

NATURAL RESOURCES COMMISSION

Minutes - February 17, 1998

MEMBERS PRESENT

Michael J. Kiley, Chair
Larry Macklin, Secretary
Jerry Miller
Joe Siener
John Goss
Damian Schmelz
Steve Cecil

NATURAL RESOURCES COMMISSION STAFF PRESENT

Stephen Lucas
Sylvia Wilcox

DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT

Jack Costello	Executive Office
Lori Kaplan	Executive Office
Paul Ehret	Executive Office
Angie James	Executive Office
Jim Mitchell	Fish and Wildlife
Mary Ann Habeeb	Fish and Wildlife
Jerry Pagac	State Parks and Reservoirs
Barbara Nardi	Staff Counsel
Tom Lyons	Forestry
Angela Burger	Forestry
Jeff Tenuth	Museums

GUESTS

Vaneta Kuman	Bryan Weese	Chris Marshall
Michelle Meyer	Linda Sigler	Taylor Meyer
Gary Wolfelt	Carol Huston	Richard Meyer
Larry Marshall	Nancy Marshall	Mary Beth McClean
Steven McClean	Douglas Borden	Debra Borden
Esther Chosnet	John Baldane	Debbie Wilkens
Louis Barnett	Ted Barnett	Jodie Miner
Bernie Fallor	Dave Fisher	Ellie Fisher

MONTHLY REPORTS

Michael J. Kiley, Chair, called to order the regular meeting of the natural resources commission at 10:07 a.m., EST, on February 17, 1998 in the Conference Room, Indiana

State Museum, 202 North Alabama Street, Indianapolis, Indiana. With the presence of seven members, the chair observed a quorum.

Jerry Miller moved to approve the minutes of the January 20, 1998 meeting. The motion was seconded by Joe Siener. Upon a voice vote, the motion carried.

Larry Macklin provided the Director's Report. He said the department was busy with activities of the Indiana General Assembly and annual meetings of the divisions. "The Natural Resources Foundation moved another step forward toward selecting an executive director." He said recently retired employee, Ed Hansen, would manage the Heritage Trust.

Jerry Miller, Chair of the Advisory Council for the Bureau of Lands and Cultural Resources, said his council met last week. All three items passed which were on the council agenda to be forwarded to the commission for final action.

Jack Costello, Deputy Director for the Bureau of Lands and Cultural Resources, distributed a new publication from the Division of Historic Preservation and Archeology entitled Historic Indiana 1997/98. Costello said the Advisory Council for the Bureau of Lands and Cultural Resources re-elected Jerry Miller as Chairman.

Joe Siener, Chair of the Advisory Council for the Bureau of Water and Resource Regulation, said his council did not meet in February.

Lori Kaplan, Deputy Director for the Bureau of Water and Resource Regulation, reported that more than 125 people attended the retirement dinner for John Simpson. She said Michael Neyer had been named the new Director for the Division of Water. Kaplan said river otters were released at two sites, including Salamonie Lake where a record crowd of 1,400 was present. She reported upon the conviction of a man for shooting a river otter; he received a suspended sentence with 250 hours of community service doing river cleanup. Kaplan also reported upon a new brochure describing the "Division of Water Internet Homepage" allowing for online permit applications and a resulting reduction of average processing time from 60-90 days to approximately 45 days.

Paul Ehret, Deputy Director for the Bureau of Mine Reclamation, said the winter meeting of the National Abandoned Mine Lands Association was held recently. A primary discussion topic at the meeting was frustration with the unwillingness of Congress to release a large surplus accumulated in the AML fund. Ehret said he was "cautiously optimistic" on the progress of rule writing for the disposal of coal combustion waste at surface coal mines.

BUREAU OF LANDS AND CULTURAL RESOURCES

Permanent Appointments

Consideration of Permanent Appointment of Angela Burger as Assistant Property Manager; Deam Lake State Recreation Area

Tom Lyons presented this item. He said, "In our estimate, Angela Burger has done an outstanding job." Lyons said the department recommended her for permanent appointment. Damien Schmelz moved to approve the permanent appointment of Angela Burger as Assistant Property Manager for Deam Lake State Recreation Area. The motion was seconded by Steve Cecil. Upon a voice vote, the motion carried. The Chair observed, "I see you worked for Dr. Parker." Burger replied that she had and said, "I appreciate the opportunity of working with the DNR."

Consideration of Establishment of a Rate Making Process for Marinas and Other Facilities under Long-Term Lease Agreements with the Department

Upon the request of the division of state parks and reservoirs, Jerry Miller moved to defer the item. The motion was seconded by Damian Schmelz. Upon a voice vote, the motion to defer carried.

Consideration of Establishment of Design and Development Criteria for Inns and Lodges on Indiana State Parks and Reservoirs Properties

Upon the request of the division of state parks, Jerry Miller moved to defer the item. The motion was seconded by Damian Schmelz. Upon a voice vote, the motion carried.

Consideration of a Proposal to Adopt the Prophetstown State Park Master Plan

Before presentations on this item, Chairman Kiley explained the commission would entertain comments on the proposal but not take action during the February meeting. He said that although a quorum was present, he wished for more members to have a chance to review the record and the minutes. A vote might be taken, he said, during the March 1998 meeting.

Gerald Pagac said he would go into "some detail as to what we are trying to accomplish." He described the location of the developing park and offered a slide presentation on aspirations for the future. Pagac also presented a video tape outlining hopes for a museum campus within the park to highlight Great Lakes Native Americans, a typical Indiana farm circa 1918, and the natural environment which existed in the area prior to European settlement.

Pagac explained that the Master Plan would be used to help guide future development in the park. The plan was assembled by Cole and Associates of South Bend, Indiana and Johnson & Johnson of Ann Arbor, Michigan. As part of the citizen review process, a

number of public meetings had been held with DNR staff, and a draft plan was presented during a public meeting held December 18, 1997.

Steve Cecil asked whether there had been coordination with INDOT concerning highway access and development. Pagac responded there had been. He said access would be provided from S.R. 43 just south of its access with Interstate 65. A connection would be made to the park from S.R. 43 along Swisher Road. There would be no access from S.R. 225, both because of traffic concerns in the town of Battleground and because S.R. 225 had only a one-lane bridge across the Wabash River. In addition, the portion of S.R. 225 immediately south of the Wabash was inundated even during a ten-year frequency flood event.

Carol Huston of Battleground told the commission that "we border the marsh" on Carol Street. Currently, "we have no difficulty with out septics." If a marsh would be restored within the park as anticipated in the Master Plan, she feared that septic system failures would result. She also urged that the traffic patterns anticipated by the park would result in a safety hazard to herself and her neighbors. "The only way we have to get out is Swisher Road."

Linda Sigler lives on Jean Street in Battleground. She read a letter into the record, which the Chair agreed to include in the commission packet for the next time the item was on the agenda. "My grandmother is Cherokee." She said five generations of her family have lived at the site. "My children live there. This land is their future." Sigler explained that she had "worshipped the Great Creator right out my back door." She said the park would disturb that experience. "The closer you move the park, the farther away the animals will go."

Gary Wolfelt was the next citizen to speak. "Are you seeing red? Well, we sure are." He said in December, "we learned much to our surprise that our land would be taken for the park," and three or five homes would become "bulldozer fodder." He said all but one of the five affected families had bought their homes within the last three years and would not have done so had they understood the sites would be incorporated in the new state park. He said the motivation for removing the homes was the recommended relocation of Swisher Road as urged by the developer. Wolfelt asked that another alternative be pursued. "Move the road not the people." He then showed a video depicting the site of his home, those of his neighbors, and the surrounding community. Wolfelt presented two alternatives for moving Swisher Road either north or south of his neighbors.

Michelle Meyer said four of the five properties at issue have been on the market during the period the DNR has been developing the park. She said originally they were given assurances the properties would not have to be taken. "It's not that we're against the park." Instead, she and her neighbors were asking for a modification to the Master Plan. "We are here today. . . to ask you to consider the following: Is the proposal the most cost-effective" way to develop the park? "Today, we, as well as our neighbors, are fighting to keep our land. We ask you to move the road."

In response to a question from the commission, Pagac reflected that the Master Plan was not inflexible. At the same time, something of a dilemma was posed. The five parcels of concern to Wolfelt and Meyer were not the immediate focus of land acquisition or park development, but in the future, land acquisition would be a significant possibility.

Pagac said the developer had considered moving the road north as outlined by Wolfelt. The developer reflected that doing so would later interfere with plans to develop an active gravel pit into a lake. A more southerly move would interfere with a proposed horse trail. In response to a question from Steve Cecil, Pagac said the proposed Swisher Road relocation was not being pursued for engineering reasons but rather for aesthetic and management reasons.

Damian Schmelz asked, "When we come to a vote, are we mandating this Master Plan is what is to be done?" Kiley responded the commission would be approving the concept, granting authorization to the Division of State Parks and Reservoirs to go forward with developing the park in conformance with the Master Plan "if they are able to do so." Schmelz observed, "It's not etched in stone, then, that the Master Plan is what is going to happen." Jack Costello said the vote was important primarily because it would establish the boundaries of Prophetstown State Park.

John Davis, Director of the Division of Land Acquisition, said for the next meeting all correspondence pertinent to park development would be provided to the commission members. He said approval of the Master Plan would allow the acquisition process to move forward. He said in seeking to buy land, the strategy would be to "get interior lands first and border lands last." Davis said, "I think these houses are threatening the plan, as proposed by the consultants," but their location does not prohibit park development. He observed, also, that "One advantage of having the properties in the Master Plan is the owners' access to legal relocation assistance."

Jerry Miller asked whether during the next commission meeting, the consultants would be asked to devise alternatives to the relocation of Swisher Road. "I can understand why we don't want to go north, but I don't see the problem with going south."

Joe Siener then moved to table consideration of this item. The motion was seconded by Jerry Miller. Upon a voice vote, the motion carried.

Division of Museums and Historic Sites

Consideration of a Request by the Board of Trustees of the Indiana State Museum and Historic Sites for the Deaccession of 202 Items from the Collection of the Division of Museums and Historic Sites

Jeff Tenuth of the division of museums and historic sites presented this item. He said in keeping with the substantial requirements of 312 IAC 24, the division was seeking the deaccession of unsuitable items maintained in its collection. The process requires initiation by an appropriate curator, approval by the division director, approval by the

board of trustees, and approval by the commission. He said the prior approvals had been secured for each of the 202 listed items. Tenuth explained the items consisted primarily of decorative arts, clothing, and textiles with little or no documentation. He asked for approval of deaccession by the commission.

Jerry Miller moved to approve the deaccession of 202 items from the collection of the division of museums and historic sites as more particularly set forth in the commission packet. The motion was seconded by Joe Siener. Upon a voice vote, the motion carried.

BUREAU OF WATER AND RESOURCE REGULATION

Division of Fish and Wildlife

Information Item: The Impact of Crossbow Hunting on Deer Populations
Jim Mitchell presented this informational item. He cautioned that data collected concerning the number of deer taken with crossbows was yet incomplete, and incorrect analyses can result from incomplete data. With that qualification, he reflected his best first impression was that between 40 and 60 white-tailed deer were taken with crossbows this fall.

LEGAL PROCEEDINGS

Natural Resources Commission, Division of Hearings

Consideration of Nonfinal Order of Summary Judgment and Objections to that Nonfinal Order by Brenda Samuels; In the Matter of Department of Natural Resources and Brenda Samuels v. James Busch; Administrative Cause No. 96-019W

The Chair reported this item deferred.

Consideration of Report, Findings of Fact, and Nonfinal Order of the Administrative Law Judge and of Objections Filed by the Parties to the Nonfinal Order; In the Matter of Donald Lesch v. Department of Natural Resources and Town of Dune Acres; Administrative Cause Nos. 97-245D and 97-246D

Steve Lucas explained that judicial review had been taken of this item directly from the nonfinal order of the administrative law judge. Disposition of that action was anticipated shortly from the Porter Superior Court. By agreement of the parties, the request was to have this item deferred. The Chair then reported the item deferred.

Consideration of Report, Findings of Fact, and Nonfinal Order of the Administrative Law Judge; In the Matter of Department of Natural Resources v.

Town of Syracuse, et al.; Administrative Cause No. 94-200W (Court of Appeals No. 43A03-9701-CV-9)

Steve Lucas said this item came on remand to the commission from the Indiana Court of Appeals. He said the proposed disposition was drafted and agreed upon by the parties; it was now presented to the commission for entry and affirmation.

Damian Schmelz moved to adopt the Report, Findings of Fact, and Nonfinal Order of the Administrative Law Judge as the final disposition in this matter. The motion was seconded by Steve Cecil. Upon a voice vote, the motion carried.

Adjournment

At approximately 12:18 p.m., the meeting adjourned.