

NATURAL RESOURCES COMMISSION

January 19, 2016

MEMBERS PRESENT

Bryan Poynter, Chair
Jane Ann Stautz, Vice Chair
Cameron Clark, Secretary
Patrick Early
Phil French
Doug Grant
Laura Hilden
Bruno Pigott
Don Ruch

NATURAL RESOURCES COMMISSION STAFF PRESENT

Sandra Jensen
Dawn Wilson
Jennifer Kane
Scott Allen

DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT

John Davis	Executive Office
Chris Smith	Executive Office
Joseph Hoage	Executive Office
Cheryl Hampton	Land Acquisition
Michael Portteus	Law Enforcement
Linnea Petercheff	Fish and Wildlife
Mark Reiter	Fish and Wildlife
Dan Bortner	State Parks and Reservoirs
Phil Bloom	Communications

GUESTS PRESENT

Jack Corpuz
Paul Arlinghaus
Frank Merritt

Bryan Poynter, Chair, called to order the regular meeting of the Natural Resources Commission at 10:04 a.m., EST, on January 19, 2016 at Fort Harrison State Park, Garrison, 6002 North Post Road, Ballroom, Indianapolis. With the presence of nine members, the Chair observed a quorum.

The Chair asked for a motion for the approval of the Commission's November 17, 2015 minutes.

Doug Grant moved to approve the minutes for the meeting held on November 17, 2015, as presented. Vice Chair Jane Ann Stautz seconded the motion. Upon a voice vote, the motion carried.

ELECTION OF OFFICERS

The Chair made a motion to slate the officers now standing to go into the next term—Bryan Poynter, as Chair, Jane Ann Stautz, as Vice Chair, and Cameron Clark, as Secretary. Patrick Early seconded the motion. Upon a voice vote, the motion was unanimously carried.

REPORTS OF THE DNR DIRECTOR AND DEPUTIES DIRECTOR

Director Cameron Clark provided his report. He said that Senator Michael Crider proposed Senate Bill 195, which would amend IC 14-22-1-1, which sets out DNR's authority with regards to the management of wild animals. SB 195 would re-establish some of DNR's authority over wild animals, which appeared to be stripped by a 2015 Court of Appeals' decision. The DNR "believes the bill does resolve the issue with the exception of captive bred cervidae deer..., which are specifically excluded from the language" in the bill.

The Director noted that Senator Mark Messmer proposed Senate Bill 109, which addresses IC 14-22-1-1. SB 109 amends statutes governing the regulation of wild animals and hunting preserves. SB 109 provides standards regarding high fence hunting and gives permitting authority, management, and oversight of deer farms (and captive bred cervidae) to the Board of Animal Health. He explained that if SB 109 is enacted the DNR would have no authority over "high fence" hunting operations. "Frankly, if it is going to be made legal we would just as soon not have DNR's name and reputation attached to the industry."

The Director reported that SB 109 and SB 195 were heard, voted on, and passed out of the Natural Resources Committee by 8-1 and 9-0 vote, respectively. He noted there may be changes to the bills and they may be consolidated, but DNR's primary concern is to fix IC 14-22-1-1 as to DNR's authority over possession of wild animals.

The Chair asked about the next step in the legislative process. The Director replied that when the bills pass out of Committee the bills are subject to vote in the Senate and subsequently presented for vote in the House. The bills may alternately be presented to the House's Natural Resources Committee for discussion and possible amendment prior to a vote by the full House.

The Chair asked of the likelihood of the bills not passing. The Director reflected that he anticipated the enactment of SB 109 and SB 195. "I do think that there will be a lot of people who understand, particularly if the two are combined into one bill, the importance for the fix, and we'll accept the high fence hunting in order for the fix to go through."

The Chair asked about Senate Bill 1. The Director said that Sam Hyer, DNR's Legislative Liaison, forwarded the Division of Hearings' concerns about the SB 1, but said SB 1 had not yet been scheduled for the Senate's Judiciary Committee review.

Sandra Jensen, Director of the Commission's Division of Hearings, noted that the State Bar Association has requested comment from its members.

The Chair stated that Chris Smith, Deputy Director of the Bureau of Water Resource and Regulation, was not present at today's meeting, but asked John Davis to provide a report in Smith's absence.

John Davis, Deputy Director for the Bureau of Lands and Cultural Resources, provided his report. He stated that House Bill 1353 renames the Indiana Heritage Trust fund as the President Benjamin Harrison Conservation Trust. Davis explained that HB 1353 alters some statutory elements of the Trust; "We're still looking at that, but wanted to let you know it is out there. There's no funding attached to it... but we're still analyzing what's happening there." Davis also reported that January attendance at the state parks was higher than expected even though there were some weather issues.

Patrick Early, Chair of the Advisory Council, reported that the Advisory Council met the previous week. He said there was discussion regarding the evolution of the In-Lieu Fee Mitigation Program, which allows a permittee to pay a fee in lieu of mitigating unavoidable stream and wetland impacts to natural resources within the same watershed to create more meaningful wetlands as part of the remediation process. He then asked Jensen to provide an update regarding any rule proposals.

Jensen replied that the Commission adopted 312 IAC 9.5, which established an option to request an in-lieu fee to mitigate adverse impacts to fish, wildlife, or botanical resources impacted by a permitted activity. Davis added that 312 IAC 9.5 allows another option regarding any required mitigation. He said an in-lieu fee request is also subject to Army Corp of Engineers Sections 401 and 404 permits. Davis noted that the Corps is reviewing Indiana's program, so the in-lieu fee mitigation option is not yet available to the regulated community.

Early reported that the Advisory Council also discussed the issues regarding scouring of lake beds by boats and the impacts to the aquatic vegetation. He said representatives from the Lake Wawasee Conservancy Foundation provided comments and voiced concern regarding ecozones and their effectiveness. Early indicated that the Foundation representatives requested Department assistance in order to further study the effectiveness of ecozones.

CHAIR AND VICE CHAIR

Updates on Commission and the AOPA Committee

The Chair stated that he asked Vice Chair Jane Ann Stautz, Chair of the Commission's AOPA Committee to continue to serve as the Committee's Chair, to which she accepted.

Sandra Jensen introduced Scott Allen, newly hired as the Legal Analyst for the Commission's Division of Hearings. The Chair said, "We look forward to working with you." He then asked Allen to provide a brief biography.

Allen said that he was most recently employed as a paralegal with the Department of Child Services, and noted that prior experience included six years with the Marion County Prosecutor's Office. "Glad to be here!"

The Chair introduced Bruno Pigott, the Chief of Staff for Indiana Department of Environmental Management (IDEM), who was serving as proxy for IDEM Commissioner Carol Comer.

The Chair spoke about the date of the May NRC meeting being changed. The Commission is to move the meeting to May 12-13, 2016 with the meeting to take place at the Falls of Ohio. The meeting will be on Thursday evening and a working breakfast planned for Friday morning with DNR presentations regarding division funding, how each division functions, and a presentation on state parks. The Chair stated that he has asked the Division of Hearings to go through key things that the Commission has to deal with, one of which is rule adoptions.

DNR, EXECUTIVE OFFICE

Consideration and identification of any topic appropriate for referral to the Advisory Council

No items were identified for referral to the Advisory Council.

DNR, DIVISION OF FISH AND WILDLIFE

Consideration for approval of amendments to the nonrule policy document (Information Bulletin #61), Listing of Public Freshwater Lakes; Administrative Cause No. 15-139W

Linnea Petercheff, Staff Specialist with DNR's Fish and Wildlife, presented this item. She explained that the Department requests to remove Pine Canyon Lake and Rhodes Lake from Listing of Public Freshwater Lakes (Information Bulletin #61). Petercheff said both lakes are surrounded by private land, have no natural waterway into the lakes,

and are not accessible by the public. Petercheff stated the Department's permit database does not show any permits being issued by the Department for these lakes.

Donald Ruch moved to approve amendments to the nonrule policy document, Information Bulletin #61 (Fifth Amendment), Listing of Public Freshwater Lakes. Cameron Clark seconded the motion. Upon a voice vote, the motion carried.

Information Item: Introduction of five new property managers

This item was withdrawn.

NRC DIVISION OF HEARINGS

Consideration of report of rule processing, public hearing, and hearing officer analysis with recommendation regarding final adoption of amendments to 312 IAC 4-5-2, which provides prerequisites for a conservation officer applicant; LSA Document #15-343(F); Administrative Cause No. 14-144L

Jennifer Kane, Hearing Officer, presented this item. She explained that the rule proposal would amend 312 IAC 4-5-2, which governs the prerequisites for applicants to the Department of Natural Resources conservation officer program. Kane noted that the rule section was amended in 2014; however, upon further review, it was determined that additional amendment was required in order to clarify the qualification of an applicant's United States Military Service as a prerequisite. "The individual must have served full time, active-duty and received an honorable discharge." Kane recommended final adoption of the rule amendment at 312 IAC 4-5-2(3)(C).

Cameron Clark moved to approve for final adoption the amendments to 312 IAC 4-5-2, which governs the prerequisites for a conservation officer applicant. Vice Chair Jane Ann Stautz seconded the motion. Upon a voice vote, the motion carried.

Adjournment

The meeting was adjourned at approximately 10:27 a.m., EST.

Information Item: Update on the process for adoption of administrative rules under IC 4-22-2

After adjournment, Sandra Jensen and Jennifer Kane gave a brief presentation regarding the adoption of administrative rules under IC 4-22-2.