

Kentucky Department of Fish & Wildlife Resources



Quarterly Commission Meeting

MINUTES

May 25, 2023 | 8:30 AM (ET)

Live Video Teleconference

Web link: [YouTube.com/FishandWildlifeKY](https://www.youtube.com/FishandWildlifeKY)

Call to Order and Welcome (Video 19:03) – Chairman Clinard

Invocation (Video 19:41) – Ralph Swallows

Pledge of Allegiance (Video 20:25) – Josh Lillard

Chair's Remarks (Video 20:51) – Chairman Clinard

Introduction of Commission Member Greg Cecil (Video 22:01)

Commissioner's Remarks (Video 25:24) – Rich Storm

Commission Members in attendance (Video 37:28) Dr. Karl Clinard, Jerry Ferrell, Brian Fisher, Dr. Robin Floyd, Paul Horn, Josh Lillard, Doug Morgan, and Ralph Swallows.

Action Items

- Minutes from March 29, 2023 quarterly meeting (Video 38:15)
 - Commission Member Ralph Swallows requested an action item be added to June 16, 2023 meeting concerning zones being removed from special commission permits. Brian Fisher made a **motion to accept the minutes as written** in addition to Commission member Swallows remarks, seconded by Josh Lillard. Votes were as follows: Yes: Dr. Robin Floyd, Brian Fisher, Ralph Swallows, Greg Cecil, Josh Lillard, Jerry Ferrell, Paul Horn, and Doug Morgan. **The motion carried unanimously.**
- Quarterly Financial Report (Video 41:23)
 - Lisa Cox, Administrative Services Director, presented the quarterly financial report. Ralph Swallows made a **motion to approve the financial**

report as presented, seconded by Josh Lillard. Votes were as follows: Yes: Dr. Robin Floyd, Brian Fisher, Ralph Swallows, Greg Cecil, Josh Lillard, Jerry Ferrell, Paul Horn, and Doug Morgan. ***The motion carried unanimously.***

- Change Simpson Co. from Zone 3 to Zone 2 for Deer Hunting (Video 52:49)
 - Brian Clark, Deputy Commissioner, proposed amending [301 KAR 2:172](#) – Deer hunting seasons zones and requirements. Brian Fisher made a **motion to change Simpson Co. from Zone 3 to Zone 2**, seconded by Josh Lillard. Votes were as follows: Yes: Dr. Robin Floyd, Brian Fisher, Ralph Swallows, Greg Cecil, Josh Lillard, Jerry Ferrell, Paul Horn, and Doug Morgan. ***The motion carried unanimously.***

- Update and Clarify Prohibited Aquatic Species Regulation (Video 55:02)
 - Dave Dreves, Director of Fisheries, proposed amending [301 KAR 1:122](#) – Importation, possession, and prohibited aquatic species. These provisions would clarify that goldfish are legal species to use as bait, provide clarification that there shall be an exception for legal release of aquatic species back into waters from which caught at the time of taking, restrict transportation and sale of live tilapia within Kentucky to food consumption purposes only with some exceptions, explicitly prohibit possession of live Asian carp species, and allow sport fishing anglers to possess, sell, and transport Asian carp under the same three conditions allowed for licensed commercial fisherman. Ralph Swallows made a **motion to approve the proposals as written on pages 10 and 11**, seconded by Robin Floyd. Votes were as follows: Yes: Dr. Robin Floyd, Brian Fisher, Ralph Swallows, Greg Cecil, Josh Lillard, Jerry Ferrell, Paul Horn, and Doug Morgan. ***The motion carried unanimously.***

- Clarify Propagation of Aquatic Organisms Permit Requirements (Video 1:01:11)
 - Dave Dreves, Director of Fisheries, proposed amending [301 KAR 1:115](#) – Propagation of aquatic organisms. This proposal would provide that the Department may deny a propagation permit for aquatic organisms that are determined to be potentially damaging to native ecosystems. Brian Fisher made a **motion to approve the proposal as written**, seconded by Josh Lillard. Votes were as follows: Yes: Dr. Robin Floyd, Brian Fisher, Ralph Swallows, Greg Cecil, Josh Lillard, Jerry Ferrell, Paul Horn, and Doug Morgan. ***The motion carried unanimously.***

- Clarify Transportation of Fish Permit Requirements (Video 1:02:16)
 - Dave Dreves, Director of Fisheries, proposed amending [301 KAR 1:125](#) – Transportation of fish. This proposal would explicitly provide for the option of denying a transportation permit for aquatic organisms that are determined to be potentially damaging to native ecosystems. Brian Fisher

made a **motion to approve the proposal as written**, seconded by Josh Lillard. Votes were as follows: Yes: Dr. Robin Floyd, Brian Fisher, Ralph Swallows, Greg Cecil, Josh Lillard, Jerry Ferrell, Paul Horn, and Doug Morgan. ***The motion carried unanimously.***

- Define “Gill Net” and “Trammel Net” in Regulations (Video 1:05:10)
 - Dave Dreves, Director of Fisheries, proposed amending [301 KAR 1:146](#) – Commercial fishing gear. “Gill Net” means a passive capture device in which fishes are captured by becoming wedged, gilled, or entangled in a single panel of webbing fished vertically. “Trammel Net” means a passive capture device in which fishes are captured by becoming wedged, gilled, or entangled in two or three panels of webbing fished vertically. Jenny Gilbert, Legislative Liaison, clarified that by defining these new regulations, they will then be filed into the fish definition regulations [301 KAR 1:001](#) as it pertains to [301 KAR 1:146](#). Josh Lillard made a **motion to accept the proposal as written**, seconded by Brian Fisher. Votes were as follows: Yes: Dr. Robin Floyd, Brian Fisher, Ralph Swallows, Greg Cecil, Josh Lillard, Jerry Ferrell, Paul Horn, and Doug Morgan. ***The motion carried unanimously.***

Commission Member Greg Cecil left the meeting. (Video 1:10:14)

- Establish Special Regulations for Walleye and Smallmouth Bass on Barren River and Add Special Regulations for Catfish at Yatesville Lake (Video 1:10:52)
 - Dave Dreves, Director of Fisheries, proposed amending [301 KAR 1:201](#) – Taking of fish by traditional fishing methods. The first proposal would be to define a new lower boundary for walleye and smallmouth bass existing special regulations on the Barren River due to the removal of Lock and Dam 1. The second proposal is to add an aggregate limit on blue catfish/channel catfish at Yatesville Lake. Blue catfish and channel catfish will have a 15-fish daily creel limit in aggregate and only 1 fish may be longer than 25 inches. Ralph Swallows made a **motion to accept the proposal as written**, seconded by Brian Fisher. Votes were as follows: Yes: Dr. Robin Floyd, Brian Fisher, Ralph Swallows, Josh Lillard, Jerry Ferrell, Paul Horn, and Doug Morgan. ***The motion carried unanimously.***
- Add Special Regulations for Hand-Grabbing of Catfish at Yatesville Lake (Video 1:15:19)
 - Dave Dreves, Director of Fisheries, proposed amending [301 KAR 1:410](#) – Taking of fish by nontraditional fishing methods. This proposal would have catfish at a 5-fish daily creel limit in aggregate, and only 1 blue catfish or channel catfish may be longer than 25 inches for hand-grabbing at Yatesville Lake. Josh Lillard made a **motion to accept the proposal as written**, seconded by Dr. Robin Floyd. Votes were as follows: Yes: Dr.

Robin Floyd, Brian Fisher, Ralph Swallows, Josh Lillard, Jerry Ferrell, Paul Horn, and Doug Morgan. ***The motion carried unanimously.***

Discussion Items

- Hunting on Conservation Camp Properties (Video 1:19:12)
 - Kevin Kelly, Director of Information and Education, proposed to promulgate a regulation that will allow for special mentored hunts on all 3 conservation camp properties. Hunts for designated game species will be conducted as department-sponsored events for mentor/youth hunters only. The mentors would be Department staff or volunteers working with the Department staff. The volunteers would go through the training and vetting process including KSP background checks, and the volunteer mentors would not be working with youths.
 - Brian Fisher made a **motion to pass on this recommendation to an action item** and asked for further details and clarification be brought forth to the commission by the next meeting, seconded by Josh Lillard. Votes were as follows: Yes: Dr. Robin Floyd, Brian Fisher, Ralph Swallows, Josh Lillard, Jerry Ferrell, Paul Horn, and Doug Morgan. ***The motion carried unanimously.***
- Commercial Guide License and License, tag and permit fees (Video 1:29:54)
 - Major Shane Carrier from the Law Enforcement Division proposed amending [301 KAR 2:030](#) and [301 KAR 5:022](#). The Commissioner's Office, Fisheries, Law Enforcement, and Wildlife Divisions recommend modifications to the commercial guide regulation to require reporting for hunting and fishing guides, update the requirements to obtain a commercial guide license, update the commercial guide license application, and increase the commercial guide fees.
 - The commission agreed that this recommendation would remain as a discussion item for the June meeting. Further clarification will be provided to the commission before becoming an action item.

Executive Session (Video 2:02:51) Scott Porter, Staff Attorney, read the following statement for public notice about the Commission meeting in closed session:

“All meetings of a quorum of the members of any public agency at which any public business is discussed or at which any action is taken by the agency, shall be public meetings, open to the public at all times except for specific exceptions listed in KRS 61.810 or otherwise provided for by law.

The Commission has business today that will require entering into a closed session. KRS 61.815 requires notice of the general nature of the business to be discussed in the closed session, the reason for the closed session, and the

provision of KRS 61.810 that authorizes it be publicly announced prior to entering closed session for most open meetings exceptions.

In the proposed closed session, the Commission will discuss two potential land acquisitions via purchase. The discussions shall occur in the closed session to protect the state's interests in the acquisition of land. By identifying KDFWR's interest in the particular parcels in our location, the general public would be alerted to the various owner's willingness to sell the properties and our intent to purchase. As such, the publicity increases the likelihood other parties may make offers on the properties. Such competing offers could increase the value of the subject properties. Alternatively, a private party could purchase a property from the current owner more quickly than the Commonwealth and require the Commonwealth to pay a premium to acquire it.

This portion of the closed session is authorized by KRS 61.810 under Section 1(b) for the potential land acquisitions.

Upon an approved motion, the Commission will enter into closed session. The Commission shall not discuss any other matters and no action shall be taken or will occur during the closed session.

During the closed session, counsel and necessary members of staff will be present to advise the Commission.”

Brian Fisher made a **motion to enter executive session**, seconded by Ralph Swallows. Votes were as follows: Yes: Dr. Robin Floyd, Brian Fisher, Ralph Swallows, Josh Lillard, Jerry Ferrell, Paul Horn, and Doug Morgan. ***The motion carried unanimously.***

Action Item (Video 2:49:25)

After open session resumed, Dr. Clinard entertained motions concerning the items discussed in closed session.

- Land Acquisition Project: Brian Fisher made a **motion to move forward with Land Acquisition Project A and B**, seconded by Josh Lillard. Votes were as follows: Yes: Dr. Robin Floyd, Brian Fisher, Ralph Swallows, Josh Lillard, Jerry Ferrell, Paul Horn, and Doug Morgan. ***The motion carried unanimously.***

Public Comments (Video 2:50:37) Lisa Jackson, Public Information Office Supervisor, read the following statement regarding public comments.

“Public comments regarding New Business Items or Discussion Items on the agenda may be submitted by email to FW.PublicAffairs@ky.gov. Comments received by 5:00PM (eastern) two days before a meeting will be distributed to all Commission members the day prior to the meeting and will be read by KDFWR staff during the Commission meeting for up to 3 minutes total per commenter,

time permitting and at the discretion of the Commission chair. Emailed comments allow Commission members adequate time for consideration and correspondence if necessary, and they allow the Commission to conduct business more efficiently during meetings. Note: A commenter's contact information is not required for emailed comments, but will be necessary if information is requested, and other than name and affiliation it will not be publicly disclosed if provided. Anonymous comments will be distributed to the Commission members but may not be read during the meeting. The Commission chair reserves the right to not read publicly any comments that are libelous, profane, derogatory of others, not pertaining to business items on the meeting agenda, or redundant with other comments. Questions will receive an email response. Commenters should include "Commission meeting" in their email subject line and include their first and last name(s), Kentucky county(s) of residence (or state of residence if a nonresident), and organizational affiliation and position if they are an officer or official representative for a particular organization. In-person attendees of meetings may also request to speak up to 3 minutes total per commenter on New Business Item(s) or Discussion Item(s) on the agenda, but will be required to sign-in on the public comment request form on the table at the meeting room entrance by 9:00AM (eastern) on the day of the meeting, and provide name, county and state of residence, organization represented and position (if applicable), and applicable agenda items. Commenters who speak in person will not have their emailed comments read publicly at the meeting and are asked to avoid voicing comments that are redundant with others speaking prior to them during the allotted public comments time."

The following comments were made in person (Video 2:54:09):

- "Thank you, Commissioners. My name is Adam Mullins, and I'm with the Moonlight Hunting and Fishing Club out in northern Kentucky. The reason I'm here today is part of the land acquisition purchases that you guys make. I hope to see some WMAs open in the Northern Kentucky District with some of these land acquisitions here in the near future. There are some that we have been actively lobbying the department for and hope to see them open as a WMA. That's all I really have." – Adam Mullins
- "Donald Thomas here today representing Kentucky Elk Guide Association and may surprise you about what I am going to speak about today, which is the discussion item regarding the commercial guidelines. That's why I am here. The group wanted me to come up today and just put out that as far as all of the new requirements proposed on the commercial guide license that they are not in support of any of those items, except the increase in the commercial guide license fees. A reasonable increase, which they have went with a 100% increase for the fee, which would put it at \$300.00 max, not the \$500.00. That is really all I am here today to add for you. Just pass that along for that group." - Donald Thomas

- “Brian Mackey, Hardin County Kentucky. I was wanting to speak about the guide license requirements. I’d heard a lot of different people talk about this, and you all hit on some of the issues today. The department has talked for some time now about needed revenue. You know, additional revenue here, there, whatever. I think the increase is a good idea. You know, some people have said they think it’s too much. Some people have said you know maybe we should separate fishermen from hunters. I personally know some people that do both the hunting and the fishing guiding. A \$350.00 increase, even your fishing guides, they can make that up with one or two people in one trip. Not to knock the fishermen, but you know they have got a little bit easier life than a guy like Don back there that’s hiking up and down mountains. You know, packing meat out, you know helping people get all the game. So, I think those are good. I do think that the reporting information is a really good tool. You know, Mr. Dreves stated that’s a good way to gather more data, whether it’s with fishing or hunting. A lot of the areas in far Western Kentucky, you know, there’s a big presence with whitetail operations down there. So, I think the reporting information that’s proposed in this would be really beneficial. To know what’s going on with those operations. You know how many males they taking versus females, and you know how many acres are they leasing up and using. One thing that I would like to see added to it and not as much with what Mr. Thomas and his people are doing but with the whitetail operations in western Kentucky, where it states currently that they would require updates to the acreage. You know they are wanting to know how many acres those people have when they file for that license. I would like to see that they have to make updates as they potentially have. At least more acreage after they initially file for that license. Another question I had is, does the guide license follow under federal matching money? Is there any way that could be redone to where possibly we could get matching money? Like I said, I think most of this is good. I think it’s probably overdue, and you know, I have heard some of the non-residents say they think it’s really too much, but I would like to see the Commission address this at the Commission level and keep the legislators out of it. You know the five-acre provision and Senate Bill 241 were supposed to help generate money. This is a way to generate money.” – Brian Mackey

Lisa Jackson, Public Information Office Supervisor, read the following emailed comments:

- Dear Commissioners, I am writing to advise of my opposition to the proposed increase in guide license fees that will be discussed at the next quarterly Commission meeting. As the owner of Captain Jim Fishing (StriperFun Guide Service – KY Walleye, Sauger, Bass, Muskie and Crappie Charters), my company provides fishing charter trips via eight guides (independent contractors) on the following KY waterways: Lake Cumberland, below Lake Cumberland in the river, above Lake

Cumberland in the Laurel Trace, Laurel Lake, Green River Lake, Cave Run Lake, and Dale Hallow Lake. Briefly, I am a KY born native and have been fishing Lake Cumberland and the other KY waterways for 60 years. I am also a Search and Rescue Coxswain with the US Coast Guard Aux (top secret security clearance) and serve three local fire departments. A few years back I moved to TN and now annually purchase a KY “non-resident” guide license. Altogether, depending on the economy, we run about 400 charters a year in KY waters. The vast majority of the clients I and my other guides take out are not from the State. They travel to the Commonwealth for the unique opportunity to fish with a guide. This creates a tremendous influx of tourism dollars to the Commonwealth. From numerous previous economic studies done over the decades, these out of state visitors spend a lot of money buying licenses, food, gas and lodging etc. On average my clients will spend around \$1,000 per trip (not counting my fee) adding to the Commonwealth’s economy. They also spend time and money at local restaurants, shops, and other attractions making an impact on the economy. Many of these same clients will return annually and some multiple times a season. Besides these visitors spending such great sums of money, as a guide I also spend a great deal of money preparing for guide trips buying supplies, paying thousands for boat repairs – maintenance (\$5,000.00 annual dock fee) buying equipment and paying for fuel, creating even more revenue dollars to the Commonwealth. Guiding for fish is not a “get rich quick” business! With only the visitor’s financial influx (and not counting the “cascading effect” of all the great publicity for KY tourism and the repeater business) the fishing charters generate, this breaks down at 400 trips a year to an estimated \$400,000.00 of tremendous influx of tourism dollars to the Commonwealth just for my company alone. Multiply this (for example) by 100 guides in KY and you are looking at \$40 million of tourism dollars annually to the Commonwealth. This is a simple “left hand versus right hand” equation. In the short run “yes”, a few extra hundred dollars annually could be forced out of the fishing guides. But the long-term effect of potentially losing tens of millions of dollars a year for the Commonwealth if KY guides have to go elsewhere could be devastating. My company also runs even more charters in TN than we do in KY. If the fees for resident and non-resident guide license fees are increased 350% (as I was told was being proposed) it may not be profitable for me to continue to offer services in Kentucky. Thank you for your time.” – Captain Jim Durham, United States Air Force Veteran, U.S. Coast guard Merchant Marine Officer Captain – License No. 1037731, Kentucky State Guide License, Tennessee State Licensed Guide, U.S. Coast guard Auxiliary 8th Eastern, Division 11 Patrol Coxswain, Clay County TN, East 52 Firehouse ,Fireman #17, Overton County TN, Timothy Firehouse, Owner StriperFun Guide Service, Tennessee and Kentucky Walleye Charters, Kentucky Bass Charters,

Tennessee and Kentucky Muskie Charters, Tennessee and Kentucky Crappie Charters, Kentucky Trout Charters, Member Tennessee Wildlife Federation, Member League of Kentucky Sportsman, Member Overton County Chamber TN, Member Cumberland County Chamber KY.

- “Hello, my name is Loman Scarbrough. I’m the Founder/President of the Hopkins County Sportsmen and Sportswomen Club Inc. I support the recommendations of the proposed changes to the commercial guide licenses. I will also add a recommendation of resident license to be set at \$1000.00 and non-resident set at \$2000.00. Today’s system is being abused across the state of Kentucky. People are leasing and subleasing properties and making a lot of money. Most of these folks are leasing a deer stand or waterfowl blind by the day or the week. These folks don’t buy the appropriate guide license. To me the folks are dodging the guide license fees. We need language within our laws to prevent this activity. These folks are offering a service the same as a hunting guide. I greatly appreciate everything you folks do for the Sportsman and Sportswomen of Kentucky.” – Loman Scarbrough

Adjourn (Video 3:09:37)

- Ralph Swallows made a **motion to adjourn**, seconded by Brian Fisher. ***The motion carried unanimously.***

Next Commission Meeting Date: June 16, 2023