

ILLINOIS ENDANGERED SPECIES PROTECTION BOARD

MINUTES OF 168<sup>TH</sup> MEETING, NOVEMBER 13, 2015

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

Approved at the 169<sup>th</sup> meeting, February 19, 2016

BOARD MEMBERS PRESENT: Chair Joyce Hofmann, Vice-chair Jim Robinett Secretary Jeff Walk, Ms. Lenore Beyer-Clow, Mr. Vernon LaVia, Mr. Randy Schietzelt, Mr. Jason Heffley (designee of Director Rosenthal)

BOARD MEMBERS ABSENT: Dr. Janice Coons, Dr. Jeremie Fant

BOARD MEMBER VACANCIES: One

OTHERS PRESENT: Dr. James Herkert, Ms. Ann Holtrop, Mr. Joe Kath, Ms. Anne Mankowski, Mr. Randy Nyboer, Ms. Jenny Skufca, Mr. Chris Young

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

Chair Hofmann called the meeting to order at 10:03 A.M., conducted roll call, and noted that there was a quorum. She invited audience member to introduce themselves.

2 Adoption of agenda

Mr. Schietzelt **moved** to adopt the agenda, Mr. Robinett seconded the motion. Secretary Walk noted the official name is the “Illinois List of Endangered and Threatened Species” at item 9. With that technical modification, the agenda was **approved** unanimously.

3 Approval of minutes from the September 8<sup>th</sup>, 2015 special meeting

Draft minutes of the September 8, 2015, special meeting were distributed with the Board packet. Secretary Walk thanked Ms. Mankowski for her volunteer service to assist with draft minutes. Chair Hofmann noted a typographical error, asked if there were any other changes to the draft minutes of the special meeting. Hearing none others, she **approved** the minutes of the September 8, 2015, special meeting as final.

Secretary Walk noted to the Board that two unapproved sets of minutes, for the open portion of the March 18, 2015, Executive Committee closed session special meeting and for the August 14, 2015, Executive Committee special meeting, were prepared with voluntary assistance from Ms. Mankowski, but since had not been included in the agenda for the 168<sup>th</sup> meeting, they would be placed on the agenda of the 169<sup>th</sup> meeting for approval.

4 Report from the Illinois Department of Natural Resources

Dr. Herkert reported on how the lack of a budget was affecting Department operations. Contractors had been suspended, and Federal Aid projects that continued were at risk of

not being reimbursed for activities done without a budget in place. Failure to make vendor payments was problematic. The intent is to process Board travel reimbursements after a budget is in place.

Dr. Herkert noted the revised Illinois Wildlife Action Plan was delivered to the US Fish & Wildlife Service for review on October 1, 2015. All Illinois endangered and threatened animal species are considered Species in Greatest Need of Conservation in the Plan.

Ms. Holtrop discussed an effort to develop guidance documents with scientifically-based management recommendations for species. The US Fish & Wildlife Service Region 3 Endangered Species Coordinators meeting was held in Springfield 21-24 September. A workshop in Des Moines, Iowa, October 27-29, 2015, addressed concerns about monarch butterflies in the Midwest.

Ms. Skufca sought suggestions for how to obtain advice from the Board on Incidental Take Authorizations. These are submitted via email to the Board, as required. Board members will individually respond as capacity and experience permits.

#### 5 Annual Ethics Training Compliance

All Board members completed the training, and signed copies certifying completion were transferred to Dr. Herkert.

#### 6 Freedom of Information Act (FOIA) Request Regarding the Status of Blanding's Turtle

The Friends of Forest Preserves made a Freedom of Information Act request to the Illinois Department of Natural Resources regarding the decision to list the Blanding's turtle, the 2009 status change, and records related to an Illinois Department of transportation project. Relevant Board documents were included in the Department's response.

#### 7 Board Appointments

At the time of the 168<sup>th</sup> meeting, the Board had one vacancy and two members with lapsed terms (Beyer-Clow, Hofmann). Effective November 14, 2015, the Governor will have reappointed Chair Hofmann, appointed Mr. Bruce Ross-Shannon to replace Ms. Byer-Clow, and appointed Mr. Randy Nyboer to fill the vacancy.

#### 8 Address How Board Functions and Support Activities Will Be Conducted in the Absence of Staff

The Board's funding had been eliminated, and without staff since September 11, 2015. In a summary of activities since the last meeting, Chair Hofmann various administrative functions including meeting preparations, obtaining access to the Board's email account, and coordination with Mr. Heffley and Dr. Herkert at the Department of Natural Resources. Secretary Walk reported on development of outstanding minutes, and attempting to resolve ongoing disagreement between the Board and Department regarding termination of Board staff.

Given Board functions performed by staff, members contemplated what was possible during quarterly meetings. The 2015 audit outlined all Board responsibilities. Besides meeting quarterly, required functions include list review and revision no less than every five years, and producing a biennial report (next due Spring 2016). Mr. Heffley hoped budget gap would be short, and Dr. Herkert offered for him and his staff to assist.

The Board discussed the possibility of delegating certain duties to individual Board members. Department representatives noted they are required to seek Board advice on Incidental Take Authorizations, permits and E/T rules. Board members noted these were among functions left unfulfilled due to understaffing when the Board had staff. Dealing with Board issues via subcommittees and email communication among members is problematic in meeting Open Meetings Act requirements. The Department offered to try to provide notice to the Board earlier within processes when advice is needed. Mr. Heffley offered get legal interpretation on compliance with OMA and email communication among Board members.

Asked how the Board functioned following staffing loss while he was a member, Dr. Herkert responded that the Board and members were selective in matter to engage and respond. Individual members followed up on topics of interest. Incidental Take Authorizations were mostly not dealt with. Several Board members expressed concern that if a similar selective approach were taken, lack of response should not imply endorsement. Mr. Nyboer, familiar with Board work during the previous episode without staffing, recalled the Board was sometimes blind-sided by lack of info on projects, and encouraged keeping some autonomy between the Board and Department.

The option to meet more frequently was ruled out, citing the increasing workload to properly post, host and report on open meetings, professional and personal time constraints of volunteer members, and increased and un-reimbursed travel. The Department offered to prepare presentations and information for Board meetings, and to produce monthly reports to the Board, flagging items for subsequent meeting agendas. Board members inquired on the possibility of using the Board's accumulated Wildlife Preservation Fund balance to hire or contract assistance, but it was noted there is no authority to access those funds without a state budget in place.

Asked about new member orientation, Chair Hofmann stated she would start on that, and would meet with Mr. Nyboer and Mr. Ross-Shannon. It was agreed to document which Board functions were not completed given the absence of staff, and review at the February meeting.

#### 9 Discuss the Process and the Schedule for the Next Review and Revision of the Illinois List of Endangered and Threatened Species

The Board is required by the Endangered Species Protection Act to review and update the List at least every 5 years. With input from Ms. Mankowski, the Board reviewed practice from last review and revision, with staff compiling information and making recommendations to the Board, and the Board deliberating and approving any changes to the List. The review process spanned six Board meetings, two meetings to approve final

changes, a public hearing, and response to comments. The most recent list review and revision began in 2011, and concluded in 2015.

To spread out workload owing to staffing limitations, the Board's plan had been to stagger the next review and revision, with a 'short cycle' for animal species beginning in August 2015, and plants beginning in May 2017. This timeline had already been delayed. The Board has also adopted a new process for the next review and revision, based on petition forms for all changes of species status.

Review of these petitions is expected to be time-intensive. Board members reaffirmed the petition approach is correct, petitions require vetting, and this is necessary given list decisions can be and have been challenged.

Alternatives were discussed, noting completing the process in 2019 would maintain the current intervals. A coarse 5-year review of Element Occurrence Records may be possible, but could be deceptive, such as changes in search effort and reporting instead of true change in conservation status. The database of Element Occurrence Records is the most consistent data source, however does not track unlisted species, and considerable data compilation is required to add species to the list. Dr. Herkert suggested there are ways to do the review more expeditiously, such as work with experts and partners to flag species for closer scrutiny and develop petitions. If the Board convened groups for this work, meetings would need to comply with the Open Meetings Act. It remained unanswered how the Board will review and vet petitions, regardless of how they are developed and submitted to the Board.

The Board reached consensus to keep petition format, but questions remained on how to execute the process. Options include technical committees to review species, and develop petitions for species to change, as well as inviting petitions from public. Board then would review petitions. Mr. LaVia offer to meet with Dr. Herkert to develop an outline of process, report to Board in advance of the February 2016 meeting, and then members provide alternate framework(s) at the February meeting. The established process and timeline were to be used as the starting point.

#### 10 Illinois Department of Natural Resources' Plans for Updating the Herp Code and Administrative Rules

Dr. Herkert reviewed the Office of Resource Conservation previously operated primarily under authorities of the Wildlife Code and the Fish Code, with amphibians and reptiles given uncertain protections. The Herp Code was passed 2014, and was effective Jan 1 2015, providing clarity of protections. There is also a robust hobbyist aspect to amphibians and reptiles that includes captive breeding, including some listed species. Proposed changes to the Herp Code are relevant to E/T species in two ways: (a) fix a technical error to enable permitting, and (b) attempt to permit an exclusively captive-bred, commercial enterprise for amphibians and reptiles. Language for these proposed changes were with the Governor's Office, and likely to be introduced during the spring legislative session. Board members asked several questions, including about potential for similar expansion to captive propagation of fishes or other groups, and the sources of animals held captive and used for propagation (out-of-state, pre-dating listing). Dr.

Herkert said many details on qualifications of permittees, etc., would need to be worked on through the Administrative Rules process, and welcomed comments from Board members.

11 Proposed Approval of 2016 Meeting Schedule and Venues

The proposed slate of 2016 meetings and venues was:

February 19, 2016, Midewin National Tallgrass Prairie, Wilmington, Illinois  
May 13, 2016, Midewin National Tallgrass Prairie, Wilmington, Illinois  
August 12, 2016, Midewin National Tallgrass Prairie, Wilmington, Illinois  
November 18, 2016, Midewin National Tallgrass Prairie, Wilmington, Illinois

Mr. Robinette **moved**, and LaVia seconded and the 2016 schedule was **approved** unanimously. Chair Hofmann offered to post the schedule to the Board's website.

12 Public Comment Period (3 minutes per person)

None.

13 Other Business

Mr. Lavia reported a frequently asked question is what species is most endangered in Illinois. Contenders, including spotted turtle and piping plover were offered. Mr. Young suggested the Board highlight successful, contemporary recovery activities.

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

14 Adjournment

Chair Hofmann asked if there was any other business and noting none, **adjourned** the meeting at 1:02 P.M.