

ILLINOIS ENDANGERED SPECIES PROTECTION BOARD

MINUTES OF 169TH MEETING, FEBRUARY 19TH, 2016

MIDEWIN NATIONAL TALLGRASS PRAIRIE, MAIN MEETING ROOM, VISITOR CENTER; 30239 SOUTH STATE ROUTE 53; WILMINGTON, IL 60481

Approved at the 170th meeting, May 13, 2016

BOARD MEMBERS PRESENT: Chair Joyce Hofmann, Vice-chair Jim Robinett Secretary Jeff Walk, Dr. Janice Coons, Dr. Jeremie Fant, Mr. Vernon LaVia, Mr. Randy Nyboer, Mr. Randy Schietzelt

BOARD MEMBERS ABSENT: Mr. Bruce Ross-Shannon

OTHERS PRESENT: Ms. Jeannie Barnes, Mr. Bob Bluett, Mr. Jason Heffley, Dr. James Herkert, Mr. Joe Kath, Ms. Anne Mankowski, Ms. Kelly Neal

1 Call to order, welcome, introduction of Board members, and introduction of audience members

Chair Hofmann called the meeting to order at 10:01 AM, conducted roll call, and noted that there was a quorum. She welcomed Mr. Randy Nyboer as a new member of the Board, noting his 40 years of experience as a botanist, and his acting as staff for the Board from 2003-2007. Chair Hofmann invited audience member to introduce themselves.

2 Adoption of agenda

Mr. Robinett **moved** to adopt the agenda, Dr. Coons seconded, and the agenda was **approved** unanimously.

3 Approval of minutes from the September 8th, 2015 special meeting

Draft minutes of the open portion of the March 18, 2015, Executive Committee closed session special meeting, the August 14, 2015, Executive Committee special meeting, and the 168th meeting were distributed with the Board packet.

Noting no changes from Board members, Chair Hofmann **approved** the minutes of the open portion of the March 18, 2015, Executive Committee closed session special meeting.

Noting no changes from Board members, Chair Hofmann **approved** the minutes of the August 14, 2015, Executive Committee special meeting.

Mr. Robinett reported a typographical error on the draft minutes of the 169th meeting. With that correction, Chair Hofmann **approved** the minutes of the 169th meeting.

4 Illinois Endangered Species Protection Board Chair Report

Dr. Hofmann submitted a report with the Board packet. She has been trying to cover

many administrative functions formerly handled by staff, including meeting preparation and follow-up and correspondence. She offered, and Board members accepted, to copy all Board members on email correspondence when speaking on behalf of the Board. Chair Hofmann was invited to provide reports at future Illinois Nature Preserves Commission meetings. The Board will send a report for the May 3, 2016, Commission meeting in Waterloo, and attempt to send a representative to the September 13, 2015, Commission meeting in Wheaton. The Board will invite the Commission to provide reports at future Board meetings.

At the 168th meeting, the Board agreed to track functions and whether they were performed in the absence of staff. Chair Hofmann noted the Board was well-behind its initial schedule in reviewing and revising the Illinois List of Endangered and Threatened Species, and a process to return to schedule had not been developed yet. She and Board members have been advising the Department on various subjects. Quarterly meetings have continued to occur. The Board is required to produce biennial reports, with the next due in June 2016. The letter for request for opinion to Attorney General needs to be updated.

Chair Hofmann reported she will be unable to attend the August (171st) meeting, requiring an alternate presiding officer. However, she will be available to assist in preparation for the meeting.

5 Report from the Illinois Department of Natural Resources

Dr. Herkert reported the lack of a budget is creating significant challenges for the Department. Recent retirements have prompted staffing changes, including Mr. Dan Stephenson as the acting chief for the Division of Fisheries. Following Mr. Heidorn's retirement, the Illinois Nature Preserves Commission is without an Executive Director.

Mr. Kath reported on several items, including HB 5541, which would allow the Department to modify the fees charged for Endangered/Threatened species consultation. To date in FY2016, the Department has had more than 2,000 EcoCAT submissions, with 31 recommended for Incidental Take Authorization. The Department is working towards an online E/T permit application system, intended to be operational in June 2016. The backlog to enter data in the Biotics 4 database is growing. The Department is training to record data in the field via mobile devices, making an effort to visit historic EORs, and investigating the feasibility of using environmental DNA (eDNA) to survey for some species, e.g., hellbender, mudpuppy. An Illinois Mud turtle recovery assessment is underway, and a Blanding's turtle conservation plan should be complete in 2016. Funding is available for the Illinois Bat Conservation Initiative, to leverage federal funds for the next 3 years.

5 Board Member Appointments

Chair Hofmann reviewed member terms, about which there is some uncertainty. Three terms are supposed to expire annually, but some documents suggest two in 2016 (LaVia, Walk) and four in 2017. It was suspected Dr. Coons' term should have been to expire in 2016. Chair Hofmann, Secretary Walk, and Mr. Heffley will review Board files and

contact the Office of Executive Appointments to clarify.

Anyone wishing to be considered for appointment to a board or commission must self-nominate with the Office of Executive Appointments. Mr. LaVia and Dr. Coons announced they will re-apply. Secretary Walk stated he will not re-apply.

The Board has a process for recommending new members and/or re-appointment. Chair Hofmann will compile names and contact information of potential candidates provided by Board members to review at the next meeting. An existing list compiled by staff will be sent to all members. The Board is required to have 6 naturalists, 2 zoologists, 1 botanist, and it was noted useful expertise would include an invertebrate biologist, herpetologist, population ecologist or landscape ecologist.

Secretary Walk **moved**, and Mr. Nyboer second, to recommend Dr. Coons and Mr. LaVia for reappointment to the Board, and it was **approved** unanimously.

6 Semi-annual Review of Whether to Keep Closed the Minutes from Previous Closed Meetings

The Board reviewed the list of all closed meetings. All have dealt with personnel matters, and the need for confidentiality still exists. Secretary Walk **moved**, and Mr. Nyboer seconded, to keep the minutes closed, and it was **approved** unanimously.

7 Approval of Resolution Commending Anne Mankowski for Service as Executive Director of the Illinois Endangered Species Protection Board (2008-2015)

Chair Hofmann drafted a resolution commending Ms. Mankowski for exemplary service to the Board. Secretary Walk **moved**, and Mr. Robinett seconded, to adopt the resolution and it was **approved** unanimously. Chair Hofmann will sign a copy on appropriate stock and deliver it to Ms. Mankowski.

8 Presentation and Preliminary Approval of a Petition to Remove the Barn Owl (*Tyto alba*) from the Illinois List of Endangered and Threatened Species

A petition to remove the Barn Owl (*Tyto alba*) from the Illinois list was submitted to the Board by Anne Mankowski, Jeff Walk, and Terry Esker. Chair Hofmann stated she had conducted an administrative review of the petition and determined it appropriate for presentation to the Board.

Secretary Walk clarified he was a co-presenter of this petition, and would answer technical questions related to the petition, but would not participate in any Board discussion of the petition and would recuse himself from any vote.

Ms. Mankowski acknowledged Mr. Esker's significant role in the field work that has led to the improvement in status of the species, and reviewed the timeline of the recovery effort from the 2010 recovery plan, to the 2012 proposal to change status from endangered to threatened, and now recommended for delisting by the petitioners since all population and distribution objectives in the recovery plan had been met. Mr. Schietzelt inquired about population size for a minimum viable population. Since barn owls

disperse hundreds of miles, birds in Illinois are effectively part of a multi-state population. Mr. Robinett asked about the species' status in adjacent states. Ms. Mankowski noted Iowa is developing a recovery plan based on the Illinois plan.

Presenters and Board members noted nest box placement and monitoring had been essential to documenting occurrences, requiring considerable dedicated effort. Chair Hofmann asked if nest boxes would be maintained. Ms. Mankowski reported IDNR had committed to maintaining boxes on public lands.

Presenters clarified their request with this petition at this time was preliminary approval, and not an expedited change in status outside of the Board's 5-year review process.

Mr. LaVia **moved** to preliminarily approve the petition to remove the Barn Owl from the List of Illinois Endangered and Threatened Species. Mr. Nyboer second, and it was **approved** with Secretary Walk abstaining.

9 Proposed Process for Conducting the Next Revision of the Illinois List of Endangered and Threatened Species

Chair Hofmann reviewed past list revision processes, and development of a petition process. At issue with the petition process at this point is how the Board will perform administrative functions of petition handling, review and notification that had previously been delegated to staff. Mr. LaVia reported on development of a potential process, with the assistance of Dr. Herkert, to complete list by 2019. Dr. Herkert conveyed in past list revisions volunteers had been very helpful, and likely willing to assist the Board again. Mr. Nyboer recalled past reliance on expert opinions, and noted the necessity to base decisions on best data available and to document those data.

The Board discussed managing volunteer groups and complying with Open Meetings Act (OMA) requirements. Chair Hofmann reminded the Board that Technical Advisory Consultants were subject to OMA requirements after 2010. If volunteer groups are utilized, the Board would be responsible for groups' compliance with all requirements. She reiterated that any group may discuss changes to the list and make recommendations to the Board via petitions, but cannot do so at Board's request or direction without complying with the OMA.

Mr. LaVia stated the Board is in a crisis, created by removal of staff and funding, and it is the fiduciary responsibility of the Department of Natural Resources to support the Board's functions. Dr. Coons agreed, and volunteered to draft a crisis statement with Mr. LaVia.

Chair Hofmann suggested Board members could do preliminary list review and recommend species for further scrutiny and possibly development of a change-in-status petition. Chair Walk offered committees could meet in conjunction with the Board's regular quarterly meetings, with Board members guiding them to ensure OMA compliance. Members discussed how committee members might be selected and the needs for the Board to set composition and number of legitimate votes. Real or perceived

conflicts of interest would need to be considered for any committee members. Committee members would have to serve in an entirely voluntary capacity, as travel expense reimbursement is unlikely. An open petition process is also necessary to ensure ability to participate beyond the committees.

Board members agree to a series of next steps, for the potential bird and mammal committees. All Board members were encouraged to solicit volunteers, and send their contact information to the Secretary by April 13, 2016. Committees would be formed and approved at the May 13, 2016 meeting. Chair Hofmann would request bird and mammal data from the Department's Biotics database and distribute to members. Board members would review, and pre-select species to review as a committee-of-the-whole at the May 13 meeting. Committees with volunteers to discuss birds and mammal committees may meet in conjunction with the August and/or November meetings.

10 Board Discussion on Development of a New Agreement between the Board and the Illinois Department of Natural Resources

Mr. Nyboer initiated the discussion with his review of previous Memoranda of Understanding between the Board and the Department, which have largely or entirely dealt with the Board's nexus with the Office of Resource Conservation but not other offices including Realty & Environmental Planning and Legal. A future agreement would need to cover the Board's full scope of contact with the Department. The Board consults with the Department's Legal office, and in that sense has lost autonomy and the Board should have independent legal counsel to crafting an Intergovernmental Agreement. Board members stated a commitment to developing a new agreement, and noted several issues need to be resolved prior, which had resulted in the request for an opinion to the Attorney General. A public access counselor could provide this capacity to the Board. Mr. LaVia observed the Board's access to its funding has been limited, questioned whether the intent of the Illinois Endangered Species Protection Act is being met with the current structure, and if so, whether federal endangered species funding was in jeopardy because of staffing shortages for both the Board and Department.

11 Public Comment Period

Mr. Bluett inquired on the status of two change-of-status petitions submitted to the Board, for the woodrat and smooth softshell. The submissions occurred at or near the Board's loss of staffing. The Department will resubmit the petitions to the Board.

At 12:50 PM, the Board recessed for 15 minutes. The Board reconvened at 1:06 PM.

12 Closed Session (Personnel Matters – Open Meetings Act Exception 2 (c) (1))

Mr. LaVia **moved**, seconded by Mr. Schietzelt, to go into closed session citing Open Meetings Act Exception 2 (c) (1). The Board **approved** at 1:07 PM.

The Board resumed open session at 1: 56 PM.

13 Any Actions Resulting from the Closed Session

Secretary Walk **moved** to authorize the Chair, with advice of legal counsel, to develop

and send to the Attorney General a request for assistance on Board authority to hire and set compensation of staff. Mr. Robinett seconded. The motion was **approved** unanimously.

14 Other Business

Board members were directed to mail timesheets and travel forms to Dr. Herkert.

As mentioned in her report, Chair Hofmann reminded the Board of its duty to produce a biennial report. The next iteration should cover activities from July 1, 2014, through June 30, 2016. Mr. Nyboer and Chair Hofmann agreed to collaborate on the biennial report, largely based off of meeting minutes and staff reports, and prepare it for Board approval at the 171st meeting.

15 Next Meeting Information

The 170th meeting of the Illinois Endangered Species Protection Board will be held on May 13, 2016, at Midewin National Tallgrass Prairie, beginning at 10 AM.

16 Adjournment

Chair Hofmann asked if there was any other business and noting none, **adjourned** the meeting at 2:10 PM.