

NATURAL RESOURCES COMMISSION
Meeting Minutes, March 15, 2022

MEMBERS PRESENT

Bryan Poynter, Chair
Jane Ann Stautz, Vice Chair
Dan Bortner, Secretary
Brian Rockensuess
Laura Hilden
Marc Milne
Bart Herriman
John Wright

NATURAL RESOURCES COMMISSION STAFF PRESENT

Scott Allen Elizabeth Gamboa
Billie Franklin

DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT

Chris Smith	Executive Office
Ryan Mueller	Executive Office
Kirsten Haney	Executive Office
David Bausman	Legal
Justin A. Paicely	Legal
Coty Calvin	Legal
Steve Hunter	Law Enforcement
Terry Hyndman	Law Enforcement
Erick Bolt	Law Enforcement
James B. Brindle	Communications
Linnea Petercheff	Fish and Wildlife
Geriann Albers	Fish and Wildlife
Ronald Hellmich	Nature Preserves
Dale Brier	State Parks

GUESTS PRESENT

Aaron Bonar Alan Hux
Glenn Gerschke Samantha Morton

Bryan Poynter, Chair, called to order the regular meeting of the Natural Resources Commission at 9:59 a.m., ET, on March 15, 2022, at Fort Harrison State Park, Garrison, 6002 North Post Road, Ballroom, Indianapolis. With the presence of eight members, the Chair observed a quorum.

APPROVAL OF MINUTES

The Chair asked for a motion for the approval of the Commission's January 18, 2022, meeting minutes. Brian Rockensuess moved to approve the minutes as presented. Jane Ann Stautz seconded the motion. Upon a voice vote, the motion carried.

REPORTS OF THE DNR DIRECTOR, DEPUTY DIRECTORS, AND THE CHAIR OF THE ADVISORY COUNCIL

Dan Bortner, Director of the Department of Natural Resources (Department), provided his report. Bortner welcomed Elizabeth Gamboa as the new Director of the Natural Resources Commission (Commission), noting Gamboa started with the Commission on January 24, 2022, and that this was her first Commission meeting.

Bortner said one of the biggest challenges for the Department is staffing, but that Governor Holcomb (Governor) recently unveiled a plan to address employee retention and recruitment of new state employees. The plan addresses many areas including compensation, benefits, alternative work schedule, and remote work with the first of three phases of the Governor's plan being revealed on March 7, 2022.

Bortner thanked the Department's Legislative Director, Caitlin Smith, for her efforts during the 2022 legislative session, at which most of the Department's agenda was passed. Bortner thanked Deputy Director Chris Smith and General Counsel, David Bausman for helping with Legislative Committee meetings that sometimes conflicted with each other. Bortner noted Senate Bill (SB) 186, codifying the Department's reorganization changes approved at the March 16, 2021, Commission meeting. The reorganization eliminates and renames divisions and bureaus that have been merged by the Department. SB 186 also establishes the Indiana State Park Inns Authority as a body corporate and politic for the operation, management, and administration of inns and associated facilities. He noted the history of the Indiana State Parks Inns. Once the bill is signed by the Governor, the inns will be an official quasi-government entity owned and operated by the Division of State Parks and employees of the Inns will be eligible for state employee benefits.

In February, the Department had two booths at the annual Boat Sport and Travel Show (BSTS) at the Indiana State Fairgrounds. The event kicks off the recreation season and is attended by outdoor enthusiasts and vendors. The Department sold annual passes, licenses, and permits for the 2022 season at the BSTS.

Bortner shared the Division of Forestry is on track to reach the Governor's plan of planting a million trees in five years, with over 400,000 trees planted, and another 230,000 trees scheduled to be planted in the spring of 2022.

Bortner reported the Governor's pledged deferred maintenance funds is helping the Department get caught up with several projects that will be completed this year.

The Department is preparing for construction of the new inn at Potato Creek State Park with a signed design contract and the construction management company selected the inn is on schedule to open in 2024.

Chris Smith, Deputy Director of the Land Management Bureau, provided his report. He reported with the nice weather the Department properties have experienced a rush of visitors and the Department is still in need of more staff.

Smith said the J.C. Murphey Lake renovation at Willow Slough Fish and Wildlife Area will start March 21, 2022, and will improve habitat and recreational opportunities. The renovation will run through 2024. Certain activities will not be available during the construction.

Smith noted the sixteenth annual Indiana National Archery in the Schools Program state tournament was held at the Indiana State Fairgrounds with 2,300 Indiana students participating. He thanked the Division of Law Enforcement and the Hunter Education Program for their coordination and organization of the tournament.

The Department has again partnered with the Indiana Destination Development Corporation (IDDC) with the Indiana State Nature Passport, a free digital application that can be downloaded to a phone. The Passport encourages visitors to discover new places and enjoy the outdoors. It also gives opportunities to win prizes. Smith noted 22 additional properties were added to the passport in 2022, with a total of 81 properties. A user downloads the application on their phone and the application's geolocation identifies when the user visits a property. A person can accumulate prizes for visiting properties.

According to Smith, the Department staff is planning for the solar eclipse that will take place on April 8, 2024. One-third of the state will be in the path of totality. Agencies in other states who have experienced the eclipse reported a large volume of visitors to public spaces. The Department is planning logistics to ensure the 2024 solar eclipse event goes well. Smith noted people are already making reservations at the state park inns for that date.

Ryan Mueller, Deputy Director of the Regulatory Bureau, provided his report. He said the Division of Historic Preservation and Archaeology has been working on The Green Book Sites Project. The Green Book, created by Victor Green, was published in 1936 to help African American travelers navigate through segregated parts of the United States. The Green Book listed places to sleep, eat, and relax. Green and his wife Alma published new editions of the book until the 1960s, selling 20,000 copies a year. During the years the book was in circulation, 200 businesses in Indiana were listed. Division staff are conducting site visits to determine if the 25 sites believed to still be standing are eligible for the National Register of Historic Places. The

project has been featured on WISH Television, Channel Eight and the Indianapolis Star published an article on February 16, 2022.

Mueller stated the Division of Entomology is participating in several education and outreach events in the next several months, focusing on invasive species. He noted some of the events include the Indiana Flower and Patio Show on March 12 to 20, 2022, and the Bug Bowl at Purdue on April 9, 2022.

Kirsten Haney, Deputy Director of the Bureau of Administration, provided her report. The Department, along with the Indiana Department of Administration, are finishing site visits to properties benefitting from the \$52 million in funds from round two of the deferred maintenance projects. The projects included \$5 million for updated American with Disabilities Act (ADA) compliant playgrounds, and \$10 million for Spring Mill Inn renovations at Spring Mill State Park. Haney noted 78 completed deferred maintenance projects.

Haney said the Department received the assessment for the Department's building at the State Fairgrounds and will meet with the Indiana State Fair Commission on the upgrades.

Haney stated as of March 11, 2022, the Department had 1,188 regular positions filled and 209 regular positions vacant. The Department currently has 93 openings in the "request to hire queue" and are still having difficulty hiring people for the salary offered, but with the compensation study results, there is a possibility of salary adjustments in the next biennial budget.

Haney stated the Department is involved with the legislative infrastructure bill and the Office of Management and Budget (OMB) has a working group. The Department is reviewing what funding opportunities are available. There will likely be funding available for abandoned mined lands and orphaned wells.

The Chair noted nothing to report from the Advisory Council.

CHAIR AND VICE CHAIR

Information: Consideration of 2022 meeting dates:

The Chair noted the 2022 Commission meeting dates are May 17, July 19, September 20, and November 15. The May 17 meeting will be held at the Pavilion at Indiana Dunes State Park and the September 20 meeting will be held at another Department property, possibly Turkey Run State Park. The details, locations and other information will be forthcoming.

Updates on Commission and AOPA Committee

Jane Ann Stautz, Vice Chair of the Commission and Chair of the AOPA Committee, reported the Committee had not met since the last Commission meeting on January 18, 2022.

The Chair introduced and recognized the Director of the Natural Resources Commission, Elizabeth Gamboa.

Gamboa stated she had most recently been with the Office of Administrative Law Proceeding (OALP), was a staff attorney with the Department from 2016 to 2019, and prior to that had been a staff attorney with the Department of Child Services (DCS). She is excited to be in her position, looking at ways to improve efficiencies within the Division of Hearings, and ways to better support the Department.

Gamboa introduced Aaron Bonar, the new Administrative Law Judge (ALJ) with the Division of Hearings, who will start with the Division on April 4, 2022. Gamboa noted that Bonar's ALJ experience, skills, and personality will make a good fit for the Division

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 NATURE PRESERVES

Consideration of the dedication of the Elkhart Bog Addition Nature Preserve in Elkhart County

Ron Hellmich, Division of Nature Preserves, presented this item. The addition to the Elkhart Bog Nature Preserve is 12.36 acres to add to the existing 216-acre nature preserve. He described the map and noted the proposed addition protects the last part of the bog area. A trail being developed that will extend on a boardwalk out into the bog of the proposed addition.

Hellmich described Elkhart Bog Nature Preserve as a large wetland on an old glacial lake with moss growing on top, creating a floating mat of peat, plants, and roots. Plants of interest include purple pitcher plant, bog rosemary, and orchids. The interesting animals include sandhill crane, spotted turtle, and Blanding's turtle.

Hellmich said the Department owns the nature preserve and the Division of Nature Preserves manages it. Hellmich recommends dedication of the additional site as a State Nature Preserve.

The Chair asked why the additions to the nature preserves are spread out in the dedications instead of being dedicated together. Hellmich responded that pieces of properties are acquired or purchased at various times and a lot of time and dedication go into the nature preserve sites.

Laura Hilden moved to approve the dedication of the Elkhart Bog Addition Nature Preserve in Elkhart County. Bart Herriman seconded the motion. Upon a voice vote, the motion was carried.

DNR, DIVISION OF LAW ENFORCEMENT

Report to the Natural Resources Commission on citizen petition for Special Boating Zone and Temporary Structure Standards to waive 312 IAC 11-3-1 (b)(5) to allow a temporary pier or boat lift on Clear Lake in Steuben County; Administrative Cause No. 21-WA-024

Justin Paicely, Division of Legal Counsel, presented this item. Paicely described Clear Lake as very shallow and some piers in the water would need to extend past the 150 feet currently allowed under 312 IAC 11-3-1 (b)(5). The petitioner, Clear Lake Association (CLA), is requesting the creation of a special boating zone and temporary structure standards to waive the rule to allow a temporary pier or boat lift on Clear Lake.

Paicely noted Lieutenant Bolt with the Division of Law Enforcement and staff from the Division of Water have been to Clear Lake and found there were seven piers that had been granted a “lawful non-conforming status” due to lake being shallow in certain areas.

Paicely said the recommendation of the Department is to adopt a rule creating a special boating zone 300 feet from shore for boats to operate at idle speed, a rule for temporary pier structure standards in that zone and qualifying temporary pier structures may be placed 250 feet in the special boating zone. This would also allow the CLA to obtain permits to place buoys to mark the idle speed zone for those areas where piers are placed.

Paicely said the Department does not recommend CLA’s request for proper distancing while operating a boat greater than “slow, no wake speed” 200 feet from shore, 100 feet from a dock, raft, swimming area or person in the water, 50 feet from any marker buoy other than a ski course marker, and 50 feet from any moored or anchored vessel. The Department’s Committee noted the distancing request could be more dangerous for certain boats that would not be able to navigate safely. Current Indiana Code and Indiana Administrative Code govern operation of watercrafts.

John Wright moved to approve the Report as recommended to the Natural Resources Commission on citizen petition for Special Boating Zone and Temporary Structure Standards to waive 312 IAC 11-3-1 (b)(5) to allow a temporary pier or boat lift on Clear Lake in Steuben County. Brian Rockensuess seconded the motion. Upon a voice vote, the motion was carried.

NRC, DIVISION OF HEARINGS

Consideration of Hearing Officer report on rule processing, public hearing, and hearing officer analyses with recommendation regarding final action to amend 312 IAC 9-3-18 governing the use of body-gripping traps; amend 312 IAC 9-10-11 governing the use of body gripping traps under nuisance wild animal control permits and adds 312 IAC 9-10-28 governing the indication of being an organ donor when purchasing a hunting, fishing, or trapping license online; LSA #21-451(F); Administrative Cause No. 21-FW-021

Billie Franklin, Hearing Officer, presented this item. Franklin stated the Commission granted preliminary adoption of the proposed amendments. The comment period was opened on September 21, 2021, during which no written comments were submitted. A virtual public hearing was conducted on January 21, 2022, which eight members of the public attended. She noted most of the comments at the public hearing were about the body gripping traps, with most people in favor of the proposed changes.

Franklin noted a copy of the rule language was included as exhibit C to the Hearing Officer's Report and is recommended for final adoption.

The Chair clarified the citation as 312 IAC 9-10-28 as governing the indication of being an organ donor when purchasing a hunting, fishing, or trapping license online.

Franklin confirmed 312 IAC 9-10-28 as the correct citation.

Brian Rockensuess moved to give final adoption to amend 312 IAC 9-3-18 governing the use of body-gripping traps; amend 312 IAC 9-10-11 governing the use of body gripping traps under nuisance wild animal control permits; adding 312 IAC 9-10-28 governing the indication of being an organ donor when purchasing a hunting, fishing, or trapping license online; and amending 312 IAC 8-2-3 and 312 IAC 8-2-10, governing property rules, as presented. Jane Ann Stautz seconded the motion. Upon a voice vote, the motion carried.

Consideration of the Hearing Officer's Proposed Report of the Natural Resources Commission with respect to the Petition for the Establishment of the James Phillips Conservancy District; Administrative Cause No. 21-055C

Elizabeth Gamboa, Hearing Officer, presented this item. Gamboa said the proposed report, if approved by the Commission, will be filed with the Hendricks County Circuit Court (Court) in the matter of the James Phillips Conservancy District (JPCD).

The establishment of the JPCD was referred by the Court in accordance with IC 14-33-2-17 on November 24, 2021. The Commission has 120 days to file the Commission Report without being granted a 30-day extension. The Commission Report filing deadline is March 24, 2022.

Under the Constancy Act the Commission with the assistance of the Division of Water provides technical review and analysis of proposed conservancy district. The report looks at whether the proposed district necessary, does it hold promise of economic and engineering feasibility, it offers a benefit in excess of costs and damages, the benefits to public health, it serves a geographic area in the district, and the compatibility of the proposed district with other water management projects.

Gamboa said the Commission solicited input from approximately 20 government entities from the State or Indiana, Hendricks County, and Town of Danville. She noted responses were received and comments are attached to the Hearing Officer Report as Exhibit 6.

Gamboa stated a public hearing was on the JPCD was held on February 1, 2022, in Danville, Indiana. Notice of the public hearing was published one time on January 6, 2022, in the Republic Newspaper in Hendricks County. Jamie Miller with the Division of Water and Alan Hux, the attorney for JPCD, attended the meeting. No Comments were offered by the public at the hearing and no written public comments were received. Gamboa noted Hux made a presentation that included witness statements and exhibits that are attached as exhibits in the Hearing Officer Report.

Gamboa described the proposed JPCD plan as a 178.5-acre residential mixed-use development in Hendricks County. The property is currently used for farmland, without water, sewage, or drainage, and is outside the Brownsburg service district. The JPCD plans to either purchase potable water from Citizens Energy Group or constructing a potable water system. Gamboa noted the JPCD considered getting sewer service through the Brownsburg Sewer District, but it was cost prohibitive. JPCD proposed three ponds would be constructed to handle stormwater drainage, the area around the ponds will be landscaped, there would be trails, and the area will have recreational facilities.

Gamboa stated an Economic Feasibility Analysis was conducted that outlines the projected costs and funding for the JPCD and is included with the Hearing Officer Report as Exhibit 5.

Gamboa stated the proposed JPCD appears be necessary, holds promise of economic and engineering feasibility, offers a benefit in excess of costs, benefits the public health, and serves a proper area. The proposed JPCD can be established and operated in a manner compatible with established conservancy districts, flood control projects, reservoirs, lakes, drains, levees, and other waste management or water supply projects. The Division of Water's report, attached to the Hearing Officers Report as Exhibit 7, supports this conclusion. Gamboa stated her recommendation is the Commission approve the proposed report, as submitted, as the Final Report of the Commission for submission to the Hendricks Circuit Court.

The Chair recognized Alan Hux.

Hux stated that he has no additional comments, agrees with the Hearing Officer's Report, and was available if there were any questions regarding the proposed JPCD.

Brian Rockensuess moved to approve the Hearing Officer's Report with respect to the Petition for the Establishment of the James Phillips Conservancy District, as presented. Jane Ann Stautz seconded the motion. Upon a voice vote, the motion was carried.

The meeting was adjourned at approximately 10:35 a.m., ET.