

Fish & Wildlife Board  
\*\*APPROVED as amended\*\* Meeting Minutes  
Wednesday, March 18, 2009

The Fish & Wildlife Board convened a meeting at 5:00 p.m. on Wednesday, March 18, 2009, in the Skylight conference room of the State Office Complex at 103 South Main Street in Waterbury, Vermont.

Attendees:

Board Members: Brian Ames, Chair; Ed Gallo, Vice Chair; R. Keith Armstrong, Wayne Barrows, Walt Driscoll; Cyndy Jones; Claude Rainville; Jeffrey Salvador; John Roy; and Bob Shannon.

Absent: Jeremy Baker, Craig O. Lantagne, and Grant Spates.

Department Employees: Commissioner Wayne Laroche, Col. David LeCours, David Englander, Cedric Alexander, John Austin, and Cathy Merrill.

Chair Ames called the meeting to order at 5:05 p.m.

Chair Ames told the Board that he had asked David Englander, General Counsel for the Department, to give the Board presentations on the Board's statutory authority, rulemaking, and Robert's Rules annually in April, May and June. Tom Decker, Chief of Operations for the Department, will give the Board a presentation on the Department's operations prior to the Board's April meeting. Mr. Englander will email the Board a copy of his presentation on the Board's statutory authority.

**Approval of February 18, 2009 Minutes**

Mr. Rainville made a motion to accept the February 18, 2009 meeting minutes; Mr. Roy seconded. The minutes were unanimously approved as written.

**Visitors**

At this time, Chair Ames asked the visitors to introduce themselves. They were: Leon Jacobs from Bennington; Putt Blodgett, a tree farmer from Bradford; George Weir from Newfane, president of the Consulting Foresters Association of Vermont; and Roy Kilburn from Berlin.

**Overview of Feedback from Public Meetings Re: Retrieval and Utilization Proposed Rule**

Commissioner Laroche gave a brief history on the development of the proposed rule on retrieval and utilization (formerly known as the wanton waste rule). The proposal was initiated by the Board due to the Board's concerns of observed instances of the wanton waste of wildlife. After reviewing an initial draft rule in 2007, the Board asked Commissioner Laroche to convene a working group to achieve consensus on the need for a rule and to develop language for a regulation. The Commissioner named a working group and allowed interested parties to participate. The only changes to the language developed by the working group were made by the Department's legal

counsel to make the rule legally defensible. The Board has the authority to now act on that proposed language. Commissioner Laroche stated the Department was not pushing an agenda by proposing this rule. He said this is a social issue, and instances of wanton waste are not impacting wildlife populations, or affecting the biological wellness of animals. Commissioner Laroche said the personal attacks on Kim Royar, the Department's wildlife biologist who facilitated the working group meetings, were uncalled for. Ms. Royar was assigned to assist the working group in the process and to staff the public meetings.

Mr. Shannon participated in the working group, and reiterated that the Department did not provide the proposed language; it was developed by the working group. Mr. Shannon added that once the working group finished its work, all the group members, except one, agreed with the proposed language.

Mr. Gallo noted that after the first proposed rule was voted down, several sporting groups were vehemently against the rule. The inclusion of those groups in the working group was to develop a rule that would address their concerns and one that they could agree to. It was Mr. Gallo's understanding that the working group members from the various organizations reported back to their constituents, and returned to the working group with their constituency's input.

Mr. Shannon and Mr. Ames, both who participated in the working group, said they were shocked and surprised by the comments of organization members at the public hearings, as only one working group member (and organization) disagreed with the final language, and now all were withdrawing their support for the proposed language. Mr. Shannon noted it was a significant and unexpected turnaround by the working group members.

Mr. Austin will provide the Board with a full set of minutes from the working group as well as a transcript of testimony received at the public hearings. The public comment period ends March 26.

Mr. Austin said the majority of those attending the public hearings expressed significant opposition to the rule and there was little agreement that there was a problem to address. Mr. Austin said there was also extensive discussion at the hearings about the survey of law enforcement staff and questions about its validity or usefulness. Mr. Austin reiterated that the Board had commissioned the development of a new rule through a working group of interested sporting organizations, and that the rule being proposed is in response to the Board's request. Col. LeCours said the survey response was not made mandatory and in retrospect that was unfortunate and a lesson learned.

The Board members who attended the public hearings shared comments received at the hearings and results of straw votes taken -- the majority were opposed to the regulation. It was noted that no legislators attended any of the public hearings. A considerable amount of emails against the proposal have been received by the Board members, however, the Commissioner's office has received none.

### **Moose**

Cedric Alexander, wildlife biologist for the Department, gave the highlights of the 2008 moose season and gave a presentation on the proposal for the 2009 season. A second vote on the 2009 proposal will be taken at the Board's April meeting.

Mr. Shannon noted the continual decline in biological indicators (harvest weights down, beam diameters smaller, and lower reproductive rates) and questioned the slight increase in the number permits being proposed. He is concerned that once habitat is lost due to overbrowsing that the carrying capacity of the land will be lost. Mr. Alexander responded that the moose population estimate was probably low to begin with.

There was discussion about habitat, what effect the anticipated increase in timber harvesting by Plum Creek will have on the habitat and moose, and how fast moose respond to changes in their habitat. Questions were raised regarding orphaned calves, and the use of ATVs on State land for retrieval of harvested moose. Commissioner Laroche responded that the issue of ATV use on State land is being revisited by the Agency. Commissioner Laroche also said the Department is managing for both social and ecological capacity; however, ecological carrying capacity trumps the socially acceptable capacity.

### **George Weir, et. al.**

George Weir and Putt Blodgett addressed the Board with their concerns regarding the number of deer in some of the wildlife management units (WMUs) in the state and the effects on tree regeneration.

Mr. Blodgett distributed pictures of a deer exclosure on his property that showed the absence of regeneration outside the exclosure due to deer browse, and six-foot tree growth inside the exclosure. A map prepared by an ad hoc forest regeneration group showing varying browse levels in southern WMUs was also distributed.

Mr. Weir said there were three main concerns that he and Mr. Blodgett wanted to bring to the Board's attention: 1) forest condition in the lowlands of Windham County; 2) the impact this is having on the forest landowners and industry; and 3) the options available for silvicultural operations. Mr. Weir explained how deer's selective browsing has changed the diversity of tree species in the forest and the phenomenal economic impact on those who make their living from timber sales.

Mr. Weir questioned if there was a different way of regulating the deer population to have less deer in WMUs O2 and Q, specifically.

Commissioner Laroche said there was a need to develop a methodology to measure browse impacts similar to the way winter severity is measured. He has asked his staff to organize a two-day retreat to include forestry/silviculture experts to have discussions with Agency foresters and wildlife biologists to gather information, brainstorm, and develop a long-term methodology to deal with the browse impacts on regeneration for the entire state. This event is expected to be held in May or June of this year.

Mr. Gallo said the Board has been liberal in following the Department's recommendations by increasing the bag limit to three and increasing the antlerless permits, but it's becoming apparent that there are not enough hunters to effectively control the deer herd. It wasn't clear to him what more the Board could do to help the situation.

Mr. Weir said he was not before the Board to make specific proposals, however, he wanted to note a failure of not having a habitat program, and asked the Board to take into consideration other perspectives when making regulations; *i.e.* the condition of the forest. Mr. Blodgett added the Board needs to understand the economic injury the landowners are incurring as a result of too many deer.

There was discussion on the methods of timber harvesting and the effects that historic changes in land use have had on the deer populations.

Ms. Jones suggested to Mr. Weir and Mr. Blodgett that food plots could be a useful tool for their properties to deter deer from browsing their wood lots, and cited examples of where food plots have been beneficial. She also noted that the Department needs to conduct habitat conservation work in Wildlife Management Areas and suggested the use of volunteers.

### **Deer report**

Copies of the 2008 deer report were distributed, and Commissioner Laroche gave a brief overview of the report. Dr. Shawn Haskell will give the Board a full presentation at its April meeting, along with the recommendations for the 2009 season.

### **Roundtable**

Mr. Rainville said he had received an email from the Lake Dunmore Association informing him of an error in the 2009 digest. It was erroneously printed that Fern Lake is in Franklin County; the lake is located in Addison County. *John Hall, who oversees publication of the digest, has been informed of this error.*

Mr. Gallo asked the Department to explore a suggestion to require moose lottery applicants to obtain a Vermont hunting license prior to submitting a moose lottery application.

Ms. Jones asked a constituent's question on why it is illegal to keep bass while ice fishing. Col. LeCours responded that this has been a restriction since the late 1960s, and was enacted due to concern about the pressure being put on bass at that time of year. The fishing regulations will come before the Board in 2009, and the Board could re-consider this issue at that time if desired.

Mr. Salvador noted the Commissioner was within 70 in his projection on how many deer would be taken in the 2008 harvest.

Mr. Barrows asked how many second and third deer were taken by successful hunters. Commissioner Laroche responded that 2% of the total successful hunters harvested more than one deer.

Chair Ames asked the Board members to submit any questions they wanted asked at the public deer hearings to Commissioner Laroche via email. They will be compiled and a Board member attending the hearing could ask the questions.

A motion to adjourn was made by Mr. Roy, seconded by Mr. Driscoll. The meeting adjourned at 8:45 p.m.

Respectfully submitted,

**/s/cpm**

Catherine Pirie Merrill  
Executive Staff Assistant  
Fish & Wildlife Department