



MASSWILDLIFE

## DIVISION OF FISHERIES & WILDLIFE

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Jack Buckley, *Director*

COMMONWEALTH OF MASSACHUSETTS  
DIVISION OF FISHERIES & WILDLIFE  
BOARD MEETING MINUTES

Present: Dr. Joseph Larson/Chair, Michael Roche/Vice Chair, Bonnie Booth/Secretary, Ernest Foster, Stephen Sears, Dr. Brandi Van Roo, Fred Winthrop, George Peterson/Commissioner/DFG, Mary-Lee King/Deputy Commissioner, Jack Buckley/Director, Mark Tisa/Deputy Director, Kris McCarthy/Associate Director/Administration and Finance, Todd Richards/Assistant Director/ Fisheries, Michael Huguenin/Assistant Director/Operations/Acting Assistant Director/Wildlife, Craig MacDonnell/ Chief/Wildlife Lands, Marion Larson/Assistant Director/Public Affairs; Eve Schlüter/Chief/Regulatory Review, Nicole McSweeney/Marketing Specialist, Captain Tony Abdal-Kabir/OLE; Public: Thomas Murphy, Dave Morin, Mel Crouse, John Kellstrand, Robert Brophy, Tony Schuko.

Date: March 22, 2017

Location: Cronin Building, DFW Field Headquarters  
Westborough, Massachusetts

Chair Larson opened the March meeting at 10:05 A.M.

### Acceptance of Minutes

A motion was made by Mr. Foster to approve the minutes as presented from the February Fisheries and Wildlife Board meeting. The motion was seconded by Mr. Sears. Dr. Van Roo and Ms. Booth abstained because they had not attended the previous meeting; the motion passed unanimously.

### Chair's Comments

Chair Larson reported that he had attended both fishermen's association annual banquets at the north and south ends of the Quabbin. He stated that he had never been to either one before, and found them both interesting, adding that there was interest among the group at the south end to have MassWildlife staff come to their meetings and present talks on topics of interest to the association. The Chair reported that the north-end group is the largest sporting group he's seen, with many young people there, which he found very encouraging.

### *Rattlesnake Conservation Project Review update*

The Chair reported that he had the latest figures on the comments received, both online and mailed in. He reported that as of the date of the last meeting MassWildlife had received 73 comments, and as of the end of the previous week staff had received 248 comments. He explained that staff organizes the comments in categories under each of two questions. The first question is general; the second solicits missing science studies or scientific information. The general-question categories of questions are science, safety concerns, program logistics, economics and funding, access, enforcement, website, and miscellaneous/general. Chair Larson reported that safety concerns brought the highest number of responses. Noting that there were some life-history questions, he reported that science questions numbered only 11.

The Chair stated that staff is starting to prepare answers to the questions at the category level, and he reported that the work is very time-consuming. He reported that he was recommending that the working committee choose a closing date for questions and comments so that staff will have time to condense and prepare answers. He also will lead a discussion of how the committee is going to put together a recommendation for the Board. He stated that his role as chair is to help the committee do its job, adding that he will not vote himself because of his role as Chair of the Fisheries and Wildlife Board.

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Chair Larson stated that, toward the middle of the meeting, the public will be invited to comment, but Senator Gobi will suggest that no comments come from the committee during the meeting. When asked about this change in the process to allow public comment, Chair Larson stated that it happened because a number of people were very vocal about not being able to speak at the meetings. When some of the members of the review committee supported the public's right to speak, it was decided that the review will follow this process. The Chair stated that individuals will be allowed 3 minutes to speak.

Director Buckley observed that in his time the most successful conservation efforts have had strong public support. He noted that letters have been received in support of the project, but those people have not been showing up. At this point, local support is lacking and this is a problem.

Dr. Van Roo stated that the review committee was set up to solicit problems and criticism, so she wouldn't expect supporters to show up. Chair Larson responded that people who were solicited to help with the review came from a broad range of backgrounds and perspectives, for and against. He stated his belief that it is not entirely accurate that the review process was only meant to collect negative comments. Dr. Van Roo stated that she meant that the science people were invited by us, but that the process was designed to collect, and give answers to, questions and concerns from the public. The Chair asked the Commissioner to comment since he was there. Commissioner Peterson stated that he was not at the last meeting, but that he thinks the coming evening's meeting will devolve into very dark attacks on staff. He stated that he was most troubled that the two groups we've had great relationships with have apparently chosen to tear that partnership up. Chair Larson stated that two people from those organizations have spoken to him personally and said specifically that they hoped their comments would not be taken personally. Director Buckley stated that when people state that the agency is lying, and lacking in integrity, that is troubling. He reported that very little of the discussion is driven by rattlesnakes, rather it is driven by access.

Commissioner Peterson agreed, stating that people in the Quabbin area as teenagers got ejected from the reservoir area and their families got a pittance for their properties. They have not forgotten, and will not forget. Then came the 9/11 shutdown and then the restrictions over zebra mussels in the Berkshires; in total, they are distrustful.

Dr. Van Roo asked for clarification with what the objective of the evening's meeting is. Chair Larson stated that the public will be given the opportunity to sign up and will each be given 3 minutes to state their comments and say whatever they want the committee to hear. The Chair went on to detail the history of the Board's policy of public comment at Board meetings, citing a pattern of disruptive comments and outbursts in the past that prevented the Board from doing its work at the monthly meetings, and stated that that period was the genesis of the Board's adoption of a policy on giving the public the opportunity to address the Board at the end of its monthly meeting.

Mr. Foster stated that the minutes need to show how much time and attention the Board has given to this issue.

Chair Larson stated that he had learned during the previous week for first time of a draft of a revised rattlesnake conservation program. He stated that he would like a copy to be given to the Board with the understanding that it is a policy document that should not be shared beyond the board. He asked Director Buckley whether he can supply a copy to the Board members. The Director replied that he must find out whether it is still shielded as a policy document in that case.

#### Commissioner's Comments

Commissioner Peterson reported that the final budget should be out by June 3. He stated that he was not displeased with the Governor's budget; it could always be better, but he thought on balance it was good for the department.

The Commissioner reported that the following Saturday the Freshwater Sport Fishing awards would be given out in Westborough and that the Worcester County League banquet would be held that evening.

The Commissioner stated that, regarding the rattlesnake issue: because it has become such a visible discussion, he has serious concerns about the safety of the remaining extant populations. He reported that people are coming from hours away, that there is not just local interest, and that he is very troubled by how the situation is evolving.

#### Director's Comments

Director Buckley stated that he had a number of things to report. Bill Byrne had a serious reconstructive operation that went very well; he was out of the hospital and in a rehabilitation facility, feeling better. He was not receiving visitors yet but the Director hoped to visit him the following week and would keep the Board updated.

The Director reported that he had gone to the North American Fish and Wildlife conference since the last meeting. He is the Chair of the Trust Funds Committee, and had its first meeting at the conference.

The Director had attended the annual Mahar Game Dinner the previous week and had enjoyed seeing the kids. He reported that Nicole McSweeney had given a very good presentation on MassWildlife in social media, which the young people seemed very engaged with.

Director Buckley reported that E. O. Wilson would be speaking at the Massachusetts Land Conservation Conference on the coming Saturday.

The Director reported that MassWildlife had organized a forum with Trout Unlimited the previous weekend to try to reset the relationship and introduce the members to the new Fisheries staff. Staff presentation topics included climate change, the recent drought, and MassWildlife's historical data project, and there were also a number of presentations by TU people. The forum drew about 80 people, all of whom were very attentive and engaged. The Director then noted that, while the forum was being held in the large conference room, on the same day Astrid Huseby was running a Learn to Hunt program in another room and Jim Lagacy had a fly-tying workshop in a third. Director Buckley said it was great to see the building so full of activity on a Saturday.

Director Buckley also announced that on April 8, the Massachusetts Association of Bird Clubs will have its first meeting, and it will be at the Cronin Building. He reported that he has reached out through Dr. Van Roo and Drew Vitz, and thinks it will be a good relationship.

He also reported that he has been invited to the Plymouth County League dinner, and has accepted. He will therefore be unable to attend the Massachusetts Sportsmen's Council dinner, which is on the same evening.

The Director reported that MassWildlife is beginning the Chapter 131 law and regulation review with the Office of Law Enforcement, and that Assistant Director of Operations Mike Huguenin will lead the effort.

Chair Larson asked Director Buckley to update the Board about letters he has received from Martha's Vineyard regarding deer. The Director stated that he proposed to go out and meet with some selectmen from the towns that have written asking about a possible extension of the deer-hunting season on the Vineyard, to find out specifically what they want. He stated that the next step might be for the Board to hold an informational hearing, to hear from the public. Then perhaps staff can come up with a regulatory package that might meet their needs.

Vice Chair Roche stated that he'd already heard very good things about the TU event.

#### Old Business

##### *Evaluation of the Revised MassWildlife Organization and Chart*

Director Buckley stated that there can be no update until the changes have been implemented and staff has a chance to work in their new roles. In particular, he reported that two key positions – a new managerial position in the Boston office and the Assistant Director of Wildlife – need to be filled before Associate Director Kris McCarthy and Assistant Director of Operations Mike Huguenin, respectively, will be able to devote their full attention to their new duties as conceived in the revised organizational chart.

### *USFWS Refuge Issues*

Director Buckley reported that the conversation with the USFWS had started with the proposed Great Thicket, but after submitting his comment letter he has found that it is a general refuge issue. The Director explained that problems in the past have come from implementation of the state endangered species act on refuge land. MassWildlife needs to provide our MESA regulations to them; if the Service proposes a project, it would come to MassWildlife for guidance to avoid a take of state-listed species. He stated that the two agencies also need a process to reconcile a difference of opinion, and that this would be accomplished between the Director and the Regional Director of Refuges. He also stated that equity in access was another issue, with Mr. Huguenin and the refuge managers working on it. There is a disparity between hunting access and access for other types of wildlife-dependent recreation, including bird-watching, for example. This is a legitimate management issue, with the Sudbury NWR as a good example: if the USFWS is limiting access, then that's a real problem for MassWildlife and its wildlife-management goals.

*Fire Policy draft was sent to the Board in March; a presentation will be given in April*

Chair Larson thanked Deputy Director Tisa for providing copy of the draft fire policy to the Board members. Deputy Director Tisa noted that a bulleted summary had been provided in the Board's packets in response to a request from the Chair to have a short summary of a document most people won't read. The Deputy asked that any comments be provided to Chief of Conservation Science Jon Regosin ahead of the April Board meeting, so that responses can be incorporated into the presentation in April.

*Invasive Species Policy draft will be sent to the Board in April; a presentation will be given in May*

Deputy Director Tisa reported that he will be sending the draft to the Board in April with a presentation and discussion planned in May.

### *Dog regulations*

Deputy Director Tisa reported that the proposed dog regulation is still in the Secretary's office and that he is hoping it moves on eventually. He reminded the Board that this was a ground-up issue that came from the District Managers, sportsmen, Law Enforcement officials, and ordinary citizens that we need to do something about dogs on our WMAs. Ms. Booth asked whether anyone knows why the regulation is held up. The Commissioner stated that he does not know. Deputy Director Tisa reiterated that, despite possible misunderstandings in the public and the media, the policy will in no way prohibit people from walking their dogs on WMAs.

Dr. Van Roo stated that the agency has gotten a lot of flack for previous policies that seem to come out of nowhere. She asked the Director about hosting a 'What's Coming' segment, including possibly on Facebook, a way to let the public know that things are coming: 'We welcome dogs; they just have to be on a leash.' Deputy Director Tisa stated that he had two comments; he is working with I&E to develop bullet points, similar to what was given to the Board for the fire policy; and he is also waiting for the Secretary to send the regulation back and let the agency have a hearing. He stated that the proposed regulation has in fact been public since the August 2015 Board meeting, with a very good discussion, so it is out there. Commissioner Peterson noted that a policy didn't require a public hearing, but regulations do, so it will go out again in a formal process with time for public comment.

Director Buckley stated that he agreed that it is important how the proposed regulation rolls out and the timing of it, but that talking about it now, before the draft is finalized and has a hearing, will drive people to the Secretary with their questions. He recommended waiting until we have a regulation to go to hearing with, then go out to the various user-groups and the public.

Mr. Foster asked whether other organizations and groups could be encouraged to bring out similar policies at the same time. Deputy Director Tisa noted that DCR already has a similar policy, and they even restrict dogs altogether from some properties, which MassWildlife will not do.

Dr. Van Roo noted that it will be a good idea to develop a good articulation of the difference between training dogs for hunting and running dogs and start to think about how to educate the public to the difference.

New Business*Personnel Report (Kris McCarthy)*

## Promotion

<u>Employee</u>	<u>Position</u>	<u>Location</u>
Thomas Wansleben	Habitat Biologist Game Biologist III	Westborough

Vice Chair Roche moved that the Personnel Report be accepted as submitted; Secretary Booth seconded. The vote was unanimous.

*An Update on the 14th Edition of the Natural Heritage Atlas (Dr. Eve Schlüter)*

Chief of Regulatory Review Eve Schlüter gave the Board an update on the progress toward publication of the 14<sup>th</sup> Edition of the NHESP Atlas. Dr. Schlüter began with a brief introduction to the work of Review in the Heritage Program, reporting that Review staff is tasked with reviewing proposed projects and activities for impacts to rare species under the Massachusetts Endangered Species Act (MESA), the Massachusetts Wetlands Protection Act, the Massachusetts Environmental Policy Act, and the Massachusetts Forest Cutting Practices Act, with the bulk of reviews coming in under the MESA. She reviewed the statutory and regulatory basis for the Atlas, including the definition of Priority Habitat, which is the geographic extent of habitat for state-listed species. Dr. Schlüter explained how Priority Habitat is delineated according to the regulations, and the implications for properties that are in Priority Habitat. She reported that, of the 855 projects that were reviewed by MassWildlife in fiscal year 2016, 77% were determined to have no impact to listed species, 20% received approval with conditions that modified the projects to avoid a take of state-listed species, and 3% required a permit from the Director in order to proceed.

Dr. Schlüter explained that the Priority Habitat map, or Atlas, is updated, usually every 4 years per the MESA Regulations (2010), because of a number of factors, including changes to the MESA list and observation occurrences, such as species delistings and/or additions and new occurrences, since only occurrences  $\leq 25$  years old are mapped; the latest biological research about species habitat utilization; evaluations of species-specific regulatory review outcomes; the exclusion of sites with poor estimated population viability, based on size, quality, and landscape context of the habitat; and because better aerial photographs and improved GIS layers become available.

Detailing the next steps for release of the new Atlas, Dr. Schlüter reported that the MESA list changes were published on March 10, 2017, with a notification of a public-comment period of 2 to 3 weeks. Then comes the Priority Habitat map public-comment period, 60 Days from April 3—June 3, 2017, when MassWildlife receives written public comments. There is then a review and finalization of the Priority Habitat Map wherein staff responds to comments and revises the map if necessary, usually within 30 days of the close of the period. Finally, it is estimated that the 14<sup>th</sup> Edition of NHESP Atlas will be published in July 2017.

Mr. Sears commented that he has some question about the process. One in particular was why does the regulation say we need to update the maps every 4 years, but it took 9 years to do it. Director Buckley explained that the agency has the flexibility in the regulations to delay new maps if necessary. Part of the reason for the delay with the current atlas early on was because the agency was in a 10-year litigation and, on the advice of counsel, staff waited until that was done to update the maps. The Commissioner briefly ran through the process and the things that had slowed it down over the past 2 years. And Director Buckley pointed out that it was also slowed by the list change that happened in the interim.

Law Enforcement Comments

Captain Tony Kabir reported that, since the last meeting, three more OHVs have fallen though ice, which brought the number of fatalities this winter to 13 total. With two more recent retirements, the Captain stated that the number of Environmental Policy officers was down to 79 statewide. He also reported that despite the low staffing

levels, several excellent prosecutions had begun recently, including one of an auto-shop owner who had allegedly dumped 55-gallon drums of waste oil.

#### Natural Heritage and Endangered Species Advisory Committee Report

Chair Larson stated that at the last meeting Hunter Ed Coordinator Susan Langlois had given a very interesting presentation on the Hunter Education Program, and that he hoped she may be able to give it to the Board in the near future. Vice Chair Roche stated that he wanted to see some coming changes implemented before Ms. Langlois reports; the Chair stated that the Board could have her present both before and after the expected updates to the program.

#### Set Meeting Date

After some discussion, members chose Wednesday, April 19, 2017, for the April Fisheries and Wildlife Board meeting, to be held in Westborough. Secretary Booth moved that it be so; Mr. Winthrop seconded the motion; the vote in favor was unanimous.

#### Members' Comments

Mr. Winthrop, Secretary Booth, and Mr. Foster reported no comment.

Mr. Sears stated that he had attended a local award and game dinner. There he heard many comments about the public's desire to expand Hunter Ed course offerings, and that many people said the classes are full as soon as they are listed. Mr. Sears said that he knows staff is already aware of this, but he wanted to pass on the comments. Deputy Director Tisa answered that it is getting better, including through the agency hiring four new staff instructors, but that most classes are taught by volunteer teams. Director Buckley stated that ultimately it will be answered by online courses with one field day to test out. Vice Chair Roche commented that a lot is being done and is improving. He reiterated that he wants to give the program an opportunity to develop a new vision and get a full complement of staff in place, then come before the Board with a new generation of Hunter Ed. Chair Larson briefly reported a number of elements in Ms. Langlois' presentation that spoke to these issues.

Mr. Sears continued his comments by reporting that on May 13, 2017, a Saturday, an event was being planned at the Stockbridge Sportsmen's Club to celebrate the lifelong conservation contributions of George Darey. He added that he had also recently captured 2 hours of footage of Mr. Darey and former director Wayne MacCallum, talking about the history of MassWildlife and their association. Mr. Sears stated that the event organizers should have a lot of material to use from that project.

Vice Chair Roche commented that democracy is not good for wildlife management.

Dr. Van Roo reported that she planned to go through the Fire Policy page by page and will send any comments to Jon Regosin and give a report to the Board at the next meeting. She also stated that she was disappointed in the progression of the Rattlesnake Review process. She stated that she doesn't see it as a good direction to have an open-question discussion from the public, and was surprised that the process has taken that turn. Dr. Van Roo stated that this was not what she had understood nor expected from what has been told to the Board thus far. Chair Larson commented that the present process was recommended by the Secretary, the Commissioner, and the Director, and was not a decision of the Board.

A motion was made by Dr. Van Roo to recess, move directly into the public hearing, and then return to open session immediately afterward; the motion was seconded by Mr. Winthrop; the motion passed unanimously.

#### Public Comment

Thomas (Chuck) Murphy thanked the Board for the opportunity to speak and handed out maps of New England to the Board members. He stated that it was the first time he had attended one of the Board's meetings, and he was impressed by the professionalism and knowledge of the participants. He also stated that he was not sure if this was the right venue for his proposal.

Mr. Murphy stated that he was from Westport, in Southeastern Massachusetts. He was proposing advancing the start of the Archery deer-hunting season to the middle of September instead of the middle of October in the eastern Deer Management Zones of 9, 10, and 11. He stated that statistics that show that Massachusetts deer are not harvested as heavily as in surrounding states, and that the proposed start date will take deer by surprise and make harvest efforts more effective in those zones, which have populations that are high compared to the western part of the state. Mr. Murphy also provided the Board with a written proposal in the form of a report that he asked be distributed to the Board members, which the Chair stated would be done.

Director Buckley stated that he will have Deer and Moose Project Leader David Stainbrook take a look at the proposal and make a response to it part of the annual deer review. Chair Larson and other Board members thanked Mr. Murphy for his work on the proposal and for bringing the issue to the Board's attention.

Chair Larson stated that the Board needed to go into executive session for the purpose of discussing proposed land acquisitions whose negotiations would be compromised by discussion in open session. Vice Chair Roche moved that the Board go into executive session for this purpose and not return to open session but adjourn immediately afterward; Secretary Booth seconded the motion; the vote in favor was unanimous.

After the Executive Session, there being no further business, the meeting was adjourned at 1:15 P.M.

Respectfully submitted,

Bonnie Booth  
Secretary

List of documents presented to the Board at the March meeting

March Agenda

Draft February meeting minutes for review

Memo from DFG Personnel Officer Johanna Zabriskie to Director Jack Buckley *RE* the Reorganization Plan of the Division of Fisheries and Wildlife, a copy of the current Organizational Chart of the agency, and a copy of the former Organizational Chart

Personnel Report

A report prepared by staff for the Chair, "Rattlesnake Questions and Comments," updated as of March 17, 2017

A bulleted summary of the draft Prescribed Fire Management Policy

Spreadsheet of Natural Heritage Fund Taxpayer Donations (1992 to 2017)

Email from Thomas Murphy, requesting to speak to the Fisheries and Wildlife Board at its March monthly meeting

Land-acquisition documentation for the Executive Session