

Minutes of the Telephonic Meeting of the  
Arizona Game and Fish Commission  
Tuesday, September 27, 2016, 1:30 p.m.  
Arizona Game and Fish Department  
5000 W. Carefree Highway  
Phoenix, Arizona 85086

PRESENT: (Commission)

(Director's Staff)

In person:  
Chairman Edward "Pat" Madden  
Commissioner Kurt R. Davis

In person:  
Director Larry D. Voyles  
Deputy Director Ty E. Gray  
Assistant Attorney General Jim Odenkirk

Via telephone:  
Commissioner James R. Ammons  
Commissioner James S. Zieler

Chairman Madden called the meeting to order at 1:30 p.m. Deputy Director Gray conducted roll call. Commissioner Sparks was not present. There were no members of the public present. Several Department staff members were present. This meeting followed an agenda dated September 23, 2016.

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1. The Department Will Brief the Commission on its Intent to Expend Funds Above the Original Budget Allocation for the Arizona Game and Fish Department's Dues to the Association of Fish and Wildlife Agencies (AFWA).

**Presenter:** Larry D. Voyles, Director.

Director Voyles briefed the Commission on the Department's intent to potentially exceed the Department's budget allocation of funding for its AFWA annual dues. The reason for this is an unanticipated shortfall in financial sponsorships for conducting the AFWA annual meeting held earlier this month in Philadelphia, Pennsylvania. It's unclear at this time whether AFWA will need to seek additional funding from the states and how much that will be. There has been a five figure shortfall. Several non-governmental organizations have stepped up and increased their support for the annual meeting, which narrowed that shortfall. An additional \$15,000 was provided for the shortfall by the Recreation, Boating and Fishing Foundation (RBFF) and an additional \$9,000 was provided by Safari Club International (SCI).

In spite of these donations, there is still a five figure difference between what was anticipated and what was actually received. In the event that AFWA requests additional support from the states, Director Voyles intends to allow up to \$5,000 to help AFWA deal with the shortfall in sponsorships. Advising the Commission of the situation and the Department's intent is the purpose of this meeting. Director Voyles asked the Commission if they had any questions.

Chairman Madden asked if the increase in commitment by RBFF and SCI would eliminate the shortfall in sponsorship revenues.

Director Voyles stated that it does not entirely eliminate the shortfall. There is still a five figure difference between what was anticipated and what actually materialized.

Chairman Madden asked why the unanticipated shortfall occurred.

Director Voyles stated that the shortfall occurred because, traditionally, the U.S. Department of Interior (DOI) agencies, the U.S. Fish and Wildlife Service (USFWS), U.S. Geological Service (USGS), and the U.S. Bureau of Land Management (BLM), have consistently over the past ten years sponsored the AFWA annual meeting. AFWA based its assumptions on sponsorships, assuming that it would occur again this year, but to everyone's surprise, the DOI agencies declined to participate and support, in any way through sponsorship, AFWA's annual meeting.

Commissioner Davis asked the Director if he could explain why they chose to not participate.

Director Voyles stated that, to his understanding from a number of people he talked to, it was the result of a strong lobbying effort by USFWS Director Dan Ashe in opposition to supporting AFWA's annual meeting. Director Ashe apparently went to two agency heads and requested that they not support the AFWA annual meeting.

Commissioner Davis asked why Director Ashe would do that, and asked if it were normal or if it has ever occurred before.

Director Voyles stated that it was the first time he is aware of the DOI agencies declining to sponsor the AFWA annual meeting, so in his experience, it is unprecedented. It is his understanding that the lobbying relates to tensions that arose between AFWA and Director Ashe as a result of AFWA's decision to issue a letter of comment on the Alaska rule related to non-subsistence take of wildlife on Alaskan refuges that AFWA felt contained language that would effectively be a preemption of state regulatory management authority for hunts on refuges. The Director of USFWS was lobbying AFWA, strongly, to try and dissuade AFWA from filing those comments and ultimately AFWA's decision was to go ahead and file. There were some indications that if AFWA filed the comments, there would be ramifications and this appears to be one of them. AFWA went forward with the comments after softening portions as a result of previous discussions, but apparently it was not satisfactory. In conversations Director Voyles had later on with the Executive Director of the National Wild Turkey Federation (NWTf), when the NWTf became aware of the tensions between the USFWS and AFWA, NWTf attempted a call to Director Ashe to try and calm the waters. NWTf was told that if the community persisted in trying to oppose the rule, that in fact, Director Ashe was prepared to bring down hunting.

Commissioner Davis stated that he supports the Director's purpose to inform the Commission and even though the Director already has the authority, he supports the Department's decision to assist with the financial shortfall. On behalf of the Commission, Commissioner Davis thanked SCI and RBFf for their willingness to assist AFWA with their financial shortfall. In regards to the issue, Commissioner Davis clarified his understanding with Director Voyles. In this situation, rules are put out for public comment for the purpose of seeking comment. It is the process which we are supposed to engage in as public agencies, and this Department does it on a regular basis, which is to propose a rule and then that rule goes out for public comment, and then you are supposed to take those comments and go through them and make final recommendations

to be approved, which in the Department's case, the Commission would be asked for approval. Commissioner Davis stated that to him, it sounds like Director Ashe is actually purposely attempting to chill comment on a proposed rule, as opposed to actually wanting to gather as much comment as necessary, and then come to a determination as the Director for final rule.

Director Voyles stated that the Administrative Procedures Act requires directors of federal agencies that promulgate rules to engage in a public process to receive comment for consideration and deliberation in the promulgation of a final rule. That process is intended to be an open public input process. Director Voyles stated that from his understanding and the kinds of dialogue that have taken place with a CEO of a major NGO, it appears that there was an intent that those comments, that might be in opposition to portions of the rule as written, were not being encouraged and, in fact, it sounds like there was an intent for those comments to not be filed.

Commissioner Davis stated this is a very unfortunate situation where you have a public entity seeking to limit input from an organization that has in its membership, experienced and great expertise on these issues. On the surface, the idea that you would attempt to chill comments is offensive, but this reaches a level, in his opinion, that he would ask the Commission to ask Director Voyles and the Department to contact Senators McCain and Flake and ask them to review this situation based on the conduct and the basis of these decisions that were made by a federal director, and see if they believe that it is appropriate for them to seek other redress. This is outrageous and he would like to see Senators McCain and Flake take a look at this and see if they find it acceptable. This goes beyond arm-twisting, it is almost blackmail, although he hates to use that term, and he would like the Senators to take a very strong look at the conduct of the USFWS Director related to this case.

Director Voyles stated that if the Commission agrees, he certainly feels it would be appropriate to move forward and execute the direction as requested by Commissioner Davis.

The Commissioners extended their support.

Chairman Madden questioned the comment by Director Ashe about taking hunting down and would like to know where that is coming from and where it is going. He would like the Department's legislative staff to follow up on it.

Director Voyles confirmed that he will include it in the information that the Department transmits to the Senators.

Commissioner Davis stated that whether at the federal or state level, in the promulgation of rules and in the creation of policies related to the management of wildlife, the objective should always be to cast a wide net of public input, as this Department does, and then the scientific professionals and Department professionals review and analyze those comments. As is the case in Arizona, the Commission then makes the final recommendation for the promulgation of those rules. The idea that we may have individuals at the federal level that choose to not honor that process is something that we should always make sure to have swift and strong action against any attempts to mitigate what should be a very open and public process where we try to gain as much public opinion, knowledge and expertise as we possibly can. This is disheartening because it is not how our system is supposed to operate. Commissioner Davis hopes the Senators take a

look at it and make some requests, and he hopes Director Ashe will reflect upon it and realize that it is not how we should be doing things in our federal form of government.

The Commission asked if the Department needed the Commission to vote on its direction or for the additional dues to AFWA.

Mr. Odenkirk advised that the Commission did not need to vote on its direction and that the Director currently has the authority on his own to exceed the allocation for AFWA dues.

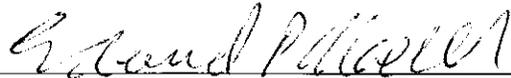
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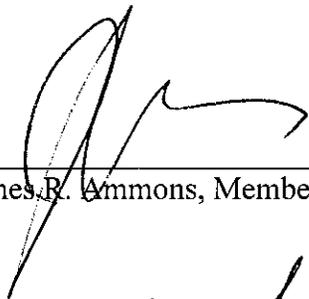
Chairman Madden adjourned this meeting.

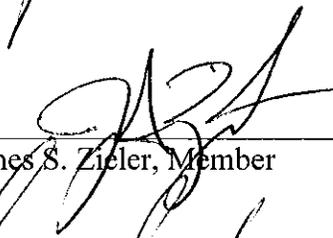
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Meeting adjourned at 1:50 p.m.

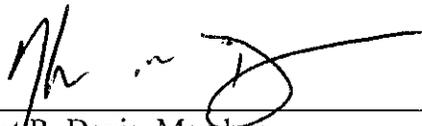
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Edward "Pat" Madden, Chairman

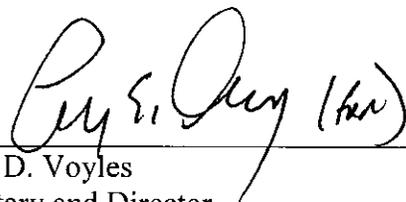
  
James B. Ammons, Member

  
James S. Zieler, Member

  
Eric S. Sparks, Member

  
Kurt R. Davis, Member

ATTEST:

  
Larry D. Voyles  
Secretary and Director