

**NATURAL RESOURCES BOARD
MINUTES**

The regular meeting of the Natural Resources Board was held on Wednesday, August 14, 2002, at Inn on Maritime Bay, 101 Maritime Drive, Manitowoc, Wisconsin. The meeting was called to order August 14, 2002 at 8:30 a.m. for action on Items 1 and 2. The meeting was recessed at 8:50 a.m. and reconvened at 4:05 p.m.

PRESENT: Trygve A. Solberg, Chair
James E. Tiefenthaler, Vice Chair
Gerald W. O'Brien, Secretary
Herbert F. Behnke
Howard D. Poulson

ABSENT: Catherine Stepp
Stephen D. Willett

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Chairman Solberg called upon Mayor Crawford of Manitowoc to speak. Mayor Crawford welcomed the Natural Resources Board to his community and spoke highly of Manitowoc, its growing economics, and its successful manufacturing base. He further stated they recognize the importance of the Manitowoc waterfront and they have done everything in their power to give more public access to the waterways of the City of Manitowoc. Mayor Crawford thanked the Natural Resources Board for being in the City of Manitowoc.

Chairman Solberg called upon State Senator Baumgard. Senator Baumgard stated that it is always good to see the Natural Resources Board come to a great spot in the lake shore area. He welcomed the Natural Resources Board to Manitowoc. He thanked the Natural Resources Board and everyone involved for support of the protection of the Wisconsin Wetlands. He further spoke on the elk hunting issue and chronic wasting disease. He stated they have a system they are very proud of and if they can work together, urban, rural, the Department of Natural Resources, and the political system in a bipartisan way, he stated that he feels they are a better state.

Chairman Solberg called upon Senator Cowles to speak. State Senator Cowles also thanked the Natural Resources Board and Secretary Bazzell for being in northeastern Wisconsin. He emphasized everything that Senator Baumgard stated. He stated they do work in a bipartisan way and he thanked all the members of the Board for their hard work over the years and stated they have many challenges ahead. He thanked them for their courtesies during the tour at Point Beach Park, the wetland restoration area, and the arsenic area. Senator Cowles stated that he looks forward to working with all of the Department and the Board in the years ahead.

ORDER OF BUSINESS

1. Minutes to be approved.
- 1.A. Full Board Minutes of June 25-26, 2002.

Mr. Tiefenthaler MOVED, seconded by Mr. O'Brien, approval of the Full Board Minutes of June 25-26, 2002, as presented. The motion was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

1.B. Committee of the Whole Minutes of June 26, 2002.

Mr. O'Brien MOVED, seconded by Mr. Behnke, approval of the Committee of the Whole Minutes of June 25-26, 2002, as presented. The motion was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

1.C. Agenda for August 14, 2002.

Secretary Bazzell asked that the following changes be made: under Committee of the Whole 3.F.11. Lyle Kuckkan Retirement Resolution be added. Under the Land Committee that 6.B.2. Approval of master plan for the Harrington Beach State Park be deferred.

With those changes, Mr. Poulson MOVED, seconded by Mr. Tiefenthaler, approval of the agenda for August 14, 2002, as amended. The motion was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

2. Ratification of acts of the Department Secretary.

2.A. Real estate transactions.

Mr. Tiefenthaler MOVED, seconded by Mr. Poulson, approval of the real estate transactions, as printed. The motion was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

3. Committee of the Whole.

3.A. Citizen Participation.

This item was presented during the Committee of the Whole meeting.

3.B. INFORMATIONAL ITEM – Status of Fisheries and Habitat Research.

This item was presented during the Committee of the Whole meeting.

No action taken on this informational item.

3.C. INFORMATION ITEM – Chronic Wasting Disease Update.

This item was presented during the Committee of the Whole meeting.

No action taken on this informational item.

- 3.D. Adoption of Order LS-5-02 - revision of Chapter NR 2, Wis. Adm. Code, pertaining to procedures for administrative hearings.

This item was presented during the Committee of the Whole meeting.

Mr. Poulson MOVED, seconded by Mr. O'Brien, adoption of Order LS-5-02 - revision of Chapter NR 2, Wis. Adm. Code, pertaining to procedures for administrative hearings, as presented. The order was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

- 3.E. DONATION - Leach Natural Resource Center and New Project Establishment - Waushara County.

This item was presented during the Committee of the Whole meeting.

Mr. Tiefenthaler MOVED, seconded by Mr. O'Brien, acceptance of the donation. The motion was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

Chairman Solberg stated that all the Board Members should try and meet with the Leach family and personally thank them.

- 3.F. Retirement Resolutions.

- 1) Doran Arrowood.
- 2) Paul Brandt.
- 3) Gustave Ernst.
- 4) Eleanor Lawry.
- 5) George Meyer.
- 6) Judith Patton.
- 7) William Ritter.
- 8) Robert Roden.
- 9) Robert Weber.
- 10) John Woodliff.
- 11) Lyle Kuckkan.

This item was presented during the Committee of the Whole meeting.

Ms. Behnke MOVED, seconded by Mr. Poulson, approval of the retirement resolutions, as presented. The motion was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

4. Board Members' Matters.

- 4.A. Approval of 2003 Meeting Schedule.

This item was presented during the Committee of the Whole meeting.

Mr. Behnke MOVED, seconded by Mr. Poulson, approval of the Board Meeting schedule for 2003. The motion was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

5. Special Committees' Reports.

There were no Special Committees' Reports.

6. Operating Committees.

6.A. Air, Waste and Water/Enforcement Committee.

6.A.1. Minutes of June 26, 2002.

The Committee recommended and Mr. Poulson MOVED, seconded by Mr. Tiefenthaler, approval of the minutes of June 26, 2002, as presented. The motion was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

6.A.2. Adoption of Order DG-45-00 - revision of Chapter NR 809, Wis. Adm. Code, pertaining to lead and copper in drinking water.

The Committee recommended and Mr. Poulson MOVED, seconded by Mr. Behnke the motion of the adoption of Order DG-45-00 - revision of Chapter NR 809, Wis. Adm. Code, pertaining to lead and copper in drinking water, as presented. The motion was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

6.A.3. Adoption of Order DG-33-01- revision of Chapter NR 811, Wis. Adm. Code, pertaining to aquifer storage recovery wells.

The Committee recommended and Mr. Poulson MOVED, seconded by Mr. Tiefenthaler, adoption of Order DG-33-01- revision of Chapter NR 811, Wis. Adm. Code, pertaining to aquifer storage recovery wells, as presented.

Mr. Behnke inquired as to what Senator Cowles testimony was before the committee. Mr. Poulson stated that Senator Cowles was positive in his presentation saying we need to protect the water and this is a means by which a community could protect the future of their water reserve. He considered the factors of injection and felt it was a positive project.

Senator Cowles stated that he is positive and the savings are enormous.

The order was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

6.A.4. Adoption of Order FH-17-02 - revision of Chapter NR 324, Wis. Adm. Code, pertaining to Wolf River fishing rafts.

The Committee recommended to amend Section 2. NR 324.05(1)(f) to read: “Written permission from the riparian owner of the site at which the rafts is to be located or proof of riparian ownership such as a copy of a deed or tax statement”.

The Committee recommended and Mr. Poulson MOVED, seconded by Mr. Tiefenthaler, adoption of Order FH-17-02- revision of Chapter NR 324, Wis. Adm. Code, pertaining to Wolf River fishing rafts, as amended. The order was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

6.A.5. Adoption of Order FH-8-02 – creation of Chapters 150.03(8)(a)22, 23, and NR 353, Wis. Adm. Code, pertaining to the regulation of wetland conservation activities.

The Committee recommended and Mr. Poulson MOVED, seconded by Mr. O’Brien, adoption of Order FH-8-02 - creation of Chapters 150.03(8)(a)22, 23, and NR 353, Wis. Adm. Code, pertaining to

the regulation of wetland conservation activities, as presented. The order was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

Mr. Tiefenthaler thanked Scott Hausmann, Mary Ellen Vollbrecht, George Meyer, and the other staff that worked so hard to get this done. He stated that this was the best thing that has ever been achieved during his term on this Board.

- 6.A.6. Adoption of Order WA-27-02 - revision of Chapter NR 544, Wis. Adm. Code, pertaining to establishing the recycling pilot program for alternative compliance.

The Committee recommended and Mr. Poulson MOVED, seconded by Mr. O'Brien, adoption Order WA-27-02- revision of Chapter NR 544, Wis. Adm. Code, pertaining to establishing the recycling pilot program for alternative compliance, as presented. The order was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

- 6.A.7. Adoption of Order CF-30-02 – creation of Chapter NR 549, Wis. Adm. Code, pertaining to recycling efficiency incentive grant program

The Committee recommended to amend page 23 of the green sheet packet number (2)1. to read as “During the first grant period, applications shall be submitted by March 1, 2003, to be eligible for a grant award in calendar year 2003 and all applications submitted shall claim that an efficiency was implemented before February 28, 2003”. To amend page 23 of the green sheet packet number (3) 1. to read as “A consolidation pursuant to sub. (4)(a)1. Or achieving county responsible unit status pursuant to sub. (4)(a)3. Which was implemented before February 28, 2003. Responsible units claiming consolidations or cooperative agreements as a measure of recycling efficiency under this chapter after the first grant period may do so only if the consolidation or cooperative agreement was entered after March 2, 2003. And to amend page 24 of the green sheet packet number (4)1. to read as “The responsible unit was formed by the consolidation of 2 or more prior responsible units before February 28, 2003”.

The Committee recommended and Mr. Poulson MOVED, seconded by Mr. Mr. O'Brien, adoption of Order CF-30-02 – creation of Chapter NR 549, Wis. Adm. Code, pertaining to recycling efficiency incentive grant program, as amended. The order was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

- 6.A.8. Adoption of Emergency Order RR-38-02(E) and Order RR-25-02 - revision of Chapter NR 173, Wis. Adm. Code, pertaining to establishing the brownfields green space and public facilities grant program.

The Committee recommended and Mr. Poulson MOVED, seconded by Mr. Tiefenthaler, adoption of Emergency Order RR-38-02(E) and Order RR-25-02 - revision of Chapter NR 173, Wis. Adm. Code, pertaining to establishing the brownfields green space and public facilities grant program, as presented. The order was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

- 6.A.9. Adoption of Order AM-35-02 – revision of Chapter NR 428, Wis. Adm. Code, pertaining to reduction of NOx emissions.

The Committee recommended and Mr. Poulson MOVED, seconded by Mr. Tiefenthaler, adoption of Order AM-35-02 - revision of Chapter NR 428, Wis. Adm. Code, pertaining to reduction of NOx emissions, as presented. The order was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

- 6.A.10. Authorization for hearing on revision of Chapter NR 169, Wis. Adm. Code, pertaining to dry cleaner environmental response fund program.

The Committee recommended and Mr. Poulson MOVED, seconded by Mr. O'Brien that the Board authorize public hearing. The motion was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

- 6.B. Land, Management Recreation and Fisheries/Wildlife Committee.
6.B.1. Minutes of June 26, 2002.

The Committee recommended and Mr. Behnke MOVED, seconded by Mr. O'Brien, approval of the minutes of June 26, 2002, as presented. The motion was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

- 6.B.2. Approval of master plan for the Harrington Beach State Park.

This item was deferred.

- 6.B.3. Approval of Recommendation for Disposition of Spikehorn Campground property, Baileys Harbor Boreal Forest and Wetlands State Natural Area.

The Committee recommended and Mr. Behnke MOVED, seconded by Mr. O'Brien, approval of the recommendation for disposition of Spikehorn Campground property, Baileys Harbor Boreal Forest and Wetlands State Natural Area.

Mr. Behnke stated there were a number of appearances on this item and the opposition was based on Articles of Dedication they wanted included with the authorization or acceptance of the recommendation by the Department, of which the folks wanted incorporated by Board action today. Mr. Behnke wanted folks to understand what the Department did and why they did it. These folks drew up the Articles of Dedication, they were not a part of the public hearing process, it is not a part of the Department recommendation but their request, through their attorney and by the appearances here today, was that these Articles of Dedication be included in the action taken today and it states that:

Public access shall be prohibited on state property to discourage public access to Spikehorn property including the shoreline portion of the Spikehorn property the following limitations will apply:

- a. No trails, as defined in NR 44.03(13), Wis. Adm. Code (2002), or roads will be developed anywhere on the Spikehorn Property.
- b. No wells for potable water will be placed anywhere on the Spikehorn Property.
- c. No sanitary facilities, i.e., toilet, restrooms, will be placed anywhere on the Spikehorn Property.
- d. No swimming access will be permitted to the waters of Lake Michigan from the shoreline portion of the Spikehorn Property.
- e. No facility development, as defined in NR 44.03(7), Wis. Adm. Code (2002), or buildings of any sort will be erected on any portion of the Spikehorn Property.
- f. Hiking or walking along the shoreline portion of the Spikehorn Property from the edge of the town road to the waters' edge shall be prohibited.

Mr. Behnke stated that in discussion with the Department on the Articles of Dedication, they are in agreement with most of these areas except for the fact that the public access is being prohibited and no walking or stepping on the grounds or the shorelines. This is an area that has not been out for public discussion, it has not been presented to the public, it is not part of the original recommendation that went to hearing. Therefore, the proper procedure here would be to adopt the Department recommendation, which is that the Board approve modification of the project boundary of the Baileys Harbor Forest Wetland State

Natural Area to include the entire 16 acres and direct the Department to dedicate the land to insure long term preservation in a natural condition. That part has not been done. Therefore, it would be the **motion of the Committee to approve the recommendation of the Department, which would include directing the Department to draw up the Articles of Dedication, have this taken to public hearing and come back to the Board for adoption.**

Secretary Bazzell – For clarification, I want to be clear as to what the Board is actually doing here is improving the project boundary. What you are asking us to do specifically is bring back the Articles of Dedication.

Mr. Behnke – Exactly. What the Board is asking the Department recommendation here is. I do believe that you can do this without going through the public hearing process. What we are asking is that you do it through the public hearing process and bring it back to the Board for approval.

Secretary Bazzell – I am certainly comfortable with the process proposed here.

Mr. Tiefenthaler – If the Department comes back cloning no public access, I for one will fight against that.

The motion was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

6.B.4. Approval of the Feasibility Study for the North Branch Milwaukee River Wildlife and Farming Heritage Area.

The Committee recommended and Mr. Behnke MOVED, seconded by Mr. O'Brien, approval of the Feasibility Study for the North Branch Milwaukee River Wildlife and Farming Heritage Area. The motion was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

6.B.5. Adoption of Order CF-19-02 - revision of Chapter NR 6, Subchapter II, Wis. Adm. Code, pertaining to snowmobile rail crossings.

The Committee recommended and Mr. Behnke MOVED, seconded by Mr. O'Brien, adoption of Order CF-19-02 - revision of Chapter NR 6, Subchapter II, Wis. Adm. Code, pertaining to snowmobile rail crossings, as presented. The order was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

6.B.6. Adoption of Order WM-23-02 and Emergency Order WM-24-02(E) – revision of Chapter NR 10, Wis. Adm. Code, pertaining to establishing the 2002 migratory game bird season.

The Committee recommended and Mr. Behnke MOVED, seconded by Mr. Tiefenthaler, adoption of Order WM-23-02 and Emergency Order WM-24-02(E) - revision of Chapter NR 10, Wis. Adm. Code, pertaining to establishing the 2002 migratory game bird season, as amended that the northern zone would open on the September 28 for 60 days; the southern zone open on October 5 until October 13 with a one week break reopen October 19 proceeding through December 9; that the goose season stay closed in the south from October 14 through October 18; harvest one hen during the first part of the season in the south to October 18 and two hens starting October 19 in the north and south; change the dates of the Youth Waterfowl Hunt from September 21 in the north and September 21 in the south; and pintail season run concurrent to the first 30 days of the duck season as proposed to one pintail and thereafter closed. The order was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

- 6.B.7. Adoption of Order WM-33-02 - revision of Chapters NR 10 and NR 45, Wis. Adm. Code, pertaining to small game and expanded spring turkey hunting in state parks.

The Committee recommended and Mr. Behnke MOVED, seconded by Mr. Tiefenthaler, adoption of Order WM-33-02 - revision of Chapters NR 10 and NR 45, Wis. Adm. Code, pertaining to small game and expanded spring turkey hunting in state parks, as amended to include use of dogs for small game. The order was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

- 6.B.8. Adoption of Order FH-6-02 and FH-6-02a– revision of Chapters NR 299 and NR 300 and creation of Chapters NR 351 and NR 352, Wis. Adm. Code, pertaining to permit and water quality certification time limits.

The Committee recommended and Mr. Behnke MOVED, seconded by Mr. O’Brien, adoption of Order FH-6-02 and FH-6-02a - revision of Chapters NR 299 and NR 300 and creation of Chapters NR 351 and NR 352, Wis. Adm. Code, pertaining to permit and water quality certification time limits, as presented. The order was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

- 6.B.9. Adoption of Order FR-36-02 – revision of Chapter NR 47, Subchapter VII, Wis. Adm. Code, pertaining to private landowner grant program administrative rules.

The Committee recommended and Mr. Tiefenthaler MOVED, seconded by Mr. O’Brien, adoption of Order FR-36-02 - revision of Chapter NR 47, Subchapter VII, Wis. Adm. Code, pertaining to private landowner grant program administrative rules, as presented. The order was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

- 6.B.10. Adoption of Order FH-22-02 – revision of Chapter NR 20, Wis. Adm. Code, pertaining to proposed housekeeping of sport fishing regulations on inland waters.

The Committee recommended and Mr. Tiefenthaler MOVED, seconded by Mr. O’Brien, adoption of Order FH-22-02 – revision of Chapter NR 20, Wis. Adm. Code, pertaining to proposed housekeeping of sport fishing regulations on inland waters, as amended to remove those words “. . . or of any other size” on page seven, section two, NR 2.05(6). The motion was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

- 6.B.11. Forest Legacy easement acquisition – Iron, Lincoln, Marathon and Oneida Counties.

The Committee recommended and Mr. Tiefenthaler MOVED that the Board approve the purchase 35,337.37 acres of land and partial donation from Tomahawk Timberlands, LLC for the Forest Legacy easement in Iron, Lincoln, Marathon and Oneida Counties. Mr. Behnke seconded the motion. The motion was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

- 6.B.12. Statewide Habitat land acquisitions – Brown County.

The Committee recommended and Mr. Tiefenthaler MOVED that the Board approve the purchase of 84.91 acres of land from Gary and Shirley Posey for \$325,000 for the Statewide Habitat in Brown County. Mr. Paulson seconded the motion. The motion was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

6.B.13. Avon Bottoms Wildlife Area land acquisition – Rock County.

The Committee recommended and Mr. Tiefenthaler MOVED that the Board approve the purchase of 330 acres of land from the Nellie Carey Estate for \$495,000 for the Avon Bottoms Wildlife Area in Rock County. Mr. O'Brien seconded the motion. The motion was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

6.B.14. Ten Mile Creek Streambank Protection land acquisition – Wood County.

The Committee recommended and Mr. Tiefenthaler MOVED that the Board approve the purchase of 302 acres of land from Plum Creek for \$750,000 for the Ten Mile Creek Streambank Protection Program in Wood County. Mr. O'Brien seconded the motion. The motion was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

6.B.15. Horicon Wildlife area land acquisition – Dodge County.

The Committee recommended and Mr. Tiefenthaler MOVED that the Board approve the purchase of 46.7 acres of land from Lawrence Gohlke for \$79,500 and the project boundary be modified to include the parcel in the project for the Horicon Wildlife Area in Dodge County. Mr. O'Brien seconded the motion. The motion was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

6.B.16. Ice Age Trail land donation – Washington County.

The Committee recommended and Mr. Tiefenthaler MOVED that the Board approve the donation of 4.71 acres of land from American Transmission Company for the Ice Age Trail in Washington County. Mr. O'Brien seconded the motion. The motion was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

7. Department Secretary's Matters.

7.A. Memorial Resolution for Stanley (Tom) Palmer.

Mr. Behnke MOVED, seconded by Mr. O'Brien, approval of the resolution. The motion was carried unanimously by those members present. (Ms. Stepp and Mr. Willett were absent.)

7.B. DONATION - \$29,700 from The Friends of High Cliff State Park for the paving of a handicapped accessible trail and a bridge to cross the Butterfly Pond within High Cliff State Park.

Mr. Tiefenthaler MOVED, seconded by Mr. O'Brien, acceptance of the donation. The motion was carried unanimously by those members present.

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The meeting adjourned at 4:40 p.m.