



Commonwealth of Massachusetts

Division of Fisheries & Wildlife

MassWildlife

Jack Buckley, *Director*

COMMONWEALTH OF MASSACHUSETTS
DIVISION OF FISHERIES AND WILDLIFE
FISHERIES AND WILDLIFE BOARD
MEETING MINUTES

PRESENT: George Darey/Chairman; John Creedon/Vice Chairman; Michael Roche/Secretary; Bonnie Booth, Dr. Joseph Larson, Dr. Brandi Van Roo, Fred Winthrop, George Peterson/Commissioner/DFG, Mary-Lee King/Deputy Commissioner/ DFG, Jack Buckley/Director, Mark Tisa/Deputy Director, Laura Conlee/Assistant Director/Wildlife, Marion Larson/Chief/I&E, Craig MacDonnell/Chief/Wildlife Lands, James Burnham/Regulations Specialist, Jason Zimmer/Supervisor/Southeast Wildlife District, Steve Wright/Southeast Technician, Capt. Robert Forsythe/OLE; PUBLIC: Jim Wallace, John Kellstrand, Paul Johnson, Charlie Lewis, Julie English.

DATE: June 21, 2016

LOCATION: UMass Cranberry Station
One State Bog Road, East Wareham, Massachusetts

Chairman Darey opened the June meeting of the Fisheries and Wildlife Board at 1:10 P.M.

Acceptance of Minutes

Dr. Larson moved acceptance of the May minutes and Mr. Winthrop seconded. The motion passed unanimously.

Chairman's Comments

Chairman Darey welcomed the attendees.

The Chairman reported that he had driven by the Laurel Lake fishing area the morning of the meeting, and saw five people fishing there, with a van from a nursing home. He reported that the police are sometimes called to assist because the parking and access are dangerous, and the Town may close the fishing area. Stating that the Division stocks a lot of fish in Laurel Lake for the benefit of local residents, he asked the Commissioner to speak to the Office of Fishing and Boating Access about a less expensive option for upgrading the fishing area that could get completed soon.

Chairman Darey reported that Division staff threw a great anniversary event on June 4. He thought the day was fantastic and asked for a round of applause for the Director and his staff who worked so hard to make it a success. The Chairman reported that he had talked to a lot of visitors, and all enjoyed it. He stated that the success of the day was one of the most impressive things he's seen since he has been on the Board.

Next the Chairman reported a serious problem in the Berkshires: a large planned drawdown on Stockbridge Bowl. He noted that the DFW has been involved in drawdowns at the Bowl before because there is an endangered snail in the lake. Chairman Darey reported that an article in the newspaper had reported that the town was bringing in large equipment, and spending a total of \$3.9 million to try to draw the lake way down and get rid of the weeds. He stated that the lake association says it won't do any damage, but a drawdown does considerable damage. Chairman Darey noted that the lake is an important bass fishery, is very popular, and a beautiful lake. He cited an example of the lake at the Edith Wharton estate, where there was a big drawdown; the lake used to have 5 or 6 big snapping turtles, but now there are none.

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Commissioner's Comments

Commissioner Peterson seconded the Chairman's comments on the 150th event, adding that his biggest impression was the tremendous age range of the people that attended, from babies to elderly people.

The Commissioner reported that the agency had lost its battle in the Senate on the Lesser amendment that would prohibit the agency from pursuing the rattlesnake restoration project, but further reported that there is still a process to go through before it goes to the Governor. He also reported that he had spoken to the Commissioner of the DCR regarding the list of DCR properties proposed for habitat restoration; Commissioner Roy has looked at the list and discussions will be scheduled.

Deputy Commissioner MaryLee King reported that the budget was on hold as of the day of the meeting because the two versions were so out of balance. She reported that the senate president, the representatives, and the governor were working together, but that this may be a difficult year for reconciliation. Regarding the Lesser amendment, D.C. King reported that advocates for the project were lighting up Senators Lesser's and Gobi's phones, but that the outcome was not known at that point.

Director's Comments

Director Buckley reported that every exhibit for the 150th anniversary event had come from staff on their own initiative, and he was very pleased to see and hear how much people enjoyed the day. The Director reported that there are preliminary discussions about doing another open house again next year, given staff enthusiasm and the added physical capacity from the large new storage building and parking currently being constructed at the Cronin Building.

Director Buckley also confirmed that Governor Baker is scheduled to be attending the McLaughlin pipeline groundbreaking event on the following Friday, while the Director reported that he himself could not attend due to a family commitment that couldn't be postponed.

The Director reported that a new Lake Trout state record had been set at the Quabbin Reservoir. The fish weighed 25 pounds, 7 ounces, almost a pound and a half heavier than the previous record set in 2004, and was caught the first week of June.

Director Buckley also reported that the DFW's new fisheries biologist, Becca Quinones, had just been appointed to the climate-change working group of which former Assistant Director John O'Leary had been a leader.

The Director also noted two recent retirements of staff, Natural Communities Ecologist Pat Swain and Restoration Ecologist Tim Simmons, wishing both the best in their retirements. The Board echoed his sentiments.

Law Enforcement Comments

Captain Forsythe reported that there are currently 91 sworn officers in the OLE. Its most recent retiree is Robert Ingemi, who retired with 31 years with OLE, was most recently assigned in the Marine Theft Bureau.

The Captain reported that OLE continues working with the DFW to further develop the Bear Attack MOU, and noted that OLE/DFW coordinated large-animal responses have improved during recent events.

Captain Forsythe stated that this is the time of year when OLE is concentrating on heavy boating activity, with the goal to provide safe waterways for the citizens of the Commonwealth and its many visitors. Fishing and boating activity has increased and the number of the agency's inspections, for fishing- as well as boating-related issues, continues to rise

He also reported that the OLE continues to schedule spring/summer Boat Safety and Off Highway Vehicle Safety classes, noting that course listings of available classes can be found on the OLE Website.

The Captain reported that OLE will have added manpower on duty during the weekend of June 24-26 in order to staff boat patrols concentrating on boat operators under the influence of alcohol enforcement. This is a Coast Guard Operation run nationally called "Operation Dry Water". OLE is also preparing schedules in order to meet the demands of a variety of Fourth of July weekend maritime events.

Personnel Report (Jack Buckley)

In the absence of Associate Director McCarthy, the Director presented the Board with the following Personnel Report:

New Hire

<u>Employee</u>	<u>Position</u>	<u>Location</u>
Daisy Medeiros	Endangered Species Review Assistant Office Support Specialist II	Westborough

After a brief discussion, Ms. Booth moved that the Personnel Report be accepted as presented; Mr. Winthrop seconded the motion; the vote in favor was unanimous.

Open Meeting Law Review (Richard Lehan, Esq.)

Richard Lehan, General Counsel to the DFG, presented the Board with a comprehensive review of the Open Meeting Law as it applies to state public bodies, as the Chairman had requested during the previous monthly meeting.

Draft Trails Policy (Craig MacDonnell)

Chief of Wildlife Lands MacDonnell led a discussion of two draft policies submitted for Board review and approval, a Wildlife Lands Policy and a Walking Trails Policy. Mr. MacDonnell reported that the Board discussion follows up on several meetings of Senior Staff during the previous eight months, and that the question of whether and to what extent it made sense for DFW to consider this issue arose from three things: 1) a growing sense of increased pressure on WMAs for trail usage; 2) an actual increase in the number of requests for trail construction; and 3) a number of situations where trails advocates have seemed to be overreaching, all of which Mr. MacDonnell said he would review for the Board.

Mr. MacDonnell's presentation provided a brief opening orientation to the trails situation on DFW lands, a review from the District Managers of what trails exist on our WMAs, a review of the results of a survey of Northeast Association of Fish and Wildlife Agencies states regarding land-use issues, a review of trails impacts on wildlife from the Wildlife Section, and a discussion of the policy proposal agreed upon by Senior Staff.

Outlining the elements of the proposed Wildlife Lands Policy, Mr. MacDonnell stated that it is the more general statement of the agency's position regarding how DFW lands should be utilized. He read the DFW's statutory mandate to provide both biological protection and management while also providing wildlife-dependent recreational opportunities. The Wildlife Lands Policy starts with a primary rule that relates to the DFW's two-part statutory mandate, which is that DFW shall measure management decisions "in terms of consistency with the statutory mandates of protecting wildlife resources [and] managing and providing wildlife-dependent recreational opportunities, including hunting, fishing, and trapping." Next, it observes that protecting land is necessary to meet DFW's statutory obligations to do both things and that we've conserved a healthy but relatively small number of acres across the state in comparison to the total area of the state. Mr. MacDonnell stated that the policy suggests the DFW should very careful in how it manages this acreage and that it guard those acres against a rapidly growing demand for activities that are contrary to our mission by making management decisions that are consistent with our statutory mandate.

And in implementing that primary rule, Mr. Mac Donnell stated that the DFW should specifically observe more specific standards of a secondary rule: to "1) maintain WMAs and Access Areas as wild and undeveloped places to the greatest extent feasible consistent with the habitat management goals established by the [Board]; (2) encourage stewardship that advances this standard; and (3) discourage activities that compromise this standard." Mr. MacDonnell believes this rule gives the staff and the Board great flexibility to do what's right, so long as we keep our two agency mandates front and center.

Mr. MacDonnell went on to state that the second policy proposed, the DFW Walking Trails Policy, nests within the first one. He explained that the basic rule of this policy discourages trails as inconsistent with our mission with a general exception for connectivity of existing major walking trails, and a narrow exception in discretion of the Director and Board, to allow flexibility for future unforeseen circumstances.

At 3:00 P.M., Director Buckley asked the Chair to interrupt the meeting to hold the public hearing that had been advertised to begin at that hour.

3:00 P.M.: Public Hearing

Director Buckley identified himself as the Hearing Officer and introduced the Board members by name and position on the Board. He then stated that before the hearing opened the meeting would be given a review presentation on the proposed changes arising from the governor's E.O. 562 by Regulation Specialist Jim Burnham; the Director congratulated Mr. Burnham on taking the initiative and doing a thorough, excellent job. Mr. Burnham stated that the proposal had been slightly revised from the initial presentation with the consent of the Board at a previous meeting. At that time, the Board had given approval for an additional grandfather clause that had expired to be rescinded from the regulations.

After Mr. Burnham's presentation, the Hearing Officer opened the hearing by stating the statutory and regulatory authority for the hearing and the specific CMR citations where the changes were proposed, and asked for any oral comments at that time. Hearing none, the Hearing Officer closed the hearing.

After the hearing closed, the Board returned to open session. The Chairman then resumed the Wildlife Lands and Trails policy presentation and discussion.

After an extended discussion, Board members expressed concern about a number of related issues not specifically covered by the proposed policies and discussed and offered alternatives for some of the specific language in them. The Director noted that the issues raised weren't part of staff discussions to that point, but that the issues can be investigated in the continuing work on the policy. Deputy Director Tisa asked the Board members for specific edits, in red-lined versions, if possible, for staff to analyze and incorporate.

Natural Heritage & Endangered Species Advisory Committee Report

Dr. Joseph Larson reported that the Natural Heritage and Endangered Species Advisory Committee's previous meeting was relatively short. Retiring Natural Communities Ecologist Pat Swain had given a report on the process of revising categories of special habitats – natural communities – and creating a taxonomy of them.

Dr. Larson also asked about the MESA regulations that have not yet been approved for a public hearing, and wondered whether, now that the EO 562 process is wrapping up, those regs will actually get signed. The Commissioner expressed his own determination to finalize those regulations.

Chairman Darey asked for a motion to draft a memo to Secretary Beaton stating that the Board wants these regulations. Secretary Roche moved that the Fisheries and Wildlife Board send a memo to the Secretary asking him to meet with the Board at his earliest convenience and tell the members what it will be required to get the regulations sent to a public hearing; Vice Chair Creedon seconded the motion; the vote in favor was unanimous. Dr. Larson suggested that Assistant Director Tom French be asked about the specific concerns that cascade from the lack of those regulations, including publishing the Atlas and a new cycle of MESA review that will be coming up again.

Set Meeting Date

After a short discussion, members confirmed July 27, 2016, 11:00 A.M., and Mr. Winthrop offered to assist if necessary in contacting staff at the Parker River National Wildlife Refuge to hold the next Board meeting at the refuge visitor's center in Newburyport.

Member's Comments

Ms. Booth, Mr. Winthrop, and Vice Chair Creedon reported no comments.

Secretary Roche reported that he had enjoyed the field trip and was very impressed with the work being done at Frances Crane.

Dr. Van Roo reported that she had attended the Fire Science Exchange workshop, and Division staff had a major role in the presentations.

Dr. Larson reported no comment, except to praise Chief MacDonnell's excellent presentation.

There being no further business, a motion was made by Mr. Winthrop to move to Executive Session and not return to regular session, but to adjourn afterward. The motion was seconded by Ms. Booth. The motion passed unanimously.

Executive Session

Chief of Wildlife Lands Craig MacDonnell presented 5 parcels for the Board's approval.

All the proposed acquisitions were approved by unanimous vote and the meeting was immediately adjourned at 4:10 P.M.

Respectfully submitted,

Michael Roche
Secretary

List of documents presented to the Board in its June meeting packets

Handout: *Habitat Management, Frances Crane Wildlife Management Area*

June meeting agenda

Draft May meeting minutes for review

150th Anniversary Open House Map and Schedule

Eagle Tribune article, June 3, 2016, "On Target: Archery Added to Methuen Curriculum"

OLE report from Captain Robert Forsythe

June Personnel Report

Copies of Massachusetts Attorney General Maura Healey's *Open Meeting Law Guide*, 940 CMR 29.00, and the attorney general's public body checklists for minutes, meeting notices, and executive sessions

Discussion draft of "DFW Walking Trails Policy" and draft "Wildlife Lands Policy"

Spreadsheet of Natural Heritage Fund Taxpayer Donations (1992 to 2015)

Documentation in support of the Executive Session discussion of a land acquisition whose negotiations would be compromised by a discussion in open session