



Minutes

Montana State Parks & Recreation Board
Fish Wildlife & Parks Headquarters- 1420 E. 6th Ave, Helena MT
December 16, 2014

Parks Board Members Present: Tom Towe, Chair; Diane Conradi; Jeff Welch; Mary Sexton;
Doug Smith; Jeff Hagener

Fish, Wildlife & Parks Staff Present: Jeff Hagener, Director; Chas Van Genderen, State Parks
Administrator; State Parks Staff

Guests: December 16, 2014- See Parks file folder for sign-in sheet

Topics of Discussion:

1. **Call to Order - Pledge of Allegiance**
2. **Approval of Minutes of February Board Meeting**
3. **Approval of Board Expenses**
4. **Board Members Report**
5. **Director's Report**
6. **Public Comment Not on Agenda**
7. **Strategic Plan Process Update**
8. **Park Fees**
9. **Commercial use Administrative rules**

1. Call to Order - Pledge of Allegiance

Chairman Towe called the meeting to order at 8:40AM and led the Pledge of Allegiance.

2. Approval of the Park Boards Meeting Minutes

Action: Chairman Towe moved and Member Smith seconded the motion to approve the October 15, 2014 minutes.

Motion carried.

3. Approval of Parks Board Expenses

Action: Chairman Towe moved and Member Conradi seconded the motion to approve the Parks Board expenses.

Motion Carried.

4. Board Member Reports – tours, conversations, questions, etc

No audio was recorded.

5. Director's/Staff Report

Director Hagener reported he met with Citizens Advisory Councils around the regions; two areas of concern about parks for the proposed Legislative Session: extending concessioner contract, dock at Wild Horse Island; concerned it will lead to more expansion on the island. FWP has seventy five bills requested, many are revise FWP regulations. Governor added two more representatives to Smith River Advisory Council; Fish & Wildlife Commissioner Gary Wolf and Landowner Ned Morgens.

Van Genderen, Administrator for Parks Division reported parks have three vacancies to fill: business service manager, chief of operations, marketing and communication coordinator. Calendar year data show new record set in campsite reservations, visitation numbers up 4% to 2.2 million, increase in user fee revenues. Change for next camping season; process to create 20 new fee signs, software change in retail store to improve enterprise management. Candlelight tours are being booked; visited Hell Creek with member Smith discussed contract with landscape architect firm

Award given to Betsy Kirkeby and Matt Marcinek for time worked at FWP.

6. Public Comment Not On Agenda

Share Jiusto, Executive Director, Montana Preservation Alliance, work on behalf to save and protect Montana historic places, traditional landscapes and cultural heritage. Commend Parks Board on growth and progress on many important issues. Working in partnership with a coalition on a legislative initiative: Voices of Tourism, Tourism Advisory Council and heritage partners who receive funding from Bed Tax; proposal would take more funds allocated through bed tax for tourism promotion, heritage partners, and heritage properties. Working to have dedicated funding for property owners or managers of heritage sites; funding would come from bed tax to state agency to grant out. State Parks would be good fit due to current administered grant programs, will also include additional funding. Encourage parks board to endorse parks administering grant program.

Mike Garcia, Director Voice of Montana Tourism, explained in detail the legislative proposal to make a bigger investment on tourism in Montana; propose to appropriate 50-60% of total annual revenues of the accommodation sales tax and rental vehicle sales tax, Governors' estimated total budget of \$18 million for FY16, appropriate \$9-\$10.8 million, to distribute money to all partners.

Jennifer Andres, Governors Office, Governors Advisor on Lands Board, explained Madison Buffalo Jump State Park is majority located on state trust lands, during legislative audit in 2012 revealed money needed to be paid to DNRC for trust lands, became revenue issue, Madison Buffalo Jump State Park created a friends group to solicit funds for the park, park has community support; working towards long term solution of a permanent easement, purpose today is to get park on Park Boards radar for long term attention. Please make Buffalo Jump a priority because it is a treasure to our state.

Amanda Hagarty, President of Lewis and Clark Association, here to introduce friends group; main focus work closely with local and state communities to help provide infrastructure and provide educational opportunities for youth in Montana and being a support to parks overall.

Clayton Elliott, State Policy Director, Montana Wilderness Association, here to introduce new role with state parks and state lands to begin to engaged at state level; eager to partner and start conversations.

7. Smith River Biennial Rule –Final

Semler Chief of Operations reported Smith River Management Act, 23-2-401 through 23-2-410, MCA, authorize Parks Board to provide for administration of the Smith River waterway and adopt rules for this purpose. The Smith River State Park and River Corridor Biennial Rule establishes fees and rules for private, commercial and landowner float trips in Smith River State Park; current rule was last adopted by the Fish, Wildlife & Parks Commission in December 2012 and will expire December 2014. Last increase in user fees occurred in 2010. During 2013 and 2014 float seasons, a series of human/black bear conflicts were documented that resulted in numerous boat camp closures and removal of eight black bears. In response to significant public safety concerns, the department chartered an inter-divisional committee that recommended establishment of food storage regulations on the Smith River. This recommendation is consistent with following desired condition stated in 2009 Smith River State Park and River Corridor Management Plan: *“River recreation on the Smith River will not adversely impact wildlife or result in human injury or property damage resulting from conflicts between humans and wildlife.”* The Parks Division issued statewide news releases on October 22 and November 14 announcing a 30-day public comment period that ended on November 21. A total of 60 individuals commented, including one federal agency and three conservation organizations; 16 commenter’s supported the rule as proposed, 27 commenter’s supported some form of food storage but provided significant suggestions and 17 commenter’s generally opposed food storage rules and/or were critical of the rules as proposed. Many commenters’s expressed concerns regarding requiring floaters to provide their own food storage equipment and several commenters’ were supportive of increasing user fees to help fund the installation of fixed storage devices. The Parks Division propose the following alternatives: Alternative #1 establish mandatory food/attractant storage rules that place responsibility for safety and resource

stewardship on the public and require them to provide their own approved food storage equipment or methods. In concert with this rule, the Parks Division would actively encourage private businesses to establish food storage equipment rental programs to address cost and affordability concerns. Eliminate human waste pack out requirement at the Deep Creek and install a pit toilet at the site. Maintain current user fees. Alternative 2: Establish food mandatory storage rules as referenced in Alternative # 1. Phase in installation of fixed bear resistant electric fences in each boat camp. Eliminate human waste pack out requirement at the Deep Creek and install a pit toilet at the site. Maintain current user fees. Agency recommendation would like new Smith River Advisory Council to become better established before proposing Smith River user fee increase thus it is recommended that current fees be maintained at this time. The proposed food storage rules reflect recommendations by department's inter-divisional committee and are intended to address significant concerns for public safety, liability and wildlife protection.

Director Hagener states this is a discussion on liability and a concern for the whole agency. Several mauling' cases in recent years in other state and one in Montana occurred, took six years and several hundred thousand dollars to defend the case, we were not liable but other states have paid out several million dollars in liability damages. Need to be cautious and make sure public is aware of the safety issues and protect the agency.

Chairman Towe asked for public comment.

Chris Strainer, Trout Unlimited, oppose food storage rule.

Rand Herzberg, avid floater of Smith River, in favor of rule change and preferred alternative.

Chairman Towe asked board for comments and suggestions.

Vice Chair Sexton suggested a slow implementation of the food storage rule. Set criteria for department for alternatives possibly mix the two together, ask department to come back with definitive rule in February or March; give guidance today to pass essential rule and address food storage in February or March. Need to discuss a transition, address problem camps, next summer department install electric fence, educate public on camping practices; food storage should be required at problem area camps.

Member Smith commented he liked permanent pulley system and option of electric fence, agrees with Vice Chair Sexton.

Member Welch agrees with Vice Chair Sexton. Not opposed to agency direction of mandatory food storage rule, like to see cheaper solution, make food storage required at problem camps.

Chairman Towe suggests we adopt everything except C and D in Smith River Biennial Fee Rule; agrees with Vice Chair Sexton recommendations; recommend everyone should have food storage.

Member Conradi suggest Smith River Advisory Council should provide Parks Board with food storage recommendation.

Motion: Vice Chair Sexton move Parks Board pass Smith River Rule with exception of C and D and outline various alternatives for Department and Smith River Advisory Council. To consider: including a transition period, problem camps and use of bear proof appliances along with education to transition the implementation of Smith River food storage rule. In F strike "as referenced above".

Chairman Towe asked for public comment.

Carol Hatfield, National Forest Service, support implementation of food storage order; oppose fixed food storage on National Forest land.

Doug Monger, retired avid floater, suggest Parks Board direct department to install temporary storage for upcoming float season and require floaters to use. Support food storage rule.

Joe Lampson, member of Smith River Advisory Board, support food storage rule.

Motion Carried.

8. Commercial Use Administrative Rules

Semler Chief of Operations introduced Commercial Use Administrative Rule, Charlie Sperry; Responsive Management Unit, reported this topic to Fish and Wildlife Commission in October, to ensure consistency Charlie will report to the Parks Board. State Parks & Recreation Board in conjunction with the Fish & Wildlife Commission proposed an amendment to the Commercial Use Administrative Rules that would allow a guide to collect fees from clients when conducting permitted use on behalf of a permitted outfitter. Proposed change specified that payments must: not be cash, name the outfitter that hired or contracted the services, and be directly deposited to the outfitter that hired or contracted the guide. These proposed changes were intended to make it easier for an outfitter to collect payments from a client, while retaining FWP's ability to help prevent illegal outfitting by a guide. As of December 1, FWP received two comments on the proposed amendments; The Fishing Outfitters Association of Montana (FOAM) recommended that the Commission and Parks Board replace language proposed in October with new language that is aligned with the Montana Board of Outfitters (MBO) administrative rule regarding collection of client fees. FOAM recommended new language that would allow a guide to collect client fees as long as the guide has expressed consent of outfitter,

and fees are deposited only to the outfitter's account, FOAM noted that this approach in contrast to the language proposed in October, would help avoid confusion that might arise resulting from two different fee collection standards (FWP, MBO). FOAM agreed with the Commission and Board's original proposal to allow a guide to receive a cash tip separate from the client fee. Another comment agreed with most of the proposed amendments except the proposal to not allow cash payment. This person, a guide, noted that most travelers wanting a guided trip do not carry a check and most guides are not equipped to take credit card payment. The comment period ends on Dec. 5; FWP will provide the Commission and Board with additional comments received by the deadline. The commission could adopt the language proposed in October, which states that when a guide collects client fees on behalf of an outfitter, payment must not be cash and must name the outfitter who hired or contracted the services. As noted by the comments, the language to prohibit cash payments is problematic for the outfitting industry, which commonly receives cash payments from clients. FWP recommends that Board and Commission adopt new language that specifies a guide may collect client fees as long as they have the expressed consent of supervising outfitter, and client fees are directly deposited to the outfitter that hired or contracted the guide. FWP also recommends that Board and Commission adopt proposed language that would allow a guide to receive tips separate from the client fees. This new language would be more consistent with MBO administrative rules, better suited to the outfitting industry needs, and still enable FWP to help prevent a guide from illegally operating as an outfitter.

Action: Member Welch moved the Parks Board adopt the amended language as presented, pending adoption by the FWP Commission.

Chairman Towe asked for public comment.

No public comment.

Action on Motion: Motion Carried

8. Legislative Updates

Chas Van Genderen Administrator Montana State Parks, reported Legislative session is about to begin with new legislators, issues and guidance. Parks related bills: House Bill 2 (HB) operating budget request to restore base operations; Parks requested 3 new FTE, will be used for rangers and maintenance staff, also HB2 includes reduction of 3 FTE, would net to zero. HB5 capital and long range building program, request for \$3.5 million for Bannack fire alarm system and Lewis & Clark Caverns lighting system, put in bonding section. Parks two bills are, to build a dock on Wild Horse Island sponsored by Representative Greg Hertz from Polson; exception for state parks under procurement laws to move from seven year purchasing contract limit to twenty year contract for concessions and visitor services sponsored by Representative Robyn Driscall.

Bill discussed by Mike Garcia, revise law related to tourism tax sponsored by Representative Bob Keenen. All five board members are up for confirmation, take place in March.

Director Hagener, stated members need to be in person for confirmation; must get prior approval by director's office if representing state parks.

9. Makoshika State Parks, Road Project Update & Cost Issues

Tom Reilly, Assistant Administrator Montana State Parks reported repair of slide on the switchback area within Makoshika State Park is a large and complicated road project. Difficulties occurred due to unforeseen weather and site conditions; project began in July 2014 with preliminary work on-site being done by Montana National Guard and Red Horse Squadron of U.S. Air Force; followed by more technical work done by a private contractor via public bidding process. Unanticipated costs include: consultant surveying; coordination with military, material testing \$11,572; contractor revised anchor block placement, additional drilling costs \$42,082; contractor remobilization costs to complete project (paving, guardrails, etc.) \$16,596; contractor additional costs for tendon grouting; achieve/improve post-tension strength \$12,631; consultant claim for unanticipated costs/conditions (pending resolution) \$27,357; contractor claim for unanticipated costs/conditions (pending resolution) \$131,731. Project is currently in winter shut-down, remaining work to be completed in spring 2015. It is critical to know if the area of rebuilt road is stable prior to investing in final asphalt paving, guardrail installations, and remaining project costs; two claims currently in-hand will be resolved to a conclusion in the upcoming months. It is recommended Parks Board approve the additional cost for added work and/or changed conditions for the Makoshika State Park road project. Alternative one to approve of the incurred and currently identified future expenses on the project; alternative two modify approval for expenditure of additional funds on the project.

Action: Vice Chair Sexton moved the Parks Board approve the Parks Division's need to commit additional capital funds to Makoshika State Park road project, approve the unanticipated costs listed above and approve the pending resolution costs, to commit additional funds including good faith negotiation to the two known claims currently in-hand.

Motion Carried.

10. 2015 Parks Major Maintenance Projects

Tom Reilly, Assistant Administrator Montana State Parks report each calendar year a list of potential major maintenance projects, solicited from Regional Managers statewide; proposed projects are typically too large to be completed via Parks operations budget, but too small to be formal large Capital project; many projects require some engineering, contracting, and/or project management support from the Helena-based Design and Construction staff. This cycle, a total of \$888,000 in potential project was submitted; individual projects were prioritized and top projects

selected based upon safety, customer service, and overall statewide maintenance needs; 22 priority maintenance projects are estimated at \$373,500 represent an amount that Parks can afford. No public involvement planned or required for on-going allocation of funding for annual Parks Major Maintenance projects; funding to be utilized for projects has been approved by the previous Legislative Sessions. Alternative solution one proceed with proposed Parks Major Maintenance projects; alternative solution two potential modification or adjustment of the individual projects proposed. Park division recommend Parks Board approve proposed decisions for current cycle of Parks Major Maintenance projects; funding allocation listed are estimates, with the necessary adjustments (+/-) to be made as the projects proceed.

Action: Member Smith moved the Parks Board approve the Parks Division's decision to precede with the proposed 22 Parks Major Maintenance projects for the 2015 cycle.

Motion Carried.

11. Capital Project Expenditures- Recent Costs Over \$5,000

Tom Reilly, Assistant Administrator, Montana State Parks reported per Parks and Recreation Board Policy adopted in December 2013, board approval is required for unanticipated expenses exceeding \$5,000 within the Parks Capital Program. 2014 construction season reaching its conclusion, there have been several instances which have resulting in individual capital projects incurring additional costs. The projects are: Travelers' Rest State Park entrance road and parking area paving; waterline extension +\$35,819; West Shore State Park construction of an entrance station, electrical service, paving, +\$11,225; Placid Lake State Park addition to the boat trailer parking area +\$26,000; Bannack State Park emergency boiler replacement (\$8,350), town site flood mitigation analysis (\$10,545); First Peoples Buffalo Jump State Park interior lighting retrofits/system replacements (up to \$40,000). No public involvement is necessary or planned concerning the funding of these capital projects. Alternative one to approve incurred additional expenses for capital construction projects; alternative two modify approval for expenditure of additional funds on projects. Parks recommend Board approve additional costs for added work and/or changed conditions for these capital projects undertaken during the 2014 construction season.

Action: Vice Chair Sexton move the Parks Board approve the Parks Division's need to commit additional capital funds to these projects in order to complete them in a timely manner and address the situations that occurred during the course of the projects.

Motion Carried.

12. Strategic Plan

Maren Murphy, Montana State Parks Planner explained the final strategic plan is result of a year-long process that began in December 2013 and included extensive internal and external input throughout the process from Division staff, members of the Legislature, agency partners, user groups, and other stakeholders. The final plan reflects edits from the draft while continuing to set priorities and provide recommendations to guide the park system over the next five years. At the October 2014 meeting, Parks Board approved the draft strategic plan for public comment. The Division solicited public comment for a 30 day period beginning on October 21 and ending on November 19. A statewide public meeting was held on October 29, 2014 using teleconference equipment at the Helena headquarters and each of the FWP regional offices. Thirty-one people attended the meeting, in addition to two Parks Board members. In total, 63 public comments were submitted on the draft strategic plan. The breakdown of comments received is as follows: 49 comments from individuals; 9 comments from organizations, user groups, and businesses; 3 comments from agencies; 1 comment from an elected official. All comments supported the creation of the draft strategic plan to varying degrees. Many had specific comments on the goals and targets, while others had comments on the process and format of the draft plan. A number of comments were directed at specific parks. A public comment summary provides more details on the specific comments themes and discussions. One comment was received requesting an extension of the public comment period. The reason was to allow for more time as the public comment period fell in the middle of hunting season. The Division did not receive any other requests for an extension, and ultimately felt that an extension was not warranted due in order to keep the process on its approved timeline. No alternatives beyond the no-action alternative were considered. A strategic plan was chosen as the best course of action based on ongoing challenges in the Division and direction from the Board. The Board can approve the final strategic plan or provide additional amendments as appropriate. The Agency recommends Board approval of the final strategic plan. All public comments received supported the creation of the plan.

Action: Member Welch moved the Parks Board approve the strategic plan for the Parks Division as proposed.

Motion Carries.

The next meeting will be held March 11, 2015.

Adjourn at 1:15 p.m.



Tom Towe, Parks Board Chairman



M. Jeff Hagener, Director

