

MINUTES
Montana Fish, Wildlife & Parks Commission Meeting
FWP Headquarters – 1420 East 6th Avenue
Helena, MT
MAY 13, 2010

Commission Members Present: Bob Ream, Chairman; Dan Vermillion, Vice-Chairman; Willie Doll, Ron Moody; Shane Colton.

Fish, Wildlife & Parks Staff Present: Joe Maurier, Director, and FWP Staff.

Guests: See May 13, 2010 Commission file folder for names of who signed in.

A Work Session with the Wyoming Tribal Fish & Game Commission immediately followed the Commission meeting to discuss coordination efforts.

Topics of Discussion:

1. **Call to Order - Pledge of Allegiance**
2. **Approval of Minutes of April 8, 2010**
3. **Approval of Commission Expenses through April 2010**
4. **Commission Reports**
5. **Director's Report**
6. **Recognition of Sheep Strategy Conservation Plan Staff and Cooperators**
7. **LaMarche Creek Water Right Lease in the Big Hole – Endorsement**
8. **Upper Missouri River Reservoirs Fisheries Management Plan – Final**
9. **South Fork Flathead Lakes Harvest Limit Waiver – Wildcat Lake – Final**
10. **Noxon/Cabinet Gorge Reservoirs Aquatic Invasive Species Bait Regulations – Proposed**
11. **Lake Five Water Use Restrictions Administrative Rule – Final**
- 11a. **Big Hole River Closure Rule (Temporary Closure) – Emergency Action Item**
12. **2010 Wolf Hunting Seasons Quotas and Hunting District Boundaries – Proposed**
13. **Nongame Check-off Work Plan - Proposed**
14. **2010 HB 454 Hunting Access Agreements – Proposed**
15. **2010 Fall Upland Game Bird Quotas and Limits – Proposed**
16. **Marias River State Park / WMA Access - Clark Exchange – Final**
17. **Coffee Creek Conservation Easement – Final**
18. **Fairweather Fishing Access Site Wildlife Enhancement Lease Renewal – Final**
19. **Mount Silcox Wildlife Management Area Grazing Lease – Final**
20. **Spotted Dog Ranch Fee Title Acquisition – Endorsement**
21. **Open Microphone – Public Opportunity to Address Additional FWP Issues**

1. **Opening - Pledge of Allegiance.** Chairman Bob Ream called the meeting to order at 8:30 a.m. and led the Pledge of Allegiance.

2. **Approval of the Commission Meeting Minutes of April 8, 2010.**

Action: Colton moved and Doll seconded the motion to approve the April 8, 2010 minutes. Motion carried.

3. Approval of the April, 2010 Commission Expense Report.

Action: Colton moved and Doll seconded the motion to approve the expense report as presented. Motion carried.

4. Commission Reports.

Commissioner Moody – The Machler Big Spring Creek Restoration project is set to begin. FWP obtained an easement from the Machler family for restoration of this section of the creek, and fundraising has begun to help with expenses. Restoration of the Brewery Flats section of the creek has already been restored to a natural meandering stream, so efforts are now moving downstream to the Machler site. He urged the Commissioners to attend the Citizen's Advisory committee meetings in their districts, as valuable information is exchanged.

Commissioner Doll – Plans are underway to rebuild the dam on McNeil Slough along the Milk River. The original dam washed out several years ago. BLM is involved and will cover the higher percentage of costs, with the expectation of project completion within three years. Water rights are taken care of; landowners are excited.

Commissioner Colton – Advised that things are currently going well in his district.

Commissioner Ream - Attended the EQC meeting last week. He stated that FWP proficiently addressed issues concerning wolf disease (tape worms) and the wolf management plan. He also attended the Citizen's Advisory Committee meeting in Missoula.

Commissioner Vermillion - Has received many phone calls and has been part of many discussions regarding the wolf plan. There is still concern about snowpack, but the latest moisture has provided some reprieve.

5. Director's Report. Director Maurier stated that a tour of the Miles City Hatchery and a tour of the Tongue River Railroad corridor is under consideration as part of the June Commission meeting.

The PCB legal case at Big Spring Creek has been settled with Monsanto, with satisfactory results. He thanked the FWP legal team for their hard work. FWP will now proceed with improvements to the hatchery.

The Montana Trappers Association submitted a letter asking FWP to take their position on trapping wolves. The Department cannot take a position, but the Commission can take action if so desired.

The regions are preparing and prioritizing land acquisition proposals.

The Wyoming Tribal Fish & Game Commission has requested a meeting with the FWP Commission to discuss coordination efforts. That discussion will occur this afternoon.

The bid is going out on construction of the Discovery Center with the expectation of completion by the legislative session.

Flathead fishery work is continuing. The Tribes and FWP are working together.

A news article in a Montana high-line newspaper berated FWP for donating \$7,500 to the American Prairie Foundation for bison. This was an erroneous report - money went to future fishery projects.

6. Recognition of Sheep Strategy Conservation Plan Staff and Cooperators. Director Maurier expressed appreciation to the members of the Wild Sheep Foundation, FWP staff, and all cooperators for their efforts in developing the Bighorn Sheep Management Plan.

Maurier presented Tom Carlsen, FWP Region 3 Wildlife Biologist, with a very nice engraved wooden plaque as a token of gratitude for his hard work and many hours of dedication on this difficult project.

7. LaMarche Creek Water Right Lease in the Big Hole River – Endorsement. Bruce Rich, FWP Fisheries Division Bureau Chief, explained that LaMarche Creek is a tributary to the Big Hole River that provides habitat important to Arctic grayling. LaMarche Creek Ranch has agreed to cease irrigation from the creek to provide in-stream flow, and because their water right is the most senior in priority on the stream, it will protect in-stream flows during water shortages. Upon Commission approval, DNRC would complete an Environmental Assessment as part of the water right process.

Action: Vermillion moved and Moody seconded the motion to recommend that FWP research, develop and negotiate the terms of the acquisition of a water right lease on LaMarche Creek, subject to final approval of the FWP Commission.

Chairman Ream asked for public comment. There was none.

Action on Motion: Motion carried.

8. Upper Missouri River Reservoirs Fisheries Management Plan – Final. Bruce Rich, FWP Fisheries Division Bureau Chief, explained that the proposal previously approved by the Commission provided that FWP would solicit public comments without recommending a preferred alternative. Over 450 comments were received, with the majority supporting Alternative 2 (reduce bag limit to 10 fish daily, 20 in possession with only 4 fish greater than 16 inches and one fish greater than 28 inches). The final decision on walleye regulations for daily limits will not be made until regulation changes are proposed to the Commission in August.

Moody asked what the Bureau expected to learn between now and August that has not been learned in the last ten years. Approving all options is accomplishing nothing. An extensive public and scientific analysis has been conducted, so why not choose a management strategy?

Rich replied that data would be reviewed and models would be built using the different alternatives to determine what the outcomes would be.

Action: Vermillion moved and Ream seconded the motion to approve the final 2010-2019 Upper Missouri River Reservoirs Fisheries Management Plan as modified by the Department to allow flexibility in meeting management goals.

Colton noted that the issue is Alternative 2 and how Canyon Ferry Reservoir will be managed for walleye. He has received many frustrated calls and does not get the feeling that the working group will want to continue. He is uncomfortable in changing the process.

Action: Moody moved and Colton seconded the motion to table this topic until later in the agenda, and directed FWP staff to refine their recommendations. Motion carried.

(After entertaining several agenda items, this topic was brought back to the table. It is placed here to keep the entire topic in one collective unit.)

Action: Vermillion moved and Colton seconded the motion to take the Upper Missouri River Reservoirs Fisheries Management Plan off the table and once again entertain it for action.

Action: (Verbatim motion). Colton said "I make a motion in regard to the Upper Missouri Reservoir Management Plan that we adopt alternative 2 with the modification that the daily bag limit will be set in the August regulation process between 10 and 16 with a range of between 3 and 5, no more than 3-5 over a size range between 14 and 18, with only 1 over 28 inches and understanding that the motion is made and the plan is being approved that there is dual purposes here, the purpose of protecting the downstream trout waters and at the same time providing some opportunity for walleye in classes above 16 inches." Chairman Ream asked that the motion was made with the rest of the proposal is intact, which was answered affirmatively. Moody seconded the motion.

George Likness, FWP Region 4 Fisheries Manager, provided the following clarification of the motion: The motion was made for final approval of the Upper Missouri River Reservoir Management Plan as tentatively approved at the March Commission meeting with adoption of Alternative 2 along with modifications to Alternative 2 so it reads as "(10-16) fish daily, with only (3-5) fish greater than (14-18) inches and only one of which may be greater than 28-inches. The motion was made and the plan is being approved acknowledging there are dual purposes, protecting the downstream trout waters and simultaneously providing opportunity to improve abundance of walleye greater than 16 inches in length.

Chairman Ream asked for public comment.

Mike Sedlock, Walleyes Unlimited, stated that they would like to see another non-affiliated association receive the same information FWP uses on the modeling for their review.

Action on Motion: Motion carried.

9. South Fork Flathead Lakes Harvest Limit Waiver – Wildcat Lake – Final. FWP initiated the South Fork Flathead Cutthroat Conservation Plan to replace nonnative fish with westslope cutthroat in twenty-one lakes in the South Fork drainage through chemical treatment or genetic swamping. Bruce Rich, FWP Fisheries Division Bureau Chief, explained that in 2010, Wildcat Lake is scheduled for chemical treatment, and George, Woodward, Pyramid, and Pilgrim lakes are scheduled for a second year of genetic swamping. The public has asked for a limit waiver to maximize fish harvest before treatment. The comment period generated no written comments, and the annual meeting generated only supportive comments.

Action: Vermillion moved and Moody seconded the motion to approve the removal of daily and possession bag limits on Wildcat, George, Woodward, Pyramid, and Pilgrim lakes, including within 100 yards of the lakes for inlet and outlet streams, effective immediately through October 1, 2010. Motion carried.

10. Noxon/Cabinet Gorge Reservoirs Aquatic Invasive Species Bait Regulations – Proposed. The 2009 Legislature authorized the Montana Department of Agriculture and FWP to designate aquatic invasive species management areas for control and eradication of such aquatic invasive species. If an area becomes designated a special management area, the law prohibits use of all bait on waters within that designated area unless otherwise authorized by FWP.

Bruce Rich, FWP Fisheries Division Bureau Chief, explained that following the discovery of Eurasian water milfoil in the Noxon and Cabinet Gorge reservoirs, efforts were implemented to eradicate the invasive weeds. FWP does not consider the use of bait, as is currently authorized in the Western Fishing District, to be of concern for controlling Eurasian water milfoil, therefore does not recommend prohibiting its use. Public meetings will be held, and a public comment period will be provided.

Action: Vermillion moved and Doll seconded the motion to approve the proposed bait regulations for the Noxon/Cabinet Gorge AIS Management Area pending public comment and final designation of the management area by Montana Department of Agriculture. Motion carried.

11. Lake Five Water Use Restrictions Administrative Rule – Final. In 2005, FWP released an environmental assessment on the acquisition and development of the Paul Taylor Fishing Access Site on Lake Five in Flathead County. The EA was challenged in district court. FWP searched for a different FAS location, but ultimately decided to proceed with developing the existing Department-owned parcel on Lake Five. Opponents appealed that decision to the FWP Director, however before a final decision was issued, the appellants and FWP entered into a settlement agreement in which FWP agreed to recommend adoption of an administrative rule that would eliminate the 200-foot no-wake zone on Lake Five, would prohibit personal watercraft on the lake, and would require boats pulling skiers to travel in a counter-clockwise direction. Problems with the access road would also be addressed. Bill Schenk, FWP Legal Counsel, said twenty-five people attended the public hearing in Kalispell in April, with the majority in favor of the rules, however there were concerns over banning personal watercraft.

Action: It was moved and seconded to approve adoption of the rules specifying the water use restrictions on Lake Five. Motion carried.

11a. The Big Hole Closure Rule was brought before the commission as an emergency action item.

I. PURPOSE

(1) The following rules govern the temporary closure of the Big Hole River located in Silver Bow County in order to protect public safety during the course of construction on a diversion dam.

(2) Silver Bow County who will be replacing the diversion dam requested the Fish, Wildlife and Parks Commission approve these rules.

II. BIG HOLE TEMPORARY CLOSURE

(1) The Big Hole River is closed to all floating between the Silver Bridge (river mile 54.1) and the Highway Bridge (river mile 52.7) from July 6, 2010 through October 31, 2010.

(2) Floating includes but is not limited to the use of:

(a) a raft;(b) an inner-tube;(c) a canoe;(d) a kayak; (e) a drift boat; or(f) other similar device used to travel the length of the river.

(3) Wade angling will only be restricted in the immediate vicinity of the construction and as signed by the Department of Fish, Wildlife and Parks.

III. REOPENING BIG HOLE RIVER

(1) The Big Hole River closure will reopen on November 1, 2010.

(2) The commission authorizes the Department of Fish, Wildlife and Parks to reopen the Big Hole River prior to November 1, 2010 if the construction and associated safety hazards are complete as indicated through formal notification to the department from Silver Bow County.

(3) The department will post notice of the reopening on the agency web site, send press releases to the newspapers and media outlets in the area, and remove signs at the location of the closure.

Action: Vermillion moved and Colton seconded the motion to approve the Big Hole River Closure Rules as recommended by the Department. Motion carried.

12. 2010 Wolf Hunting Seasons Quotas and Hunting District Boundaries – Proposed. Ken McDonald, FWP Wildlife Division Bureau Chief, narrated a power point presentation, and presented the proposals.

Jim Kropp, FWP Enforcement Division Bureau Chief, said it is consistent with other species to have a 5-day waiting period for wolves and other predators.

Mary Ellen Schnurr, MOGA, asked if the five-day previous purchase had to be done in person or if it could be done on-line.

Kropp replied that it could be done on-line, however bears and lions must be purchased in person.

Action: Moody moved and Doll seconded the motion to adopt the proposed 2010 wolf season and quotas as recommended by the Department. Motion carried.

Action: Ream moved and Moody seconded the motion that numbers of illegal harvest be included in the established total quota numbers. Motion carried.

Action: Ream moved and the motion was seconded that if one or more of the 14 wildlife management units go over quota, those overage numbers will be counted against the total quotas.

Chairman Ream asked for public comment.

Tom Barnes, Montana Trapper's Association, said that hunting wolves won't fill the needs. MTA supports trapping and snaring to achieve a balance of wolf population. Trapping provides an opportunity for trappers to increase their income. Wolves are significant trophy animals. Larger and more powerful traps will be needed. They want to become agents in removing wolves.

Meg Smith, Garrison Ranch, Divide, said they have participated with the block management program since its inception, and always permit hunting on their land. She asked if shooting wolves is really the answer to the conflict. She does not feel it is. They have seen increased wolf activity and have suffered loss and injury to their livestock, and would like FWP to monitor wolf activity during critical time periods such as during calving time. They asked that FWP haze wolves off their land during calving. As a last resort, have an early wolf hunt on their property. Shooting wolves causes dispersal, resulting in the creation of new packs.

Bill Garrison, Glen, said their ranch calves out their cattle in the fall. A pack of wolves could devastate them and kill the calves. Sportsmen, ranchers and FWP need to work together, and it should be a natural approach since

they are involved with block management. Everyone needs to make an effort to manage wolves in a realistic manner.

Joelle Selk, Montana Bowhunters Association, supports a quota of 216 in 14 management units. They support quotas that allow hunting to continue and Montana to maintain a management status.

Dean Peterson, Bighole Watershed Committee, said the moose and elk populations are down, and there is also high livestock depredation which they believe is due mainly to wolves. They want to see increases in the quotas.

Ben Lamb, Montana Wildlife Federation, applauds FWP for their hard work and for holding the line in getting this far in the conversation. They support looking at other numbers for a broader scope. They are behind the wolf hunting season and managing the wolf, but recognize there is still 4 years of the 5-year probationary period. An increase is justifiable in areas of high conflict with livestock and wildlife. They agree there has to be a surplus above the 15 breeding pairs.

Barb Cestero, Greater Yellowstone Coalition, said they do not support wolf hunting at this time, however, they don't oppose fair chase reasonable hunting as a management tool. They seek to constructively engage in the conversations, and they support the idea of a third alternative for review. The proposed quotas are too much of an increase and will cause great risk to wolf populations. There are differences between predicted modeling pairs and what the ending total is. They are concerned about the levels and distribution across southwest Montana. Don't risk too much mortality. They encourage taking a conservative approach.

Mary Ellen Schnurr, MOGA, supports the delineation of the management units as that will distribute the wolves equitably across the state. Good to have subquotas and archery quotas.

Robert Erickson said quotas are too low. Game populations are low. Increase length of the season.

Jay Bodner, Montana Stockgrowers Association, supports a quota of 216, and the smaller hunting units. There has been a larger livestock depredation, so they suggest targeting areas where there are more conflicts and depredation occurrences. They support the quota that does not interfere with Wildlife Services to address livestock depredation.

Ream noted that cognizance of wolf diseases, such as parvo virus, must be maintained when setting quotas.

Action: Ream moved and Vermillion seconded the motion to adopt the strategy as presented. Motion carried.

13. Nongame Check-off Work Plan – Proposed. Under 87-5-122, MCA, “the FWP Commission shall review and annually approve the nongame wildlife program’s projects recommended by the department for funding from the nongame wildlife account.” Ken McDonald, FWP Wildlife Division Bureau Chief, stated that total 2009 tax year donations are unknown at this time, but the average donations from 2004-2008 were \$40,000 per year. Based on anticipation that similar funding will be received, FWP proposes for FY2011:

\$20,000 - Prioritize habitat for conservation including 1) identifying the most critical habitat needs for nongame, threatened or endangered species, 2) identifying and monitoring threats to these critical habitats.

\$20,000 - Inventory and monitoring species of concern. Species to be monitored will likely include bald eagles, mountain plovers, burrowing owls, and common loons.

Action: Doll moved and Colton seconded the motion to approve the proposed Nongame Tax Check-Off work for Fiscal Year 2011. Motion carried

14. 2010 HB 454 Hunting Access Agreements – Proposed. Under the provisions of 87-2-513 MCA, FWP has the authority to issue either-sex or antlerless elk permits to landowners for management purposes. The landowner must offer free public elk hunting, meet the various conditions of the statute, and enter a contractual

public elk hunting access agreement with FWP. Quentin Kujala, FWP Wildlife Division Management Bureau Chief, said currently the only agreement application is with the Swanz family, who has been part of this program for several years. The agreement specifically states that in return for allowing access to elk hunters Mr. Swanz, or a family member, would receive one 411-21 either-sex permit. In turn, FWP would issue four additional 411-21 permits from the already randomized list of unsuccessful applicants for that license permit type. Successful applicants can only hunt on the Swanz deeded property.

Action: Colton moved and Willie seconded the motion to adopt the proposed Swanz Hunting Access Agreement for the 2010 general hunting season as proposed by FWP. Motion carried.

15. 2010 Fall Upland Game Bird Quotas and Limits – Proposed. Jeff Herbert, FWP Wildlife Division Assistant Bureau Chief, presented the proposals.

Turkey

One recommended change to regulations.

Reduce fall turkey limit in Region 7 from 2 to 1 either sex turkey

Action: Colton moved and Moody seconded the motion to approve the Turkey regulations as recommended by the Department with the Region 7 modification. Motion carried.

Upland Game Bird

Recommend maintaining the conservative two-bird bag limit and twice the daily bag possession limit for sage grouse as it was in 2009.

Action: Vermillion moved and Moody seconded the motion to adopt the proposed 2010 upland game bird bag and possession limits. Motion carried.

16. Marias River State Park / WMA Access - Clark Exchange – Final. Ken McDonald, FWP Wildlife Division Bureau Chief, explained that FWP proposes to trade 120 acres to Richard and David Clark of Shelby for an easement across their 1,800-acres to provide improved access to the Marias River WMA and State Park. Currently, public access is limited to one road leading to the northwest corner of the property. The Environmental Assessment generated overwhelming support.

Action: Vermillion moved and Colton seconded the motion to approve FWP's land transfer of 120 acres to the Clark Brothers in exchange for a public access easement through their property, and for public hunting opportunities on the Clarks' 1,800 acres. Motion carried.

17. Coffee Creek Conservation Easement – Final. Ken McDonald, FWP Wildlife Division Bureau Chief
Ken McDonald, explained that the Central Montana Chapter of Pheasants Forever purchased 800 acres on Coffee Creek, near Denton, in 1998. Pheasants Forever further enhanced bird habitat by planting 47,000 trees/shrubs, 34 acres of food plots, and by refurbishing 412 acres of nesting cover. The property is located between 2 parcels of Department of Natural Resources and Conservation land (one 320-acre parcel and one 880-acre parcel), which effectively doubles the amount of acreage open to the public. This easement will permanently protect this upland bird habitat. The cost of the conservation easement is \$304,000, with \$200,000 coming from the Upland Game Bird Enhancement Program, and \$104,000 from the Habitat Montana Program. The appraised fee title value is \$760,000. A 30-day public comment period generated overwhelming support.

Action: Moody moved and Colton seconded the motion to approve the purchase of a conservation easement on 800 acres of upland bird habitat on Coffee Creek in Central Montana. Motion carried.

18. Fairweather Fishing Access Site Wildlife Enhancement Lease Renewal – Final. Ken McDonald, FWP Wildlife Division Bureau Chief, explained that FWP proposes a 10-year renewal of an existing wildlife agricultural crop-share lease agreement on the Fairweather Fishing Access site. This lease covers 133 acres of

the 719-acre Fairweather Fishing Access Site. The Environmental Assessment generated only one public comment, which was in support of the lease.

Action: Vermillion moved and Doll seconded the motion to approve the Fairweather Fishing Access Site Wildlife Enhancement Lease-Out renewal as described in the Final EA. Motion carried.

19. Mount Silcox Wildlife Management Area Grazing Lease – Final. Ken McDonald, FWP Wildlife Division Bureau Chief, explained the proposed lease would allow cattle to graze on the Mount Silcox Wildlife Management Area as part of a three-pasture rest-rotation grazing management plan to benefit wildlife. The three-pasture rest-rotation grazing system will consist of two 250-acre pastures on the WMA, owned and managed by FWP, and a third 90-acre pasture owned by a third party. The duration of the plan will be for six years, which completes two grazing cycles. Deer, elk, and bighorn sheep will benefit from the improved quality of vegetation, and the stimulation of fall regrowth.

The Environmental Assessment generated two comments in favor of the proposal, and six comments in opposition. Concerns included overgrazing, forcing elk to utilize forage on adjacent private property, wolf/cattle conflict, and disease transmission to bighorn sheep from domestic sheep and goats. FWP's response to these concerns were that the number of grazing pairs will be monitored, use between cattle and elk typically do not overlap during the grazing period, conflicts should be minimized because cattle do not calve on the WMA, and no domestic sheep/goats are allowed to graze on the WMA. Another public comment suggested utilizing prescribed fires instead of livestock grazing, but the proximity of homes and two power lines precluded the use of fire.

Action: Doll moved and Colton seconded the motion to allow FWP to enter a six-year grazing lease with a local rancher on the Mount Silcox WMA. Motion carried.

20. Spotted Dog Ranch Fee Title Acquisition – Endorsement. Ken McDonald, FWP Wildlife Division Bureau Chief, explained that FWP is requesting Commission endorsement to pursue the fee-title purchase of the 27,537-acre Spotted Dog Ranch, seventy miles east of Missoula, for a cost of (or under) the list price of \$17,215 million. The property is owned by YT Timber LLC, and is under lease with a contract to purchase by Rock Creek Cattle Company. FWP would negotiate with Rock Creek Cattle Company. DNRC owns 10,360 acres that is checker-boarded throughout the area. The landowner is not interested in a conservation easement.

The property would be managed as a Wildlife Management Area. It supports the largest concentration of wintering elk in the Upper Clark Fork, and is yearlong habitat for antelope, mule deer, white-tailed deer, moose, and black bear. Additionally, west-slope cutthroat trout are found in Spotted Dog, O'Neill and Trout Creeks. Funding would be provided from the Natural Resource Damage Program.

Action: Vermillion moved and Ream seconded the motion to endorse FWP's proposal to pursue the purchase of the Spotted Dog Ranch.

Chairman Ream asked for public comment.

Rod Bullis, Helena, urged the Commission to endorse the proposal.

Action on Motion: Motion carried.

21. Open Microphone – Public Opportunity to Address Additional FWP Issues.

Tom Barnes, Dillon, is against I-160. Requested that the Commission oppose I-160.

Mr. Molnar expressed concern about buffalo hunting. Hunt them rather than have them hazed and killed. He suggested contacting those persons with tags and extend them. Allow sportsmen to hunt.

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*Action: Doll moved and Colton seconded the motion to adjourn the meeting. Motion carried.*

Meeting adjourned at 1:00 p.m.

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**Bob Ream, Chairman**

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**Joe Maurier, Director**