

NATURAL RESOURCES COMMISSION

July 17, 2012 Meeting Minutes

MEMBERS PRESENT

Bryan Poynter, Chair
Jane Ann Stautz, Vice Chair
R. T. Green
Doug Grant
Donald Ruch
Robert Wright
Thomas Easterly
Michael Cline

NATURAL RESOURCES COMMISSION STAFF PRESENT

Stephen Lucas
Sandra Jensen
Debra Freije

DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT

John Davis	Executive Office
Ron McAhron	Executive Office
Chris Smith	Executive Office
Cheryl Hampton	Executive Office
Phil Bloom	Communications
Scotty Wilson	Law Enforcement
Matt Buffington	Fish and Wildlife
Linnea Petercheff	Fish and Wildlife
Dan Bortner	State Parks and Recreation
Michael List	State Parks and Recreation
John Bergman	State Parks and Recreation
John Bacone	Nature Preserves
Robin Wilson	Nature Preserves
Phil Marshall	Entomology and Plant Pathology

GUESTS PRESENT

Gary Ray	Amrenda Kumar	Paul Arlinghaus
Cliff Chapman	Lynn Deans	Jeff Ray
Jack Corpuz	Steve King	Thomas Gruenenfelder
Patrick Carpenter	Tim Maloney	Don Gorney

Bryan Poynter, Chair, called to order the regular meeting of the Natural Resources Commission at 10:10 a.m., EDT, on July 17, 2012 at the Fort Harrison State Park Inn, 5830 North Post Road, Roosevelt Room, Indianapolis, Indiana. With the presence of eight members, he observed a quorum.

Steve Lucas referenced an omission in the May 15 minutes in the fourth paragraph of page 4 where Rob Hogg thanked the Commission for visiting Shakamak State Park. Lucas suggested the addition of a sentence at the end of the paragraph: "A special note of appreciation was made to State Parks and its staff for providing food and services during the dinner."

The Chair said the suggestion by Lucas was "a good addition".

Thomas Easterly moved to approve the minutes, including the addition, for the meeting held on May 15, 2012. Doug Grant seconded the motion. Upon a voice vote, the motion carried.

Reports of the Director, Deputies Director, and Advisory Council

Director Robert E. Carter, Jr. provided his report. He said that the drought situation "is very, very troubling to all of us. The Division of Water is engaged in monitoring the situation on water withdrawal. The one thing we learned early this week is we've had a lot domestic well failures recently. The Division of Forestry is also monitoring the mortality rate of trees." The Division of Fish and Wildlife is concerned with "the wildlife aspect. We're in trouble if it continues in this path." He said during the DNR's Mondays-with-Management meeting, Mike Neyer expressed great concerns. "He had us all scared before he got done. It's a very sensitive situation right now. Drought sensitive trees are especially in trouble. The older trees are dying. So we hope and pray we get some water. It's a tough situation. We have the Department of Homeland Security meeting as we speak, but there's not a whole lot we can do about it. We just have to watch and monitor the withdrawal efforts of communities and make sure lakes aren't drained out."

The Chair commented that the USDA is "in town" looking at specific crops and damages.

Director Carter added "the drought is having a bad effect on commodity prices; the food we eat, our gardens; everything. It's going to be a bad year, and it will take several years to recover from it."

Ron McAhron, Deputy Director for the Bureau of Water and Resource Regulation, provided his report. He distributed a graph illustrating the progression of the drought. He relayed that there would a webinar 'today' discussing the monitoring of the drought. Included with the hand-out material was a copy of a letter which would be sent to all of the significant water withdrawal facilities. "We're blessed here normally with an abundance of water. We struggle, obviously, to have all the tools in the toolbox for situations like this." McAhron added that IURC, Homeland Security, IDEM, and the DNR are "working together to encourage people to be responsible and cut back on water usage in order to avoid a more serious and dire situation."

John Davis, Deputy Director for the Bureau of Lands and Cultural Resources, provided his report. He commented, “The impact of the fire emergency, operations-wise, is also evident. Many of our landholding divisions are filled with qualified firefighters who are on notice. We’re trying to minimize our participation throughout the State, but we are calling on some of our trained people, incident command people—people who are used to being in control of these kinds of situations. They are a valuable resource to everybody in the State.”

Davis also reported the DNR is continuing to “be engaged in the Asian carp challenge. You may have noticed that there was a positive environmental DNA test from Lake Erie last week.” He noted the e-DNA water samples were taken a year ago this August and were recently analyzed by the lab as having five or six positives in the Sandusky Bay and the Maumee Bay of Lake Erie. Davis said, “There is a planned action going on with more testing and netting.”

Thomas Easterly asked Davis if the Asian carp would move from Lake Erie up into the upper Great Lakes.

Davis responded, “They would, but people think of Lake Erie as the ultimate environment for the Asian carp species.” Lake Erie and its tributaries have ample food sources. Lake Huron and Lake Michigan appear to be less likely to support their populations.

Updates on Commission and Committee activities

There were no updates on activities.

NATURE PRESERVES

Consideration of the dedication of the Laura Hare Nature Preserve at Back Creek in Lawrence County

John Bacone, Director of the Division of Nature Preserves, presented this item. He said the proposed Laura Hare Nature Preserve at Back Creek in Lawrence County has “a really special stable population” of eastern hemlock (*Tsuga canadensis*). “It has a large population of over 4,000 hemlock trees occurring on the steep slope.” Bacone said that there were “a number” of rare species within the nature preserve. He relayed that the property was acquired with assistance from the Indiana Heritage Trust and the Laura Hare Charitable Trust. Bacone recommended dedication of the Laura Hare Nature Preserve.

Jane Ann Stautz moved to approve dedication of the Laura Hare Nature Preserve. R. T. Green seconded the motion. Upon a voice vote, the motion carried.

Consideration of the dedication of the Mouth of Blue River Nature Preserve in Harrison County

John Bacone presented this item. He commented that the proposed Mouth of Blue River Nature Preserve “is a really exciting special area.” The nature preserve also includes a number of high quality natural communities with limestone cliffs, forest communities, and various species with

the Eastern woodrat. Bacone called upon Dan Bortner, Director of State Parks and Reservoirs to provide additional comments.

Dan Bortner said the Division of State Parks and Reservoirs supported the proposed nature preserve. “We set a goal several years back of trying to get a nature preserve on every state park property. We understand fully we have to utilize recreation to help pay for conservation. It’s the reality of our world. The usage of these parks is very important, but it is also very important to make sure we take a section of every property to leave in a completely natural state. This project takes us one step closer to that goal.” He introduced Bob Sawtelle, Property Manager of O’Bannon State Park; Assistant Property Manager Stanley Boelz, and Interpretative Naturalist Jarrett Manek, who were present.

Thomas Easterly moved to approve dedication of the Mouth of Blue River Nature Preserve. Doug Grant seconded the motion. Upon a voice vote, the motion carried.

Consideration of the dedication of the Smith-Crisler Nature Preserve, Henry County

John Bacone also presented this item. He stated that the proposed Smith-Crisler Nature Preserve was a “high quality forest.” He noted that “wonderful wild spring flowers” and rare plant species are found within the woods. Bacone recommended its dedication as a nature preserve.

The Chair commented, “It’s always nice. I know we take it for granted. You do a nice job describing the unique features as you make these presentations.” The Chair asked who was responsible for the photographs of the proposed nature preserves.

Bacone answered, “It’s a variety of people, sometimes the owner of the property, and sometimes it’s one of our ecologists.”

Doug Grant moved to approve dedication of the Smith-Crisler Nature Preserve. Donald Ruch seconded the motion. Upon a voice vote, the motion carried.

HISTORIC PRESERVATION AND ARCHAEOLOGY

Consideration for recommendation of preliminary adoption of a new rule section to coordinate historic preservation reviews for state agencies proposals that are governed by both Federal and State law; Administrative Cause No. 11-137H

James Glass, Director of the Division of Historic Preservation and Archeology, presented this item. He explained the current separate Federal and State review processes and the proposed streamlined process being recommended for preliminary adoption.

Glass said under the current process, if a State agency uses both Federal and State funds for a construction project, “we require that the agency go through the two regulatory processes required by Federal law and State law in separate reviews.” The Federal process under Section 106 of the National Historic Preservation Act (16 USC 470f) “is based on the solicitation of public comments and interested parties as a central part of an agency considering the effect of its

projects on historic properties.” These include archaeological sites. For the State process that is based on IC 14-21 “certificates for approval” are issued by the Indiana Historic Preservation Review Board (“IHPRB”) in a process that “entails notice to interested parties and public after an application for a certificate has been filed by a State agency.”

Glass stated that in most cases in a dual review, where both Federal funds and State funds are both being used, the State agency identifies consulting parties at the outset of Section 106 review and offers an opportunity for a person to participate in a consultation concerning “whether historical properties are present, the nature of the project’s effect on any such properties and how any adverse effects may be avoided, lessened, or mitigated. If there is an adverse effect that is not avoidable, the State Historic Preservation Officer (“SHPO”) and consulting parties discuss ways to mitigate the effect.” In Indiana, the SHPO is the Director of the Division of Historic Preservation and Archaeology. “A binding memorandum of agreement is drawn up by the lead agency to carry out the mitigations. The memorandum of agreement is then signed by the Federal government and the leading State agency, a local recipient of Federal funds and other consulting parties.” The Section 106 process is rigorous and lengthy. “After the memorandum of agreement is signed for Section 106, if State funds are also being used, the State agency then files an application with the Division of Historic Preservation and Archaeology for a certificate of approval under IC 14-21-1-18. Section 18 provides that any historical structure or site owned by the State, or listed on the State or the National Registers of Historical Places, may not be altered, demolished or removed by a project funded in whole or part by the State, unless the IHPRB has granted a certificate of approval.”

Glass said a “review of INDOT-sponsored projects since 2003, involving both Federal funds and State funds, shows that out of 22 projects, 21 (or 95%) were approved by the IHPRB. When Section 106 review process was completed through a memorandum of agreement, the IHPRB opposed no project changes or additional mitigations. When Section 106 was not yet completed and when the IHPRB considered the project, the outcomes of the two processes were the same. Out of the 22 projects, two projects involved objections from interested parties or members of the parties present at the IHPRB meeting. The outcomes in both of the cases were the same as that of Section 106 review consultation. In general, because Board members believed that thorough consideration of the project opinions had already taken place through the Section 106 review, and because they believed interested parties were involved in consultation through the Federal process, the IHPRB was satisfied with the Federal process result and the mitigations proposed.”

Glass said under proposed 312 IAC 20-4-11.5, “the review process would be streamlined in situations where both Federal and State funds are being used by a State agency for a project. The agency would submit a proposal for dual review” under Section 106 of the Federal law and under Section 18 of the State law. The Division of Historic Preservation and Archaeology “would acknowledge receipt of the dual review submission, notify interested persons and members of the IHPRB, and post a notification on its website. If the submission resulted through a Section 106 review and a finding of no adverse effects on historic properties, and the Division Director concurred with the finding, he or she would issue a letter of clearance for the project under the proposed rules. If a submission results in a finding of adverse affect and a memorandum of agreement is executed under Section 106, the Division Director would consider the terms of the

memorandum. If it is concluded the objective and the purpose of Section 18 had been satisfied, the Division Director would issue a letter of clearance, exempting the person or the agency from obtaining a certificate of approval” from the IHPRB.

Glass said that if the Indiana Department of Transportation (INDOT) would make a submission for a project involving a bridge covered by the 2006 “Programmatic Agreement Among the Federal Highway Administration, the Indiana Department of Transportation, the Indiana State Historic Preservation Office, and the Advisory Council for Historic Preservation Regarding the Management and Preservation of Indiana’s Historic Bridges”, and a finding of adverse effect resulted under Section 106, the Division Director would consider the mitigations prescribed under consultation, and if concluding the objectives and purposes of Section 18 had been achieved, the Division Director would issue a letter of clearance. If a letter of clearance was issued under any of the subsections of the proposed rule, the Division Director would provide notice of the decision to the interested persons and to members of the IHPRB. Any member of the review board would then have the option of requesting that an application for certificate of approval be placed on the agenda of the IHPRB for consideration at its next meeting. If a dual review was initiated that resulted in a finding of adverse effects under Section 106, but no memorandum of agreement providing mitigations was executed, the State agency that initiated dual review would be required” under proposed 312 IAC 20-4-11.5 to obtain a certificate of approval from the IHPRB.

Glass added that under the proposed rule “there would be a full vetting of each project under Section 106 review, and several opportunities for consultation with interested parties and the general public on identifying historic properties, coming to conclusions of the nature of effects on historic properties and discussing ways to avoid, lessen or mitigate any adverse effect leading to a memorandum agreement. Interested parties would be informed of each project’s submission involving dual reviews at the outset of the project. In addition, members of the IHPRB would be informed, and notice of the dual review posted” on the website of the Division of Historic Preservation and Archaeology. If clearances are proposed, the interested parties and members of the IHPRB would be notified, “and its members would be afforded an opportunity to request the full Board to consider an application for certificate of approval at its next meeting.”

Glass concluded, “We would expect that based on the experience with previous reviews under both State and Federal law, that in most of the projects in which dual review is initiated, a certificate of approval would not be required from the IHPRB, which would reduce staff time and other costs for our Division and for submitting State agencies.”

The Chair thanked Glass for his well-presented report. He invited Patrick Carpenter to speak.

Patrick A. Carpenter, Section 106 Consultant within INDOT’s Environmental and Cultural Services Section, addressed the Commission. He said “INDOT supports the adoption of the dual review rule.” Proposed 312 IAC 20-4-11.5 would benefit the agency’s efforts to comply with Federal reviews on Section 106 and State reviews under IC 14-21-1-18. “As Dr. Glass mentioned, the outcomes of the State and Federal reviews are almost identical, and INDOT would like to see the streamlining of that.” He added the rule proposal would also be a benefit for IHPRB members “because, as Dr. Glass mentioned, we go to the review board when Section

106 is complete to show the members we went through this lengthy consultation. Now they will get a chance to participate in a project early on.” Carpenter stated that the proposal would also benefit INDOT because if an IHPRB “member were to object to a project or request a continuance, it could jeopardize the project’s schedule. If we know there are objections or problems with the project early on, it gives us a greater chance to address those concerns. So, in summary INDOT supports the dual review adoption, as it will enhance our project consultation by giving more opportunities for the review board members and reduce the redundant processes and gives more predictability to project outcomes.”

Doug Grant moved to approve preliminary adoption of proposed 312 IAC 20-4-11.5 to coordinate historic preservation reviews for State agencies proposals that are governed by both Federal and State law. Thomas Easterly seconded the motion. Upon a voice vote, the motion carried.

FISH AND WILDLIFE

Consideration of request for approval of a new nonrule policy document for floodway habitat mitigation that would supersede Information Bulletin #17; Administrative Cause No. 12-084D

Linnea Petercheff, Staff Specialist with the Division of Fish and Wildlife, presented this item. She said the proposed rewrite of Information Bulletin #17 would provide guidance to applicants for the assessment and determination of mitigation requirements for a permit for construction in a floodway or navigable waterway. The guidelines are a culmination of efforts from multiple DNR staff over several years to formalize the development of a mitigation plan for DNR if a project impacts to fish, wildlife, or botanical resources.

Petercheff said applicants, “specifically engineering companies that apply for permits”, requested the new nonrule policy document “in order to know when a mitigation plan is required, the mitigation ratio, and the other specifications in advance of submitting an application.” She added, “The new nonrule policy document should help reduce the length of time to process an application since the applicant will be able to submit a mitigation plan, with a permit application, and result in formal standards for DNR environmental biologists.” The document provides “flexibility as well as helping applicants better anticipate mitigation requirements.”

Petercheff said IC 14-28-1-22 requires an applicant for a floodway construction permit to prove the construction would not result in unreasonably detrimental impacts to fish, wildlife, or botanical resources. Mitigation principles for wetlands and other habitats “are already contained within Information Bulletin 17, but the proposed new document would be more detailed and would spell out principles for specific habitat types, and methods by which mitigation could be accomplished in advance of submitting an application. Greater specificity should benefit both DNR staff and the applicants.”

Commission Member Tom Easterly stated that he did not understand the procedure. “So this is not a rule. Do you have nonrule policy documents in the DNR and NRC?”

Stephen Lucas responded, “Yes, this is a nonrule policy document.”

Easterly asked if the nonrule policy document had to be posted for public comment.

Lucas replied, “This meeting is the comment time. If somebody wants to, they can speak to it now.” He added the proposal would supersede an existing nonrule policy document the Commission approved for the same subject. If approved, the new document would be posted by the Legislative Services Agency in the *Indiana Register*, as well as on the Commission’s webpage.

Petercheff added, “We did send drafts out to both INDOT and IDEM staff throughout the course of our formulation of the proposal, and we tried to incorporate their comments the best we could and make some changes as a result.”

R. T. Green moved to approve the request by the Division of Fish and Wildlife for approval of a new nonrule policy document that would supersede Information Bulletin 17. Jane Ann Stautz seconded the motion. Upon a voice vote, the motion carried.

Donald Ruch reflected, “I’d like to thank all the people that put this together. I think this is a very well written document.”

The Chair commented, “I couldn’t agree more.”

McAhrn also thanked and acknowledged Petercheff for development of the updated and more comprehensive mitigation guidelines. “A bunch of us played in that effort, but she was the glue that held the drafting initiative together. Frequently that is the case. I think we’re very fortunate to have the assets she provides.”

Information Item: Regular Review of Fish and Wildlife Rules and Citizen Petitions

John Davis updated the Commission on the progress of processes for responding to citizen petitions and having regular reviews, through an annual or semi-annual package, of rules pertaining to “fish and wildlife and wildlife management.” He said DNR agreed the petition process was needed, but if there was not a time sensitive element to a petition, an “issue could appropriately be plugged into the regular process for fish and wildlife rule reviews.” He said the Commission received a citizen “petition concerning cartridge size in hunting. We deemed that it was one that could fit into the annual fish and wildlife review. We have put it in there. We just want you to know that we’re operating the way we said we would previously. We still think everybody gets a thorough and prompt look, and we will work with the petitioners.”

The Chair asked whether there had been any open houses held as part of the fish and wildlife rule review process.

Davis responded, “As part of the annual reviews? Yes. We’ve had one round of electronic input, and now we’re going to have some open houses later this month and next month.”

STATE PARKS AND RESERVOIRS

Information Item: Proposed establishment of an “Annual Dog Park Pass” fee range for the planned Fort Harrison State Park “dog park”

This item was posted as an action item for the July meeting. Prior to presentation, however, John Davis circulated background materials and indicated the item would be presented for information rather than for action.

Dan Bortner, Director of the Division of State Parks and Reservoirs, said, “We are moving very quickly on this and what we want to do today rather than request the fee ranges is just to present the idea to let you know what we’ve got going on.” Bortner explained before moving forward with discussions regarding finances, an open house had been scheduled to receive public input and discuss many issues involving Fort Harrison State Park.

Bortner reflected “that on any given evening, a large number of individuals will be seen walking their dogs in the park. There are a lot of people who utilize an urban park for that purpose.” The proposal for a section of Fort Harrison State Park to be designated as a “dog park” certainly would provide an opportunity for needed revenue. So, we’ve put together a plan.”

Bortner introduced Mike List, Planner for the Division of State Parks, as the landscape architect who is “leading the project for the dog park,” and John Bergman, Assistant Director for operations. “What we have here is a very doable project.” The land was acquired from the City of Lawrence within the past year. “The property fell out of the City of Lawrence’s police patrol area so right now it’s obviously not a family place where you want to be. What we want to do is take this and utilize it for something that’s going to be positive where folks will use that portion of the park considerably.” Bortner said the agency estimated that development of the “dog park” would cost \$300,000. Research suggests approximately a two-year payback. Once you reach that two-year point, even with the operating costs, a substantial revenue opportunity is provided.”

Bortner reemphasized the commitment of the Division of State Parks and Reservoirs to the establishment of dedicated nature preserves within park boundaries. “We want to make sure that there are areas that are protected. About 35% of Fort Harrison State Park is now protected as dedicated nature preserves, and the dog park would be located outside the nature preserve areas.”

Doug Grant commented, “Your revenue is based on that 17-50. How did you get to that?”

Bortner answered, “By talking to people who are already operating dog parks.”

Mike List added, “A number of private operations were looked at and pretty resoundingly each said, ‘They make us a lot of money.’”

Bortner continued, “Not really being in tune to the dog park business, I was a little bit shocked. We charge \$36 for an annual pass for you and your family to all State Parks. I believe it is Greenwood that is charging \$100 a year to take Fido for a walk and getting it. So, certainly,

people are willing to pay for a place that folks can get out and let their dogs off the leash and play in the water and do doggie things.”

The Chair asked how large of an area would be reserved for the dog park.

List responded “the total block” where the park would be located “consists of 20 acres, and we’re not using all of that. We have two 3.5 acre parcels, where we would alternate uses on to give the turf a chance to recover, and a third area called the ‘pond area’ which would remain open every year.”

The Chair asked Bortner when the agenda item for the proposed dog park would come back before the Commission for consideration.

Bortner replied, “September.”

The Chair invited Don Gorney to speak.

Don Gorney, President of Amos Butler Audubon Society, addressed the Commission. “I met with Deputy Director, John Davis, and State Park officials last week to discuss this proposal because it was a concern that it was on the agenda without me knowing about it, without the Friends group knowing about it. I am glad that it is being taken to September. I think there is some additional due diligence that’s needed for this proposal, including speaking with the City of Lawrence which operates its own dog park, which will likely be impacted. Reaching to someone like Rick Mars who’s done reptile and amphibian surveys at Fort Harrison, and then determine if state endangered species are located at the site of the proposed dog park.”

Gorney said “while Audubon is not likely to oppose the dog park, we are concerned about the direction that Fort Harrison is headed. During the Army’s closing process, both the Fort Harrison Transition Task Force and the DNR stressed the recreational uses of Fort Harrison would be low impact, and the direct quote was ‘such as hiking, fishing, bird watching, and jogging.’ Audubon believes that DNR has deviated from that over the last 15 years, and, as a result, has reduced the bird population, which is my area of authority—especially birds that are designated as species of conservation concern have declined quite a bit throughout the park.”

Gorney continued, “Audubon is a partner with DNR on various projects at Fort Harrison, and we have the same sentiment that was expressed recently by a State park official.” Quoting “or paraphrasing their statement was that they had seen what has happened to Eagle Creek over the last 30 years, and that that person hopes that Fort Harrison is not headed in that same direction. In other words,” the DNR “should be saving the natural resources there, rather than fractionalizing the park with more and more different uses.”

Chairman Poynter thanked Gorney for his comments. He reminded the Commission that the item was currently being presented only for information, and no action was required.

NRC, DIVISION OF HEARINGS

Report of Hearing Office, including findings and proposal regarding the petition for rate increase by Lake Monroe Sailing Association; Administrative Cause No. 11-202P

Sandra Jensen, Hearing Officer, presented this item. She said that the proposal was a petition for rate increase by Lake Monroe Sailing Association (LMSA). On December 13, 2011, Steve Paul filed the initial petition with the Natural Resources Commission and the Department of Natural Resources, Division of State Parks and Reservoirs. Jensen informed that some clarifications and additions to the petition that were made up through December 29, 2011, “but the petition in its entirety was seeking rate increases for the Marina beginning in 2013.” The petition is governed by nonrule policy document Information Bulletin #20 which specifies that all of the slip and buoy renters must be notified about the proposed petition. “The Lake Monroe Sailing Association did take care of that.” She said that the Information Bulletin also requires that if 10% of the of the slip and buoy renters that are notified requested a public hearing, the Natural Resources Commission would hold a public hearing and take public comment. Jensen said that there were no requests for a public hearing and no comments were received “in large part due to the fact that the LMSA is operated under a board of directors which keeps the renters informed way before we receive these. So, usually, we don’t have any controversy as it relates to this particular marina.”

Jensen informed that the Commission’s responsibility with respect to the petition is to recommend approval of the rate requested, disapprove the rate, or approve any rate in an amount less than requested. She said that the recommendation would then be forwarded to the U. S. Army Corps of Engineers. Information Bulletin #20 also requires that the DNR, Division of State Parks and Reservoirs performed a comparative analysis of rates being sought with those of other marinas within a 400 mile radius. She said that Gary Miller, DNR’s Assistant Director of Inns and Concessions, performed the comparative analysis and determined that the proposed rates were “well within” rates charged by the other marinas.

Jensen added that the Lake Monroe Sailing Association requested and was granted a rate increase in 2006, but “only in 2011” did the Association actually implement the full extent of that increase. “So, they obviously implement the increases on an incremental basis, as needed.”

Jensen noted that Thomas Gruenenfelder, President of LMSA was present.

The Chair thanked Gruenenfelder for being present. “I do appreciate the process, because sometimes these can be very contentious and we appreciate the efficiency in which you guys have operated.”

Donald Ruch moved to approve the Hearing Officer’s report for the petition for a rate increase by Lake Monroe Sailing Association. Jane Ann Stautz seconded the motion. Upon a voice vote, the motion carried.

Consideration of report on rule processing, public hearing and written comments, and hearing officer analyses and recommendation of final adoption of rule amendments to 312

**IAC 9-10-3 governing aquatic vegetation control permits; LSA Document #12-109(F);
Administrative Cause No. 11-064D**

Steve Lucas, Hearing Officer, presented this item. He said the purpose of the proposed new rule was to help protect Indiana's aquatic resources from invasive plants that are currently available for sale in the commercial trade. Doug Keller and the Indiana Aquatic Invasive Plant Working Group developed a risk assessment process in formulating the invasive aquatic plant species that would be listed in 312 IAC 18-3-23. "The efforts of the working group, including outreach to commercial traders and a feature article in the *Indiana Nursery & Landscape News*, provided a solid foundation for the development of a consensus document. This science-based approach avoided the controversy that could have accompanied the proposal, and final adoption is well-supported."

Lucas added the working group agreed upon "a strategy that was directed exclusively to obligate wetland plants." Citizen comments that were received in the rule review "may underline the need to address a broader spectrum of invasive species" in another similar working group, "but these comments do not detract from the merits of the current proposal."

Lucas said Keller "identified one clerical error in subsection (a)(8)" of the proposed new rule section. "A common name for *Hygrophilia polysperma* is shown as 'Indiana' swampweed. The common name should be shown as 'Indian' swampweed. With the correction of the clerical error, the proposal is recommended for final adoption."

Donald Ruch moved to approve the final adoption of rule amendments to 312 IAC 9-10-3, including the clerical amendment recommended by the hearing officer. Jane Ann Stautz seconded the motion. On a voice vote, the motion carried.

Consideration of report on rule processing, analysis, and recommendation regarding second approval for final adoption of repeal of 312 IAC 24, which formerly provided standards governing Indiana State Museum and historic sites; LSA Document #11-663(F);

Steve Lucas, Hearing Officer, presented this item. He said the Commission granted final adoption to the repeal of 312 IAC 24 in March because P.L. 167-2011 removed the former Division of Museums and Historic Sites from the DNR and established a new entity, the Indiana State Museum and Historic Sites Corporation ("ISMHSC"). The rule repeal was tendered to the Attorney General's Office, but a Deputy Attorney General "urged that the rule be recalled and resubmitted following the September Commission meeting "to give the current museum staff more time to develop their own rule language." In the spirit of agency cooperation, he reported to the Legislative Services Agency that the rule was being recalled. Lucas added the ISMHSC was scheduled to hold a public hearing July 19 to consider its proposed new rule. He requested the Commission's support and indulgence in again giving final adoption to repeal 312 IAC 24.

Thomas Easterly moved to give final adoption to amendments to 312 IAC 24 as recommended by the hearing officer. Jane Ann Stautz seconded the motion. On a voice vote, the motion carried.

Information Item: Performance of Natural Resources Commission’s Division of Hearings and application of metrics; Administrative Cause No. 10-078A

Sandra Jensen, Division of Hearings, presented this item. Jensen said the “metrics are measures of the Division’s efficiency. The outline of materials distributed to the Commission show a list of measurable items in three categories. The above standards are shown in green, meets standards are in yellow, and below standards are in the red column. I think for the most part we’re in that green and yellow. I think there were a couple of places where we hit that red mark for things that didn’t quite go out on time, but for the most part we’re pretty satisfied.” However, Jensen noting that the review identified a few places where the Division can improve.

Chairman Poynter reported, “Part of the review process for the staff is something that we have the privilege of doing where I hope like all, they set their standards very high, and they’re doing an extraordinarily good job. So, this is just a by-product of reporting back to the Commission what we already know. I can’t say thanks enough to all the staff that works hard and does a great job.”

Vice Chair Jane Stautz expressed her enthusiastic concurrence with the Chair’s comments.

Ron McAhron added concerning the metrics. “What’s not shown here is the tremendous amount of help that Steve and Sandy give us in drafting and writing rules and holding our hands through sometimes esoteric projects. We had one of those projects today with the dual review for historic preservation. It’s a simple concept. We’re doing the same thing twice. But getting a resolution into a rule form was difficult and their tremendous assistance is appreciated.”

Newt Meeting and Adjournment

The Chair reminded the members the next meeting would be held at Potato Creek State Park on September 17, 2012.

The meeting was adjourned at approximately 11:03 a.m.