no change.
- SDCL 33-17A-15-no change.
- SDCL 33-17A-16-no change.
- SDCL 33-17A-17-no change.
- SDCL 33-17A-18-no change.
- SDCL 33-17A-19-no change.
- SDCL 33-17A-20-no change.
- SDCL 33-17A-21-no change.
- SDCL 33-17A-22-no change.
- SDCL 33-17A-23-no change.
- SDCL 33-17A-24-no change.
- SDCL 33-17A-25-no change.
- SDCL 33-17A-26-no change.
- SDCL 33-17A-27-no change.
- SDCL 33-17A-28-no change.
- SDCL 33-17A-29-no change.
- SDCL 33-17A-30-no change.
- SDCL 33-17A-31-no change.
- SDCL 33-17A-32-no change.
- SDCL 33-17A-33-no change.
- SDCL 33-17A-34-no change.
- SDCL 33-17A-35-no change.
- SDCL 33-17A-36-no change.
- SDCL 33-17A-37-no change.
- SDCL 33-17A-38-no change.
- SDCL 33-17A-39-no change.
- SDCL 33-17A-40-no change.
- SDCL 33-17A-41-no change.
- SDCL 33-17A-42-no change.
- SDCL 33-17A-43-no change.
- SDCL 33-17A-44-no change.
- SDCL 33-17A-45-no change.

Chairman Hubbard thanked Steve Harding, Larry Person and Audry Ricketts for all they do for the Commission.

Review of SDCL 33-18 – It was suggested that this chapter be forwarded to Larry Wilcox, superintendent for the Michael J. Fitzmaurice Veterans Home, to review and that he be asked to forward any suggestive changes back to the Commission prior to its next meeting.

Commissioner Murphy requested that we get reports from the VA for each meeting (verbal or written).

Commission then embarked on review of SDCL 33-19. Recommended changes are as follows:

SDCL 33-19-1 – Commission suggested inserting the word “tribal” in front of County Veterans Service Officers.

SDCL 33-19-2 – Commission questioned the residency issue in section one. Commission suggested that we consider changing the one year to a thirty day. Also, that we look at veterans bonus, education rights, etc. with regard to residency language.

SDCL 33-19-3 - no change.

SDCL 33-19-4 - This statute was repealed.

SDCL 33-19-5 – Commission again asked that the residency issue language be reviewed.

SDCL 33-19-6 - Commission suggested inserting the word “tribal” in front of County Veterans Service Officers on lines 3 and 5. Commission also requested the word “quadruplicate” be changed. This language is out of date.

SDCL 33-19-7 – Commission recommended to strike “Not otherwise appropriated”.

SDCL 33-19-8 – Commission questioned the reference to veteran and the need to make sure we review this.

SDCL 33-19 - no change.

SDCL 33-19-10 – Commission questioned if there were other state laws that cover the burial expenses. Commissioner Locken noted he would study this.

Commissioner Murphy addressed the issue that had happened in north central South Dakota and suggested that a new section be drafted that addresses when the funeral home orders a headstone for family and that they need to be required to release it to the family after so many days. It is a federally funded headstone – it must be placed or provided to the family and not be held in lieu of family expenses.

Larry Person distributed a handout to the Commission that contained a collection of other state’s definitions of Veteran, Wartime Veteran and Peacetime Veteran for the Commission to study and review prior to the next meeting.

This concluded the statute review for this meeting.



Consideration of Old Business – Chairman Hubbard asked the Commission to address Old Business Item “Future Meeting Dates.” Consensus was to have a Commission meeting May 18-19 in Wagner at the new CBOC facility. This meeting would start at 9:30 am on the 18<sup>th</sup> and conclude by noon on the 19<sup>th</sup>. Commissioners asked that all groups be invited to this meeting to give reports. The Commission also agreed to schedule a meeting in Hot Springs for October 14-15 and a conference call meeting in December.

Chairman Hubbard noted that he received a response back from Senator Johnson with regard to the letter he had sent regarding the SAA funding. He reviewed response received from Johnson and provided it to staff to include in the Commission file.

Consideration of New Business – Commissioner Murphy questioned why the word “veteran” had been removed from Department of Labor vet reps cards. Murphy would do some more checking on this.

Jerry Lolley, CVSO for Meade County provided the Commission with a report on NAVCO, VA issues, cemetery on eastern side of the state.

Consideration of Director Division Position – Chairman Hubbard noted that the Commission would need to go into executive session to review the applicants received with regard to the Division Director position. He reminded the Commissioners that General Doohen requested the Commission to review the applications and then make recommendation of maximum of five and minimum of three, to the General. Commissioner Loudner referenced SDCL 33-16-8. Discussion ensued. It was noted that the Attorney General’s office had been asked to give a clarification on this issue previously and declined to give an opinion clarifying “a” and “the” in this statute.

Deputy Secretary Harding noted that the General’s intent was for the Commission to look at the applicants, make a recommendation of five candidates to move forward. Those names would be forwarded to the General for the General to interview and make his determination/selection.

All Commissioners agreed that they want to interview the candidates before making any recommendations to the General.

Commissioner Loudner moved that the Commission seek an AG’s opinion on the intent of SDCL 33-16-8. Commissioner Murphy seconded the motion. Chairman Hubbard requested a roll call vote. The roll call voted indicated the following vote: Birnbaum (nay), Noyes (nay), Hubbard (nay), Locken (nay), Murphy (aye) and Loudner (aye). Motion failed on a vote of 4 nays and two ayes.

Commissioner Loudner suggested that we invite the AG to attend a future Commission meeting.

Commissioner Birnbaum made a motion, seconded by Commissioner Noyes, that the Commission interview and send forward at least five nominees to the Department Secretary. Chairman Hubbard requested a roll call vote. The roll call vote indicated the following vote: Birnbaum (aye), Noyes (aye), Hubbard (aye), Locken (aye), Murphy (nay) and Loudner (nay). Motion carried on a vote of 4 ayes and two nays.

Question arose as to if they should prioritize them.

A motion was made by Commissioner Locken, seconded by Commissioner Loudner, to go into executive session for personnel issues. Motion carried and the commission entered into executive session at 12:20 pm.

A motion was made by Commissioner Murphy, seconded by Commissioner Noyes to return to open session. Motion carried.

A motion was made by Commissioner Birnbaum, seconded by Commissioner Locken, to adopt the interview process and procedures discussed during executive session. Motion carried.

A motion was made by Commissioner Murphy, seconded by Commissioner Loudner to adjourn. Motion carried and the meeting adjourned at 1:30 pm.

Wade Hubbard, Chairman