

NATURAL RESOURCES COMMISSION

Multipurpose Room
Indiana State Museum
650 West Washington Street

Minutes of March 13, 2007

MEMBERS PRESENT

Bryan Poynter, Chair
Jane Ann Stautz, Vice Chairman
Robert Carter, Jr., Secretary
Richard Mangus
Patrick Early
Thomas Easterly
Doug Grant
Lawrence Klein
Robert Wright
Mark Ahearn

NATURAL RESOURCES COMMISSION STAFF PRESENT

Stephen Lucas
Jennifer Kane
Debra Michaels

DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT

John Davis	Executive Office
Ron McAhron	Executive Office
Burgess Brown	Executive Office
Chris Smith	Executive Office
John Baker	Budget and Support
Phil Marshall	Entomology Plant Pathology
Linnea Petercheff	Fish and Wildlife
Glen Salmon	Fish and Wildlife
Mark Reiter	Fish and Wildlife
John Bacone	Nature Preserves
Samuel Purvis	Law Enforcement
Emily Kress	Outdoor Recreation
Carman Jackson	Outdoor Recreation
Kathleen McClary	Indiana State Museum and Historic Sites
Haley Tallman	Indiana State Museum and Historic Sites
Terri Price	Water

GUESTS PRESENT

Jack Corpuz	Glen Baker	Sam Bond	Amy Marie Travis
Barbara Grant	Dick Mercier	Patrick Early	William Wert
Bill Pippenger	Donald Van Meter	Jim Trackman	Tom Rethlake

Bryan Poynter, Chair, called to order the regular meeting of the Natural Resources Commission at 10:05 a.m., EDT, on March 13, 2007 in the Multipurpose Room, Indiana State Museum, 650 West Washington Street, Indianapolis, Indiana. With the presence of nine members, the Chair observed a quorum.

The Chair reported that Robert Wright, a new Commission member, was also appointed to the Commission's AOPA Committee. The Chair said, "You performed admirably yesterday in your official duties as a member of the AOPA Committee", and he asked that Wright introduce himself. Robert Wright said he is an attorney from Terre Haute, and he had previously served for ten years on the Heritage Trust Foundation. "I have a lot of interest in the outdoors, and hope that I can add something to the Commission."

The Chair said, "We do appreciate your work and we asked you to step to the plate immediately with work on the AOPA Committee that Jane Ann Stautz chairs. And, from what I hear, yesterday it was a fun-filled and very full agenda." The Chair welcomed and thanked Wright for his service to the Commission.

Jane Ann Stautz moved to approve the minutes of January 16, 2007. Larry Klein seconded the motion. Upon a voice vote, the motion carried.

The Chair said he along with Director Rob Carter, John Davis, Ron McAhron, Jane Ann Stautz, and others had the opportunity to become more familiar with one another other since the last Commission meeting. "We appreciate the communication that you've been able to provide."

Report of the Director and Deputies Director

Director Carter welcomed Robert Wright to the Commission. "Bob is an old friend. I was the Sheriff and [Robert Wright] was the Vigo County Prosecutor. We worked a lot together." Carter noted that Wright is a "big outdoorsman and big duck hunter, so that makes him an automatic friend of mine." He thanked the Indiana State Museum staff and Kim Brant for making available the meeting room. He also thanked the Chair for "thinking outside of Fort Benjamin Harrison State Park" for the location of future Commission meetings. "We're going to try and diversify and have meetings elsewhere, and to actually go out and see some of the properties." Director Carter noted the Commission makes many decisions that affect DNR properties, "so I think it's a good idea for [the Commission] to see the properties first hand".

Director Carter said that the DNR recently acquired the Charlestown wells, an initiative on which the Department has worked for several years. "That's going to be a big boost for the economy in southern Indiana. It's also going to help the state of Indiana out." Director Carter

asked John Davis what date the U.S. Army established its Charlestown installation. Davis replied that the Army moved into Charlestown “approximately 1944 and moved out in the late 1990s.”

The Chair asked, “What are the wells?” Director Carter explained that the wells are above “huge” natural spring water aquifers that parallel the Ohio River. He said, “That’s why the U.S. Army identified the property for purchase.” Davis noted each of the seven wells can pump 1,000,000 gallons per day, and as much as 15,000,000 gallons per day total. “There is tremendous capacity.”

The Director reported that candidates for position of President and CEO of the Indiana State Museum would be interviewed on March 19. “We’ve been searching for a candidate for several months now.”

The Director reported the DNR continues to work with Indiana Department of Transportation on “The Indiana State Trails, Greenways and Bikeways Plan that the Governor has championed.” He said the DNR made an offer to purchase the Old Pennsylvania Rail Corridor, which consists of approximately 100 miles of actual railroad.

The Director also reported that the shooting range at the Atterbury Fish and Wildlife Area is nearing completion, and a ribbon-cutting ceremony is scheduled for May 11. “We hope to have the Governor and sporting groups” in attendance. The Director also noted that the pool and aquatic center at O’Bannon Woods are scheduled to open Memorial Day weekend. He invited the Commission members to attend the opening events.

The Director reported that he and John Davis recently attended the “Fish and Wildlife Fly-In Day” held in Washington D.C. “We met with most of our Congressional Delegation from Indiana. We were received very, very well.” He said they met with the Governor’s main lobbyist, Debbie Holt, and they also met with John Goss. “It was a very good meeting.” He added that he, Glen Salmon and others plan to attend the National Conference for the Association of Fish and Wildlife Agencies. “We will meet with persons from other states and review ‘best practices’.”

John Davis, Deputy Director, Bureau of Lands, Recreation, and Cultural Resources, also welcomed Robert Wright to the Commission, and he added that Wright was “no rookie to issues at DNR. I think he has been one of the original members of our Natural Resources Foundation, or at least a long time member of our Foundation. So, he has some different experiences about DNR.”

Davis reported the Department has conducted controlled burns throughout the state, including burns at Harrison-Crawford State Forest, Willow Slough, and other prairies around the state. Davis said that the Department continues to receive awards for several engineering projects. The Department’s Dunes Creek day-lighting project received at least two national awards. He said the Indiana State Fair Fishing Pond won its second award from the American Council of Engineering Companies. “We’re pretty proud about that, and that we not only come up with pretty good ideas but execute them pretty well, too.”

Davis reported that the proposed senior fishing license bill passed the Senate's Natural Resources Committee yesterday. "Obviously, that couldn't have happened if we didn't have a lot of constituents for it, and we appreciate that." If the bill would pass, "it would be a culmination of several years' worth of work." Davis extended an invitation to the Commission and to the Advisory Council to attend the annual walleye run at Brookville.

Davis also reported that Department biologists are collecting wood rats, also known as "pack rats", from Kentucky and Tennessee and relocating them to Indiana. "The reason we are going down there to bring some of their cousins back is so that we can expand our gene pool to make sure our wood rats stay good and healthy along the Ohio River."

Ron McAhron, Deputy Director, Bureau of Resource Regulation, announced that Indiana will be hosting the Great Lakes Commission Meeting on May 14 and 15. He said the website for the Great Lakes Commission is www.glc.org. The two topics to be discussed at the Great Lakes Commission meeting "at length" will be (1) ballast water discharges and invasive species; and (2) a "round table" discussion on Annex 2001—the Great Lakes Water Management Compact. "Both of these are mostly Northern Indiana issues, but it's a real privilege for us to be able to have the Great Lakes Commission here."

McAhron reported that with the "oil business picking up," the Division of Oil and Gas has issued a "record number" of permits. "There's a tremendous interest in Indiana with some larger companies coming in and looking at the New Albany shale. We expect that to continue to grow. I'm really proud of the Division." He said that in the "midst of keeping the permitting for the active sites going, the Division has also gone back and been very aggressive in inventorying and getting plans together" to address idle wells. McAhron said that the staff has been "encouraging people to either bring [the wells] back on line or making a commitment to timely plug" them. "We're doing what I think we need to do in fostering the responsible growth of the industry, but at the same time going back, when we have the opportunity, and cleaning up some of the things that have been left behind." He added that the Division of Oil and Gas can be linked through the Department's website.

McAhron reported that the Division of Water has been "very much involved" in the federal Map Modernization Program to update the flood plain mapping, which has "traditionally been the core mission" of the division. He noted FEMA has mandated and funded the program to update delineations of floodways for the entire state. "The implications of that is some folks, when we do the new map, will find themselves in a floodway where they heretofore have not been, and that has flood insurance implications. By the same token, some folks come out of the floodway." He said the Division of Water will contact each individual by regular mail whose floodway status has changed. The notification initiative is not federally mandated. "I'm very proud of that effort." He said the next Map Modernization Meeting is to be held in Lawrence County on May 19. FEMA and Division of Water staff will be present to explain how the program works, as well as the flood insurance implications.

The Chair inquired of the number of persons affected by the new floodway delineations. McAhron said that in Lawrence County approximately 150 people will be moved into the

delineated floodway, and 75 will be removed. In Allen County, 500 persons would be coming into the floodway and approximately 750 going out.

The Chair said that earlier in the day, Director Carter and he participated with the Natural Resources Advisory Council to discuss future roles of the Council and the Commission. The Chair deferred to Patrick Early, Chair of the Advisory Council, for a report.

Patrick Early said the Advisory Council did not meet in February due to the Legislative schedule. The Council met briefly before today's Commission meeting "to make sure we all understood clearly our roles and how we inter-work with the Commission and with the new Director. It was a very good meeting. I think we'll go forward with a little bit better direction than we have had in the past." Early said the Advisory Council would next meet on April 10 at 10:30 a.m., EDT.

The Chair added, "Ultimately, the goal for that meeting will be a much easier protocol for all the constituents; the Commission, the Advisory Council, the Department and all of the sporting and interested parties and constituencies that work with both of those groups." He thanked the Indiana State Museum staff for hosting the Commission. "I'm looking forward to seeing the remainder of the Museum. I was here when the Space Exhibit opened, and it was a wonderful evening prepared by Kim Brant and staff."

CHAIR AND VICE CHAIR

Consideration of Resolution in Support of Indiana Legislation to Address Senior Fishing Licenses; Administrative Cause No. 07-027D

The Chair opened the discussion. "When we first asked to have this resolution drawn, we weren't sure what the future would lend for the Senior Fishing License." He said the proposed legislation has since passed the House of Representatives unanimously, and it yesterday passed the Senate Committee. "So, we are anticipating that for the first time in a number of years, and with many efforts, the state will have a senior fishing license." He hoped the proposed resolution and the background information would, if needed, aid in lending the Commission's support to the effort. The Chair said he would entertain a motion to accept the resolution and then take discussion.

Larry Klein moved to adopt the resolution in support of Indiana legislation to establish a senior fishing license. Doug Grant seconded the motion.

The Chair added, "This is something that the Department and I have tirelessly worked with, including guys of the Sportsman Roundtable and so many other groups, as well, to make this happen." The Chair asked if anyone wished to make a summary as far as impact of the resolution.

Glen Salmon, Director of the Division of Fish and Wildlife, provided a summary. "We're trying to collect what money should be coming to us from the U.S. Fish and Wildlife Service." The money spent on fishing gear, tackle, boats and marine fuel "goes into a big pot", and the funds

are distributed to states based in part on the number of licensed anglers in the state. Salmon explained that the proposed senior fishing license would provide the opportunity to generate \$50,000 to \$80,000 within the first year, doubling the second year, and tripling the third year. State residents over aged 64 have the option of buying a Senior Fish for Life license at the same price of \$17 that applies to younger anglers. If a person chooses not to purchase the Senior Fish for Life license, he or she can fish for \$3. Salmon concluded, "By that opportunity, we collect extra money from the government that will go to our public access program. And, once again, for all those people who helped, I thank you very much."

John Davis asked what the current federal reimbursement amount was per each license. Salmon responded that the reimbursement was \$7.90 per certified angler. "So, that's what we've been missing out on. Every single state around us has gone to a senior fishing license years ago, and they saw the opportunity to take our money and were very good at it."

Director Carter recognized the efforts of those who worked hard supporting the Senior Fishing License. "We're not only thanking Dick and his group and Jack and his group, but Burgess really worked hard on this too." The Chair added, "And, also John Goss with the Indiana Wildlife Federation."

The Chair called for a vote on the motion to adopt the resolution. Upon a voice vote, the motion carried.

In closing, the Chair thanked the Commission members for their efforts and Steve Lucas for drafting the resolution and helping to organize the background materials. He also thanked the Vice Chair for reviewing and commenting on the document. "I hope the resolution plays a roll in the adoption of new legislation by the Indiana General Assembly."

Chair's Report on Appointment of Standing Committees

Chairman Poynter reflected that the Commission has the statutory responsibility for selecting property managers for a probationary period of one year, and, at the completion of this period, for determining whether probationary property managers should be permanently appointed. The Commission has established a Personnel Committee to review DNR recommendations for selecting property managers for the one-year probationary period. Following this review, the Personnel Committee makes a presentation to the full membership of the Natural Resources Commission.

The Chair said he was pleased to announce that he has appointed Larry Klein as the Committee Chair for the Personnel Committee. He said he requested him to accept the position based on Klein's extensive professional experience with managing recreational properties. Poynter noted that Klein might seek the assistance of other Commission members where determined appropriate for particular appointments of probationary property managers. He then asked Larry Klein to outline the Personnel Committee's functions and visions.

Larry Klein responded, “We certainly want to meet our statutory requirements and do the due diligence that is expected of the Commission. And, I hope that I will be able to function in that capacity and will be looking forward to working with Amanda Ricketts [Director of DNR’s Division of Human Resources] and the professionals charged with the responsibility of making those decisions within the organization.”

Chairman Poynter then announced that he was reappointing Vice Chair Jane Ann Stautz as the Chair of the Administrative Orders and Procedures Act Committee (the “AOPA Committee”). He said this Committee was established, by rule, to address the Commission’s functions for adjudicatory proceedings under IC 4-21.5. Most notably, the AOPA Committee reviews cases where a party files “objections” to the nonfinal order of one of the Commission’s administrative law judges. Poynter said he had the pleasure of serving on the AOPA Committee for its December 2006 and January 2007 meetings, and he respects its importance and the very challenging nature of its work. He particularly appreciated Stautz’s tireless efforts as the Chair of the AOPA Committee. He then asked her to outline the functions and recent developments of the AOPA Committee.

Jane Ann Stautz responded. She said discussions by the AOPA Committee during the January meeting resulted in a recommendation that the membership be expanded from three to five members. She said Bryan Poynter had acted positively on the recommendation, and during the March meeting, all five members participated.

Stautz recognized AOPA Committee Member, Mark Ahearn. She said Ahearn serves as a lawyer who is the Chief Legal Counsel for the Indiana Department of Transportation. “I appreciate his expertise and background from a legal perspective on the Committee.” Stautz introduced AOPA Committee Member, Doug Grant. He is “a citizen appointee and member [of the Commission] and had the opportunity yesterday to participate in his first AOPA Committee meeting.” Stautz identified Mary Ann Habeeb, the designate on the Committee from the Indiana Department of Environmental Management. She said regarding Habeeb, “again, a very able lawyer with a breadth of experience in environmental matters, familiarity with the Natural Resources Commission and involvement on the staff. So, we’re glad to have her on board.” Stautz recognized Robert Wright, an attorney from Terre Haute. She said, “He had the opportunity to participate yesterday in our AOPA meeting.” As with Grant and Habeeb, she said yesterday’s was Wright’s first meeting on the AOPA Committee. Stautz thanked the new members for their willingness to serve and Ahearn for his continuing service on the AOPA Committee.

Vice Chair’s Report on Duties and Recent Developments within AOPA Committee

Commission Vice-Chair and AOPA Committee Chair, Jane Ann Stautz, introduced this item. “There is a lot of opportunity for discussion around matters that come before the AOPA Committee.” Packets include the “findings of fact and conclusions of law” that the Commission’s administrative law judges “have brought forward, following in some cases, several months’ or even years’ worth of work with the respective parties in hearings on the matter. If there are ‘objections’ to the nonfinal order, the AOPA Committee reviews the written objections from the parties or their attorneys. The AOPA Committee then will also hear oral

argument from the parties regarding the objections. On behalf of the Natural Resources Commission, the AOPA Committee is authorized to act as the ‘ultimate authority’ and to make the final agency decision.” Stautz continued, “We may remand it, we may modify it, or we may approve it as submitted.” She said the majority of the issues in recent months have involved riparian rights. The demand for access to and use of Indiana public freshwater lakes is becoming “a much contested area of the law.” In the past, more common issues were those regarding coal mining and mine reclamation, as well as floodway or oil and gas issues. “So it kind of goes in cycles of what may come before us. And, again, we try to be as fair and adhere to the laws as presented to us.”

Stautz thanked the staff of Commission’s Division of Hearings for their efforts. “We also took the opportunity to have a brief orientation yesterday for the new members and want to thank everyone there that compiled the information to give an overview of expectations.” The AOPA Committee discussed ethics and other important considerations as they relate to case studies. “So, again, thanks for preparing that to Steve, Jennifer and Sandra.”

Mark Ahearn added, “Jane Ann was kind enough to thank each of us on the Committee. I would just say, for the record, that she does a wonderful job in leading that group and understanding the issues. And, frequently, by the time the issue gets through us it’s been decided, opined upon, adjudicated, amended, changed, altered, parts fall out, and parts get stuck in. It’s sort of like working in the emergency room. It’s complicated when it gets there, but there are real-life rights and interests that belong to people that are before us. We view those seriously, and Jane Ann does just such an excellent job keeping those complexities channeled for the rest of the group.”

The Chair said he echoed Ahearn’s sentiment. “I’ve heard her direction recently. And, that’s why we’ve expanded to five people. I’ve been impressed by the complexity of the issues, the necessity for consistency, as well as the need for keen legal minds, and just common sense. Everyone’s opinion is very important there, so we appreciate all that you do.”

Consideration of Dates, Times and Locations for Remaining 2007 Natural Resources Commission Meetings and Possible Field Tours, as well as General Information

The Chair introduced this item, and explained, “It is our responsibility to be more visible to the public. It is critical to our mission that we help the public be more aware of issues pertaining to natural resources, more aware of the Divisions and the very intricate workings and nature of the Department.” For consideration is the scheduling of the May and July meetings to be held outside of the Indianapolis area, one meeting to be held in the northern half of Indiana, and the other to be held in southern Indiana. “As an outcome, we would like to have our dates published for the remainder of the year with locations.”

The Chair offered as suggestions to open discussion that the Commission might schedule a meeting in southern Indiana “somewhere in the vicinity of Goose Pond.” He said acquisition and development of the Goose Pond is “very significant” to the Department. He also suggested the Northern Lakes Region as a possible location for a meeting. As another alternative, the Chair noted that Brad Feaster, Property Manager at Hovey Lake Fish and Wildlife Area, offered to

provide a tour of the grounds, and the Division of Reclamation also offered to provide a tour of a coal mine. “We can populate time out and around these Commission meetings, not only to be visible, but maybe have an evening meeting and carry that over to the next day for a tour. Around those site visits, we would utilize the resources within the Department, as well as to have them educate us on the workings of the Department by talking with the biologists and those who work with funding, getting to know and understand the Divisions and their complexities. We would have more of a training session at the will of whatever the Commission members would like to see and what the staff would like to make available.” The Chair then opened the floor for discussion.

John Davis suggested that the Commission and staff take the opportunity to stay at a state park inn when traveling “just as an added piece of information and because it is good for business.”

Thomas Easterly offered, “Traveling south in May is better than going north in May.”

Richard Mangus suggested the Commission view the fish hatchery and fish ladder on the St. Joseph River as an option for the July Commission meeting. Davis noted that the fish migrate through the ladders in the fall.

Director Carter asked the Commission Members if they “had a problem” with traveling for the two meetings. Early commented that an afternoon meeting, and followed by a morning tour would result in two full travel days, and that may pose a problem for him.

The Chair asked if it would be preferable to have single-day sessions, to include the meeting and a tour, with an optional overnight stay. This suggestion was met with favorable responses. The Chair noted that he was recommending travel meetings be limited to warm weather periods.

The Chair asked whether the DNR’s Executive Office “had any preferences with regard to location, times, and events and things that [the Commission] might work around” in scheduling meetings in the summer months. John Davis deferred to Director Carter regarding preferences. But he reflected, “We can easily have different representatives from different divisions any place in the state. I think we can come up with some salient issues for that area and some places to visit that could be instructive.”

Director Carter added, “I think that going south in May would be good.” He suggested the Commission could take a boat tour on the Ohio River, including a discussion of issues relating to “homeland security”. He said the Division of Law Enforcement recently purchased “nice large patrol boats. A lot of cargo goes down the river, and Clifty Falls State Park would be a good stop to make or maybe the ports of Indiana at Mt. Vernon and Jeffersonville.”

Ron McAhron noted that the Commission meeting currently proposed for May 15 conflicted with the “Great Lakes Commission meeting, and three of us are Commissioners.” He asked whether a later date in May might be selected. Thomas Easterly also expressed concerns with holding the Commission meeting during the same week as the Great Lakes Commission meeting.

Easterly asked, “Wouldn’t it best to see Goose Pond in a year or so? We went there for a Water Pollution Control Board meeting this spring, and lots of it is still under construction. It didn’t look like what I expected.” Davis agreed and added, “I think also we need to time those places when they are at the best for viewing what we might view. We probably want to go there when we might see a whooping crane.”

The Chair asked that Commission members email himself or Jane Ann Stautz for any suggestions for the May and July meetings locations. “Know that Jane Ann and I welcome those comments, and we will work to accommodate schedules so that everyone doesn’t get socked with too much time away and can have as much advance planning as possible.”

The Chair then introduced Chris Smith, Administrative Assistant in the DNR’s Executive Office. Smith said that he had been assigned to assist while Burgess Brown, the Department’s Legislative Liaison, is absent on maternity leave. Smith said that additional responsibilities would include responding to constituent correspondence from the Governor’s Office. He provided Commission members with an information packet similar to the packet provided to the Indiana congressional delegation in Washington, D.C. He explained the packet contained information on current events, the Department’s organizational chart and *The Indiana State Trails, Greenways and Bikeways Plan*. The Chair added that most of the information in the packet is also available on the Department’s website. The Chair requested that Smith provide the Commission members with contact information for key personnel within the Department.

DNR, EXECUTIVE OFFICE

Consideration and Identification of Any Topic Appropriate for Referral to the Natural Resources Advisory Council

The Chair introduced this item and opened the floor for discussion. Jane Ann Stautz said one of the key topics considered by the AOPA Committee in March centered on the definition and criteria for licensing a “group pier” as contrasted with a “marina”. These are terms defined by Commission rule, and the definitions presented uncertainties that formed the basis for arguments on and in response to “objections”. She added, “I know Deputy Ahearn said that there may be a rule coming before us in a couple of months and that there’s also a Lake Management Work Group. So we want to make sure, again, that we are respectful of that and the opportunities there.” Stautz asked Steve Lucas to outline the activities of the Lake Management Work Group.

Lucas responded the Lake Management Work Group was scheduled to meet later in the week. One of the topics on the Work Group’s agenda was the same adjudication that the Vice Chair referenced, and he expected the focus to be upon a comparison of the terms “group pier” and “marina”. Since the terms are Commission rule provisions, the Commission would also be well-positioned to make any clarifications. The Advisory Council could appropriately assist with this task.

Lucas added, “In a similar vein to what the Vice Chair suggests—that of riparian rights disputes on public freshwater lakes—there is a lot of conflict about defining the lines for riparian zones

into the lakes. We've had some experience with this issue now as ALJs and in the AOPA Committee, and it might make sense to see if the principles for drawing those lines could be developed into a rule or nonrule policy document. The Advisory Council might assist with drafting such a document."

John Davis added that a potential topic for discussion for the Advisory Council "might be the use of public streams and navigable waters, and how this use relates to the potential over-use of parks and recreation areas. That's probably a thing we should coordinate with Advisory Council about when we do that. It might even be worthwhile to consider seeing the problem first-hand."

The Chair expressed appreciation for these comments. "That's the role of this Commission, as well as our staff and of our constituent groups, to populate and help to form those agendas. So, I'd recommend taking these three items to the Advisory Council."

PERSONNEL ACTION

Personnel Interview of Haley Tallman for the Position of Historic Site Cultural Administrator (Historic Site Curator 3) at Angel Mounds State Historic Site, Evansville, Indiana

Larry Klein first deferred to Kathleen McClary of the Indiana State Museum and Historic Sites. McClary recommended Haley Tallman for the position of Historic Site Cultural Administrator at Angel Mounds State Historic Site. "Haley has been working for this Division throughout college as an intern and summertime worker at Angel Mounds. She completed her degree at the University of Evansville and had originally joined us as an interpreter." Klein then added, "We feel that she's very qualified for the position. We're keeping one of Indiana's in Indiana from the University of Evansville and that's always good to see, and we want to support that." Klein added that Tallman was "highly recommended" by her Property Manager, Mike Clingerman.

Haley Tallman was introduced. She expressed her enthusiasm for the opportunity and her love of the Angel Mounds Historic Site. She said the site was one of the most important archaeological sites in the United States. Its central attribute is a major occupation of Native Americans within the Mississippian Period.

Larry Klein recommended probationary appointment of Haley Tallman for the position of Historic Site Cultural Administrator at Angel Mounds State Historic Site. Thomas Easterly seconded the motion. Upon a voice vote, the motion carried.

DIVISION OF NATURE PRESERVES

Consideration of the Dedication of LaGrange County Nature Preserves, LaGrange County

John Bacone, Director of the Division of Nature Preserves, presented this item. He said that the proposed LaGrange Nature Preserve was located next to Fish Lake in LaGrange County. The

Nature Preserve is part of a larger property managed by LaGrange County Board of Parks and Recreation. Acquisition of the property was a joint effort of ACRES Land Trust and the LaGrange County Department of Parks and Recreation, utilizing Indiana Heritage Trust Funds. “This is one of the best remaining beach and maple forests in the northeast part of the state.” He recommended the area for dedication as a nature preserve.

Thomas Early moved to approve the articles of dedication for the LaGrange County Nature Preserve located in LaGrange County. Doug Grant seconded the motion. Upon a voice vote, the motion carried.

DIVISION OF FISH AND WILDLIFE

Consideration for Approval of a Nonrule Policy Document (Information Bulletin #54) to Provide a Compilation of the Fees as Approved by the Natural Resources Commission for Hunting, Fishing, and Trapping Licenses Issued by the Department of Natural Resources; Administrative Cause No. 07-037D

Linnea Petercheff of the Division of Fish and Wildlife presented this item. She said proposed Information Bulletin #54 would provide a compilation of the hunting, fishing and trapping license fees that have been approved by the Commission in recent years. State statute has set the minimum fees for these licenses and has also given the Natural Resources Commission the authority to raise the fees above the minimum. Petercheff said the antlerless license fee has been lowered. “As a result, last fall we received a lot of questions from the licensed retailers, law enforcement, public and staff about the current fees for different licenses.” Petercheff added that the document also provides the beginning date and expiration date for the annual hunting, fishing and trapping licenses.

The Chair observed, “I think it’s important as well for the Commission members to realize that the Legislature passes minimums that the Commission then has the authority to alter.”

Larry Klein asked Petercheff, “Do you have a compilation of what the minimum fees are that were passed by Legislature, or are these one in the same?” Petercheff responded that the fees in the proposed nonrule policy document were not the minimum fees that are set forth in statute. In most cases, the fees approved by the Commission are “well above that minimum” set by statute.

Robert Wright moved for the approval of a nonrule policy document, as set forth in the Commission packet, to compile the fees approved in recent years by the Natural Resources Commission with respect to fish and wildlife licenses. Larry Klein seconded the motion. Upon a voice vote, the motion carried.

DIVISION OF OUTDOOR RECREATION

Consideration for Request from the Division of Outdoor Recreation for Approval of the Statewide Comprehensive Outdoor Recreation Plan (SCORP) 2006-10; Administrative Cause No. 07-039T

Emily Kress, Director of Outdoor Recreation, introduced this item. She said at the Governor's request in December of 2005, the Division of Outdoor Recreation "coasted" with the new Statewide Comprehensive Outdoor Recreation Plan ("SCORP") and instead focused on the Indiana Trails Plan. "This would have been a component of the SCORP, but it is now a stand-alone document, because at the Governor's request, we expanded the trails report." Kress said two new Planners were hired September 2006 to work on the SCORP. "I think that it's significant in that they took this material, which was not put together, in this amount of time." She then introduced Carman Jackson, Planner, to provide information and history on the SCORP.

Carman Jackson reflected, "The State of Indiana has a history of planning. The history of planning for outdoor recreation began back in 1938. We continue that tradition today with the SCORP, the document that you have in front of you." She said a new SCORP is prepared every five years and has a primary function of qualifying Indiana for funding from the Land and Water Conservation Fund (L&WCF). The L&WCF has been "extremely important to our state and helps us tremendously financially." Jackson said since the adoption of the grants fund in 1965, Indiana has received over \$82 million. The SCORP also "provides guidelines for recreation planners from the local level through the federal level and every level in between. We have tried to produce a document that gives valid guidelines that any recreation provider can follow to try and stay in-line. We're all working toward a common goal." The proposed SCORP encourages outdoor recreation providers to "look beyond grants" and to try to partner with other groups to build funding opportunities. Jackson said that the SCORP also includes how outdoor recreation can assist in "battling the health disparity that Indiana seems to be facing."

Larry Klein asked the Chair if the SCORP was being presented to the Commission for its adoption. Bryan Poynter replied, "Yes". Klein also asked whether the SCORP had been on previous Commission agendas for discussion. The Chair replied, "Not to my knowledge." Klein then asked, "And, we will get this one look at it, and it will be in place for the next five years?" The Chair deferred to Jackson for clarification.

Jackson replied, "It is a five-year document, yes." She said that the SCORP "is a necessity for use in developing grant guidelines" as defined by 312 IAC 26-2-2. "So, it is a necessity that it be approved."

Klein asked, "Is there a date at which we're up against in terms of its adoption?"

Jackson responded that due to the delay caused by working on the Indiana Trails Plan, "we are basically a year behind, and L&WCF and National Park Service are pushing for it as soon as possible. We haven't received a cut date." She said the National Park Service also is currently reviewing the SCORP. "They should have had the document for a week, at this point in time."

Klein asked, "So there still may be revisions to this document?" Jackson replied, "Yes."

Commission Member, Richard Mangus, asked Jackson when the five-year plan would begin and end. Jackson replied, "It actually started in 2006, this plan did, to remain consistent with the

L&WCF grant funds. Because this was funded on a 50% match by L&WCF funds, we're actually running a year behind." The proposed SCORP is for 2006.

John Davis asked Jackson how many SCORPs had previously been before the Commission. Jackson answered there "had been four or five SCORPs to come before the Commission since 1965. It's required by the Land and Water Conservation Fund."

Davis asked that if the SCORP were given preliminary approval by the Commission "today, allowing the members time to review the plan and make suggestions," could the Division of Outdoor Recreation "live with that" while also allowing National Parks Service to finish its review. Jackson replied, "We could live with that, and that would give me time to go back to the National Park Service. The Park Service does know that it was going before you today. I can go back and speak with Mr. Anderson of the National Park Service if we're granted approval."

The Chair addressed Jackson and Kress. "I know that you had a whole advisory group that has helped to prepare the document and to work with this along the way. If it's going to cause an issue for us, or if there are reasons for us to take action today, be very specific with what actions you would require, so that we can help move this process along." Kress responded, "I think if there's preliminary adoption today, we're okay." The National Park Service may want to make modifications to the plan. "We would like to be able to go to press and print it in April, but if it takes longer, it takes longer. The SCORP is a five-year document, and the Commission should be comfortable with it before giving approval." She added, "We can always come back at your next meeting and ask for approval of the amended document."

Jane Ann Stautz said it may be helpful for the Commission members to know if there were any significant changes or updates to the current SCORP proposed in the new SCORP. "I've looked at a couple of these over the years, and sometimes it's hard to say what's really different about this one."

Jackson said that the most significant difference for the proposed SCORP was "basically the format and the way it's written up." She said the proposed new SCORP was a little less technical, and "a little more written for the provider and at a level that anyone can interpret the data," than the current SCORP. There are "significant changes as far as critical counties." In the past, counties in critical need of assistance were identified by population growth, measured according to a population standard of 6.5% growth. "We have proposed the standard for growth at 3.1%, which is in line with the state population growth in the past five years. That is probably going to be the most significant change." She said as far as trends, "We've used the same survey as far as participation survey for the past five SCORPS." Jackson said the trends have been watched and documented.

Larry Klein asked, "You said that you've had \$82 or \$92 million in funding that has come through as a result of previous plans. When you define those dollars, are you talking about now that there will be a whole new group of projects in this plan that you're attempting to secure funding for?"

Davis responded that the SCORP “acts as a guideline” and that most of the funds come through the Land and Water Conservation Funds. Approximately half of the funds go to local units of government. He said the Division of Outdoor Recreation may have a grant program “where we say to all the counties, we have \$1,000,000, for instance, that we’re going to give. And the maximum grant is \$200,000, and so we end up with a bunch of applications. The grant writers measure the applications based on what kind of recreation is available, what kind of recreation is scarcer than what it should be according to the population in the county or region.” He said “the SCORP is an outline of what kind of activities people do, where they do it, whether there are enough of those opportunities for an area, and then the application is measured as to whether it meets the demand within the SCORP.”

Kress added, “A simple way to say that, too, is this document, the SCORP, helps the Grants Section in the Division to develop criteria.” When an application is received, it is rated according to a score sheet. The number of points an application receives is based on the criteria, and the points are assigned based on the SCORP. “One of the highest ‘point getters’ still is if you acquire land with your application, because that’s the same thing that keeps showing up that we need the most. So, if you have land acquisition in your application, you’re going to score better than somebody that doesn’t have it.” Kress said the SCORP criteria and the application process are located online at www.in.gov/dnr/outdoor. Kress reflected that “something different” in the proposed SCORP was information obtained from a boaters’ survey.

John Davis said, “Either we apply this analysis of recreation that exists, or that we should aim for, in Indiana, to other programs, too.” He stated that DNR is participating in an INDOT program for 30 different communities, counties, and towns along I-69. Part of I-69 is to provide help to those communities to “cope with the road and do it in a way that is environmentally and natural resources sensitive.” He said the SCORP would be one of the many measures to analyze projects submitted to INDOT by the 30 counties. “We’re just an advisor; we don’t get to make the final decision. But the SCORP will be part of what we bring to the table.”

Klein reflected, “I guess that was the basis for my questions. I know this document to be a very important document. I didn’t know how much coverage it had received at previous Commission meetings. It does set certain things in place for a long period of time that the rest of the state then has to adjust to. And, that’s all these other localities throughout the state, when they submit their grants and when they look at the things that qualify them or don’t qualify them. Additionally, I would presume that it also sets a certain set of parameters for your own projects, the ones that you want to score and use your half of the money for.”

Davis replied, “Well, I think we measure what we’re going to provide with a project, based on the SCORP.” He referenced the increase of public land from 3% to 4% being “a huge change for us. A whole lot of people have done a lot of things, and I’m thinking, for example, about Bob’s efforts on Heritage Trust.” Davis said that the shortage of public land in Indiana continues to be, and will continue to be, a major element. “We’re always going to have less public land than our population would say we need, so it’s always going to be a high score.” Davis said maybe there has been a “new number one” criterion such as walking, hiking, or bird watching that is “jockey around” for position, but he did not “feel that it would be a profound change whereby a planner

who read the last SCORP would say, ‘Oh, my gosh, everything has changed.’ Actually, most things have remained the same.”

The Chair added, “Hearing those comments, thank you again both for your efforts and all the advisory members who worked to pull that together. I would ask you to make a motion, Larry, to reflect the change, because we’re not actually approving this, if I’m hearing what you’re asking for.”

Klein, replied, “No, actually, I really don’t have a problem approving it, based upon John’s clarification as to the significance and in terms of change, if it’s relatively the same SCORP. I know you’re working behind the eight ball a little bit in terms of time. Not to be an impediment, but I wanted to get a sense of how much discussion occurred on this.” Klein said that he wanted to “amplify the SCORP’s importance for the rest of the Commission members, as it relates to the rest of the people in the state. If it is relatively the same document, then we’re not rushing anything through without due diligence on it.” Klein then moved for the approval of the Statewide Comprehensive Outdoor Recreation Plan (SCORP) 2006-10 as presented. Jane Ann Stautz seconded the motion. Upon a voice vote, the motion carried.

Jane Ann Stautz asked Jackson if there were a time frame in which to have SCORP 2006-10 available for county and city recreation planners. Jackson said the Division of Outdoor Recreation hoped to have the SCORP distributed by the end of April.

The Chair asked Jackson for clarification as to whether the Trails Plan was part of the SCORP or separate. Jackson responded that the Indiana Trails Plan was a separate document “at this time”.

NRC, DIVISION OF HEARINGS

Consideration of Request for Approval of the Recommended Report of the Natural Resources Commission with Respect to the “Petition for Establishment of the 500 North Conservancy District”; Administrative Cause No. 06-181C

Stephen Lucas, Director of the Division of Hearings, introduced this item. First, he referenced a discussion earlier in the day in the Natural Resources Advisory Council regarding “standards used by the Division of Hearings with respect to conservancy districts, and particularly petitions to establish conservancy districts.” He said Advisory Council Member, William Pippenger, recalled the Advisory Council helped draft the nonrule policy document which addresses procedural guidelines for conservancy districts. “I want to take this opportunity to underline how important this nonrule policy document has been for us. We use the document on a regular basis. It is a stellar example of what the Advisory Council can do in terms of being helpful to the agencies and also in terms of being helpful to citizens that are regulated by the agencies.”

Lucas then turned his comments to the particularities of the proposed 500 North Conservancy District. He explained that if the Commission adopted the hearing officer’s report and recommendations, “this conservancy district is not going to be formed unless a whole lot of evidence is provided to the Porter Circuit Court to convince the Porter Circuit Court that the

District should be formed.” Lucas then deferred to Jennifer Kane who served as the hearing officer.

Kane reported that the Porter Circuit Court found the “Petition for the Establishment of the 500 North Conservancy District” conformed to statutory requirements and referred the petition to the Commission on October 2, 2006. The Court directed the Commission to make findings and report back to it. She noted the 500 North Conservancy District is proposed to be established for all purposes listed in statute IC 14-33-1-1. In response to the referral, the Division of Hearings provided notices to interested agencies and made arrangements for a public hearing in Valparaiso.

Kane said the public hearing was held as scheduled on November 30, 2006. “The statute requires the Commission make a determination and report to the Porter Circuit Court whether the proposed establishment of the 500 North Conservancy District meets, depending on the particular purpose, five to six statutory conditions.” She indicated that the recommendation and findings begin on page 14 of the report.

Kane said the impetus for the creation of the proposed conservancy district is a residential development and associated office park which would be located “wholly within” the corporate limits of the City of Valparaiso. She said the report reflected that Valparaiso has “many concerns” regarding the proposed district. The City of Valparaiso indicated it would not support the creation of the 500 North Conservancy District without a resolution of these concerns. “Basically, the Petitioner is using the conservancy district law as a vehicle to provide for the financing of the proposed development and its infrastructure.”

Kane explained that the Conservancy District Act requires affirmative findings for each element of a purpose in order to authorize the District to undertake the purpose. “The only purpose to which six affirmative findings have been made is to the purpose of improving drainage. I don’t think the Petitioner intends to establish the district for this one purpose.” The Petitioner provided “insufficient evidence” to support the establishment of the 500 North Conservancy District for any of the other eight proposed purposes.

“Essentially, the report supports the denial of the establishment of the 500 North Conservancy District,” but the decision to form or not form the district rests exclusively with the Porter Circuit Court. With respect to petitions to form conservancy districts, the Commission acts as an advisor and friend of the court and does not adjudicate. Kane recommended approval of the recommendation and findings as the Commission’s report to the Porter Circuit Court.

The Chair observed, “It is not unusual for these conservancy districts to appear on our agendas, and at times they can be quite cumbersome and quite complicated.” He said it was his understanding that these issues “are becoming more prevalent so it will be incumbent on us, as Commissioners, to understand how these conservancy districts function, what they do, and what role we play in advising the courts.”

Easterly asked, “Is it normal to have a conservancy district inside the city?” Lucas responded that the Conservancy District Act “certainly anticipates this possibility. It’s not the most

common scenario, but it is a possibility. It's a possibility that is discussed in the Act and that the General Assembly considered when enacting the legislation.”

Richard Mangus asked whether the proposed conservancy district was being formed for the purpose of wastewater treatment. Kane said the treatment of sewage and other liquid waste was listed in the petition as one of the purposes of the proposed district. “However, discussions are ongoing between the City of Valparaiso and the Petitioner as to the possibility for having the City of Valparaiso provide its facilities for the treatment of waste originating within the proposed district.”

Thomas Easterly moved to approve the report, as presented, to the Porter Circuit Court to constitute the Commission's findings and recommendations regarding the petition for the establishment of the 500 North Conservancy District. Doug Grant seconded the motion. Upon a voice vote, the motion carried.

Adjournment

Meeting adjourned at 11:50 a.m., EDT.

Future Meeting Dates:

May 22: Clifty Falls State Park

July 17: Pokagon State Park

September 18 (Tentative): Turkey Run State Park

November 13: 10:00 a.m., ESt, The Garrison, Ft. Harrison State Park