

Department of Wildlife Resources
Hound-Hunters & Private Landowners Stakeholder Advisory Committee
January 12, 2024

Department of Wildlife Resources
7870 Villa Park Dr., Richmond

Executive Summary

Thirteen primary members and five alternate members attended the seventh and final meeting of the Department of Wildlife Resources (DWR) Stakeholder Advisory Committee (SAC), held at the held in the Department of Wildlife Resources (DWR) in Richmond. Participants discussed the remaining proposals that were not evaluated by the group at the November 3, 2023 meeting, and tested for consensus on all of the proposals of greatest interest to the group.

Welcome and Introductions

The meeting was opened by the facilitation team from the Institute for Engagement & Negotiation:

- Kelly Altizer, Associate Director of Operations
- Mike Foreman, Special Projects Manager
- Chamie Valentine, Project Consultant

Stakeholder Advisory Committee (SAC) members were asked to introduce themselves by sharing their name and organization or seat represented on the committee. Meeting attendance was as follows:

- Kirby Burch, Virginia Hunting Dog Alliance
- Daryl Butler, Virginia Farm Bureau
- Joel Cathey, Citizen Representative
- Sean Clarkson, Virginia Chapter, American Bear Foundation
- Bill Collins, Citizen Representative
- Troy Cook, Virginia Hound Heritage (alternate)
- David Griffith, Virginia Deer Hunters Association
- Jim Hackett, Sporting Dog Coalition of Virginia
- Michael Hayes, Virginia Property Rights Alliance (alternate)

- Jared Hubbard, Virginia Chapter, American Bear Foundation (alternate)
- Kevin Marshall, Spotsylvania County
- Kristi Martel, Citizen-at-Large
- Jim Medeiros, Property Rights Coalition of Virginia (alternate)
- John Morse, Virginia Hunting Dog Alliance (alternate)
- Nolan Nicely, Appalachian Habitat Association
- Steve Nicely, Virginia Bear Hunter's Association
- Debbie Oliver, Citizen-at-Large
- Chris Patton, Virginia Property Rights Alliance

Participants listed above are primary members unless otherwise noted. Alternate members participated in observer role only, except those who were representing their organization in place of the primary member.

DWR team members attending included:

- Jenn Allen, Assistant Chief, Wildlife Division
- Ryan Brown, Executive Director
- Jon Cooper, Board of Wildlife Resources
- Lieutenant Jessica Fariss, Conservation Police Region Manager – Region 2
- Cale Godfrey, Assistant Chief, Wildlife Division
- Nelson Lafon, Forest Wildlife Program Manager
- Aaron Proctor, Policy Manager

Ground Rules, Meeting Summary, and Process Review

Ms. Altizer and Mr. Foreman reviewed the ground rules developed by the SAC at the first meeting and previewed the agenda for the day, which would be focused on discussion and evaluation of the draft proposals submitted by members. Members received a handout noting which proposals had been balloted at the November 3rd meeting, and which remained to be evaluated.

Feedback on Legal Discussion

DWR Director, Ryan Brown, spoke about his discussion with staff in the Virginia Office of the Attorney General (OAG) on two topics requested by the SAC at the prior session on November 3, 2023.

1. Special License or Permit - Could the DWR Board issue a special license or permit or does a special license or registration require legislation?
 - The OAG's answer was that legislation would be required for a new special license or registration, like other hunting and fishing licenses. However, DWR has authority to write regulations that are in accord

with the current law. Note: the Virginia OAG would review any regulation proposed by DWR.

2. Amendment to Code of Virginia § 18.2-132.1 (Intentionally releasing hunting dogs on the posted land of another.)
 - On November 3rd, SAC landowners had shared how “intentionally” in §18.2-132.1 (as applied when a hunter intends his or her dog to go on the land of another) is too difficult to prove, and so the statute was unenforceable in circumstances where landowners thought enforcement should be appropriate, namely where the same dogs were going repeatedly on private land where they are not wanted.
 - A SAC member had proposed an amendment to §18.2-132.1 to replace “intentionally” with “negligently” (or “recklessly”) so that a hunter could be held accountable if he negligently (or recklessly) let his dog go on private land where the dog was not wanted.
 - Members had expressed their wish to protect ethical hunters.
 - Balloting on the proposal had been deferred until Director Brown could discuss the effect of changing “intentionally” to “negligently or recklessly” with the OAG staff.

Discussion with SAC Members: The Director shared his discussion on the proposal with the Virginia OAG staff. (With regard to this proposal, much of the director’s presentation focused on replacing “intentionally” with “negligently.”)

- “Intentional” is a term indicating more of a heightened mental state than “negligence.”
- Negligence requires an understanding of what a reasonable person would do.
- It is used in civil court cases where time is set aside for determining negligence and rarely in criminal cases where there is less time and criminal punishment may be imposed.
- If the reasonable person standard were used, it could be used to show what a reasonable person would have done to prevent his or her dog from going onto posted property to hunt without the landowner’s permission.
- OAG staff shared with Director Ryan that if negligence were to become the standard for this statute, the outcome of changing intentionally to negligently would depend on the facts of cases brought before Virginia courts and the judgments and verdicts in those cases over time.
- A SAC member asked if the reasonable person standard would be a that of a reasonable hunter or a reasonable person who may be a nonhunter. It is likely to be that of a reasonable hunter, due to the circumstances of the case.

First Three Proposals Addressed on January 12th - SAC Proposals Related to Code of Virginia §18.2-132.1

Following the information shared by the Director, the SAC then began its deliberations by discussing two proposals to amend Code of Virginia §18.2-132.1, one including “negligently or recklessly” (noted above) and another including “knowingly” and a bright line rule. A third proposal requested DWR draft a regulation that does not allow repeat trespassing on posted land without permission. These three proposals were not submitted for balloting and were only tested for consensus. As noted above, landowners at the November 3rd meeting had articulated their concern with the difficulty in showing hound hunters had intentionally released their hunting dogs on posted land, and these three proposals were intended to address this issue.

Statutory Proposal to Amend 18.2-132.1 (Adding “Negligently or Recklessly”)

- Replace “intentionally” in 18.2-132.1 with “negligently or recklessly” as follows [proposed changes in bold].

Any person who **negligently or recklessly** releases hunting dogs on the lands of another, which have been posted in accordance with the provisions of 18.2-134.1, to hunt without the consent of the landowner or his agent is guilty of a Class 3 misdemeanor. A second or subsequent violation of this section within three years is a Class 1 misdemeanor and upon conviction, the court shall revoke such person's hunting or trapping license for a period of one year. The fact that hunting dogs are present on the lands of another alone is not sufficient evidence to prove that the person acted **negligently or recklessly**.

- Members discussed the second proposal, which includes “knowingly,” before testing for consensus on this first proposal.
- The members did not discuss this proposal further.
- Test for Consensus: 3s – 5; 2s – 1; 1s – 8.

Statutory Proposal to Amend §18.2-132.1 (Adding “Knowingly” and Bright Line Rule)

A SAC member proposed changing the statutory language of the Code of Virginia §18.2-132.1 as follows [proposed changes in bold]:

"Any person who intentionally **or knowingly** releases hunting dogs **in such a manner as to cause such dogs to enter** the lands of another which have been posted in accordance with the provisions of 18.2-134.1 to hunt without the consent of the landowner or his agent is guilty of a Class 3 misdemeanor. A second or subsequent violation of this section within three years is a Class 1 misdemeanor and upon conviction, the court shall revoke such person's hunting or trapping license for a period of one year. The fact that hunting dogs are present on the lands of another alone is not sufficient evidence to prove that the person acted intentionally **or knowingly. However, the fact that an individual's hunting dogs are found on the lands of any specific landowner whose lands are posted in accordance with 18.2-134.1 three or more times within any fifteen-month period shall be prima facie evidence that the person acted knowingly under this section.**"

The member's rationale was based on his researching the issue with leading prosecutors and criminal defense attorneys. The member said "negligence," is not generally a factor examined or proven in the more streamlined process of a criminal court. In a civil trial, the time allotted to determine negligence could be a couple of days. Later in the discussion, he also noted that a judge in criminal court would be inclined to give just a slap on the wrist to a person who was shown to have negligently committed an offense as opposed to intentionally or knowingly having committed an offense.

The prosecutors and defense attorneys he consulted thought it would be wise, in a criminal court, to provide a bright line or baseline for showing that a hunter "knowingly" released his dogs in such a way as to have them on another's property where the dogs are not wanted. In this amendment, having one's dog on a landowner's lands three or more times in fifteen months would indicate a bright line for "knowingly." The bright line – evidence of the dog having been on the property three times in fifteen months -- is considered only prima facie evidence, that is, the bright line is a "rebuttable presumption." To protect those who reasonably did not know their dog would go on the posted property, the hunter would have an ability to show he or she did not know that the dog would go on the landowner's property where the dog was not wanted.

- Test for Consensus: 3s – 3; 2s – 1; 1s – 10.

Discussion on Statutory Proposals Related to §18.2-132.1

There were hours of discussion on these proposals. Members shared the following comments and questions about the proposed amendments to the statute. As noted above, most of the conversation addressed the proposal that included “knowingly.”

- Address “the same” repeat offenders.
- Specify the same landowner and the same land.
- What happens to the hound hunter whose dog, without his intent, repeatedly visits property the dog has visited before. [An example that had been shared before was a dog who was comfortable habitually visiting a former owner of the home.]
- Will DWR respond to non-violations and how will the complaints be tracked?
- Court rulings will depend on the facts/evidence of the case.
- When dogs show up on property where the dog is not wanted every Saturday, there is a bad actor issue.
- There are instances where on one day a dog (1) crosses multiple properties where the dog is not wanted, and (2) this behavior was not intended by the dog owner. Would each be a separate offense? (This was not the intent of the author of the proposal.)
- Hunting dogs are difficult to catch, [and so difficult to prove their presence.]
- A dog needs identification that can be detected on camera/video.
- Some members thought the proposal including “knowingly” did not go far enough.
 - The problems are also caused by dogs shared by individuals and owned by clubs, not just dogs owned by individuals.
 - Focusing on repeat offenses experienced by one landowner does not capture the hound hunter who commits an offense against multiple neighboring landowners.
 - Bad actors will change locations so a rule should apply to the individual committing the violations rather than a specific location.
- Application to a Prevalent Situation: The SAC member who had authored the proposal including “knowingly” said that he had intended the law to apply to a repeat offender acting on multiple days against one landowner who had posted his or her property. He acknowledged his proposal would not address all cases but would address this common occurrence, where the hunter was “pushing boundaries.”
- Additional SAC Member Statements:
 - Posted Property: The need to have the property properly posted was pointed out along with the need for strengthening Code of Virginia §18.2-134.1 on posting.

- Raccoon / fox hunting was provided as an example of an instance where dogs could repeat unintended behavior and be subject to a criminal violation.
 - Three repeat repeated instances show a culpable state of mind, and only be a presumption because the hunter would have the ability through action to show that the hunter took steps to prevent the violation.
- Objections by SAC Hound Hunters:
 - If a landowner has pictures of the dog on his or her property, the landowner can file a complaint and ask the conservation police officer to come out to investigate. The landowner can take his picture to a magistrate. But the landowner must file a complaint. Few complaints are filed.
 - A “reasonable” standard cannot be used because a criminal judge will not understand what a reasonable standard for a hunter is.
 - Is a misdemeanor an appropriate penalty for this statute?
 - The proposal including “knowingly” impacts “everybody,” the ethical and non-ethical hound hunters.
 - An ethical hunter may unintentionally violate the proposed law.
 - Hound hunting members would prefer voluntary compliance to a penalty system.
 - These proposals will not fix the problem.
 - The current law with increasing penalties is enough of a deterrent because when a hunting license is revoked in one jurisdiction, hunters lose their right to hunt in other jurisdictions too.
 - Training conservation police officers to manage conflict would reduce complaints. Having neighbors sit down and talk through the problem is the best way.
- Responses by SAC Landowners
 - Landowners know from personal experience that, [under the current law,] having many pictures / videos of unwanted hunting dogs going on their property repeatedly is not sufficient to bring a charge against the dogs’ owner.
 - Currently, Conservation Police Officers (CPOs) are not following up on complaints. A CPO may file a report but will not even talk to a hound hunter. There is no law for the CPO to enforce on these repeated instances.

- Currently, a hunter can claim he or she was using the dog to hunt coyote – the coyote / fox loophole.
- The landowners were visibly frustrated by the unenforceability of §18.2-132.1 for repeated instances of a dog going on posted private property without permission.

Director Brown shared that all these statements have truth in them. CPOs could do a better job following up on some complaints by landowners and in dealing with hound hunters who feel harassed by landowner complaints. CPOs have brought landowners and hound hunters together, but the mediation may have failed because the behavior continued because there was no law to enforce. He noted that these situations need to be prevented from happening in the first place.

Regulatory Proposal Related to §18.2-132.1

- A SAC member requested DWR write a regulation that disallows the repeat trespass [offenses] of hunting dogs on posted private property without permission.
- Intent:
 - To avoid any unforeseen changes that might be made during a legislative process, which would not be desired by the SAC's hound hunters or landowners, and
 - To enable DWR to craft a lawful regulation that would be enforceable against hound hunters whose hunting dogs are repeatedly on private lands of another without permission.
- Test for Consensus: 3s – 4; 2s-2; 1s-9.

Regulatory Proposal Discussion

- A member proposed that DWR create a regulation that does not allow the repeat trespass of hunting dogs on posted property.
- The member indicated that the regulation should be enforceable, focus on repeat offenders and protect property rights.
- By offering a regulatory proposal rather than a statutory proposal, the SAC would avoid legislative input not intended by either the hound hunters nor the landowners.
- Reasons given for the lack of support:
 - A member said he would not support a proposal giving broad authority to the Department of Wildlife Resources to create a regulation addressing this issue.

- When the member introducing the proposal used the term “trespassing dog” to describe a dog on property where it was not wanted, another member said any use of the term “trespassing” would be an issue. Another member responded by offering the phrase “repeated presence” of hunting dogs. Yet another said that that is not enough.
- Hound hunters thought the regulation would trap hunters making “honest mistakes.”
- One said the ethical hunter would be charged with a violation they would need to rebut while the bad actors would keep doing what they are doing.
- Another said the deterrent is the charge of a class 1 misdemeanor. He said that even if innocent, the charge is a class 1 misdemeanor and so the hunter would need an attorney and defending oneself is a “major expense” and keeps a person away from working that day.
- He also said it would be better to address hot spots across the state with increases in the number of law enforcement officers, their training in conflict management, and in leadership.
- A landowner responded that there could be 1000 conservation police officers on his land but there will still be 5000 dogs running on his land because conservation police officers have nothing they can enforce to keep people from running their dogs on his land.

The issue of hound hunters repeatedly going on another’s property without permission remained unresolved, with the following impasse among the SAC members.

- A SAC member asked for any helpful proposal from the hound hunters and offered a statement about deer hound hunters, who, without the interference of the mountains (an issue for bear hound hunters), could use tracking collars -- implying that this might be addressed in a proposal -- but no members responded.
- A landowner said hound hunters do not believe it is wrong to run game off another’s private property and that the hound hunters do not believe that it is wrong to be on lands of another without permission.
- A hound hunter countered that no one said it is not wrong to hunt on another’s property without permission.
- Another hound hunter responded by saying that the landowners are demanding exclusive property rights, and landowner’s property rights are not exclusive property rights.

Discussion of Proposals That Were Not Balloted on November 3, 2023

SAC members discussed the following proposals for the first time and then indicated their support or lack of support for these proposals by balloting. Those that garnered more than marginal support were tested later in the meeting for consensus. Both the balloting and testing for consensus have been reported here for reader convenience. Where there were additional reasons provided for not supporting consensus, those are also included here after the testing for consensus data.

Establishment of a Taskforce on Conflict Resolution

Proposal: Establish an enforcement task force to address hot spots. Officers involved should have advanced conflict resolution training and utilize community resources, like local hunt clubs. Request that DWR seek an increase in authorized staffing levels to 225 positions to include adequate funding, perhaps from additional sources, to address the need for more law enforcement staff and retention of staff.

- Rationale: There is a need is for increased law enforcement (225 CPOs) and law enforcement training that includes conflict resolution between landowners and hunters.
- Members shared the following:
 - The need exists in other areas too – duck hunting, jet skis....
 - More law enforcement will not solve or reduce the problem without a law or regulation to enforce, so enforceable laws or regulations [pertaining to unwanted dogs on posted private property] are needed for an increase in law enforcement to be effective.
- A reason given for not supporting the proposal:
 - The proposal does not address the underlying issue: the hound hunters do not see their dog on land where the dog is not wanted as wrong.
- Ballot: Yes – 11; No – 4; Test for Consensus: 3s – 10; 2s – 3; 1s – 1.
- Reason given for not supporting consensus:
 - We need an effective solution to prohibit dogs on property where they are not wanted, one that can be enforced, and not just an increase in the number [of CPOs] in law enforcement, training, leadership, and funding.

Improve Tracking (Includes Coding) of Hunting Dog Complaints

Proposal: DWR must improve the current tracking of “hunting dog” complaints to require that before any complaint be coded as a “hunting dog complaint” that details [about] the type of dog be collected at the time of the complaint and determines whether in fact it was a hunting dog involved at all.

- Members shared the following:
 - A concern was expressed that this proposal does not solve the problem.
 - The proposal may reduce complaints attributed to hound hunting.
 - It may clarify [the facts and issues] to accurately address the problem. Those answering calls [Dispatch] need to ask specific questions that would clarify what happened. (Type of dog?, wearing a collar?, a tracking collar?)
 - The recent revisions are appreciated but members are still experiencing inconsistency on the questions asked on complaint calls.
 - Make sure the case file is assigned, and then provide a system where a citizen can download documents related to his or her file.
 - “Hunting dog” needs to be defined for this proposal.
 - The complaint system needs to support the identification of repeated offenses.
- No Balloting or Test for Consensus

SAC members verbally agreed that because DWR Law Enforcement is already credibly continuing to improve the complaint tracking system, a ballot or test for consensus was not needed at this time.

Education Outreach Proposal

Proposal: DWR Public Information program and public forums should be held annually throughout Virginia and address areas of conflict.

- Intent: The proposal is needed to assist with regularly engaging and educating the public in areas of conflict.
- Need to increase public information and public forums.
- Ballot: Yes – 11; No – 3. Test for Consensus: 3s – 11; 2s – 3; 1s – 2.

- Reason given for not supporting consensus: One SAC member said working to improve education and outreach is an inefficient use of resources.

Ombudsman Program

Proposal: DWR should create and implement an “ombudsman” program modeled on the successful Hunter Education mentor program with experienced, vetted and trained individuals within the dog hunting community who will act as conflict resolution experts to defuse situations in their region before they escalate to conflicts between hunters and landowners.

- No discussion.
- Ballot: Yes – 12; No – 3. Test for Consensus: 3s – 10; 2s – 1; 1s – 2.

Create an Advanced Hunter Education Course

Proposal: Request DWR to develop and implement advanced Hunter Education training to encourage proper hunting ethics and etiquette when using dogs.

- Intent: This proposal is to expand the Hunter Education curriculum, even the revised version from last year.
- Currently basic hunter education is time-limited and not in-depth.
- DWR Hunter Education Program is currently working on a new/revised training module with some members.
- Ballot: Yes - 15; No – 0. Test for Consensus: 3s – 15; 2s – 0; 1s – 0.

Hound Hunting Parcel Registration

Proposal: Implement a Hound Hunting Parcel Registration System on private land to be hunted with deer or bear dogs. The property must be registered by the hunting club or property owner through DWR.

- Intent: The proposal moves the onus off the individual hunter and onto the hunt clubs. It could encourage the hunt clubs to self-police and to communicate with the property owners to request access to their property for hunting.
- Discussion with the member who made the proposal:
 - The owner [or lessee] would have to register their parcel, and they would be responsible for their guests.
 - Hunt clubs would be accountable too.
 - Applies to private property and not public property.

- A single hunter would need to join a hunt club to use a parcel registered by the hunt club. (Private property owner could register his or her own property.)
- Hunt clubs can invite others who are not part of the club to participate in the hunt on the registered parcel.
- If a hunter's dog trespasses, then the hunt club is accountable, not the individual hunter. (Hunt club self-policing encouraged.)
- In Georgia, landowners and lessees with permits for hunting on their land get two or three strikes before they lose their permit to hunt [that parcel of] land. (GA has a \$500 fine and hunter can lose hunting license.)
- The landowner and lessee would have to register their parcel and would be ultimately responsible for the actions of those who hunt on their property.
- Ballot: Yes - 3; No - 12. Not tested for consensus because of the low level of support during balloting.

Limitations to Road Hunting

- **First proposal:** Implement a road hunting law statewide; hunting shall not be permitted within 150 feet of the centerline of any state-maintained road.
 - Intent: to address hound hunters who drop their dogs on roads and move "one inch off" the road to hunt.
 - Rationale:
 - i. Public Safety is needed: Hunters, their trucks, and their dogs can block the road and some hunters unsafely handle/shoot their guns on or too close to the road.
 - ii. Need uniformity and consistency across the state on road hunting to support safety and to help discourage people from releasing their dogs on roads to access private lands (where the hunters were not given permission to hunt that land.)
 - Discussion:
 - i. It is already illegal to hunt on or across roads but there is an inconsistency across counties on how close to the road hunting can occur.

- ii. Law Enforcement shared with the SAC that Counties can develop their own ordinances on the setback for hunting and the ordinances do vary.
 - iii. State law requires a hunter to have permission to be on the land where the hunter shoots from.
 - iv. Members pointed out that a safety issue is hunting activity near children/parents near bus stops/routes.
 - v. The proposal would not apply to national forests or to gravel roads.
 - vi. Members discussed allowing hunting no less than 150 feet from the road – whatever is far enough so buck shot does not hit the road.
 - vii. A member said road hunting encourages trespass.
 - viii. A SAC member requested that DWR establish a guideline since the county laws differ.
 - ix. Others commented that guidelines already exist.
 - x. There was a recommendation for a DWR to “recommend” to counties and other municipalities a minimum distance of “x” feet from the edge of the road.
- Proposed revisions:
 - i. DWR to develop a recommended guideline for the counties.
 - ii. DWR to establish a state law of no hunting within [a certain number of feet] of the road.
 - iii. DWR/Board should recommend a minimum safe hunting distance from roads for counties (eg., a model ordinance.)
 - Proposals Balloted and Tested for Consensus
 - i. DWR should establish a mandatory statutory requirement on minimum distance to hunt from roads. The ballot: Yes – 6; No – 9. Test for Consensus: 3s – 4; 2s – 2; 1s – 8.
 - ii. DWR to should recommend a guideline on a minimum safe distance to hunt from roads for counties (and independent cities).
The ballot: Yes – 10; No – 5. 3s – 9; 2s – 1; 1 – 2.

Deer Dog Training Season

Proposal: Request DWR create a deer hound training season. Requires electronic tracking collars, and dog owners to stay in the accompaniment of the dogs being trained.

- Intent: A training season minimizes the hound-hunter/landowner conflict since it would be provided a set time to train hounds – to train the hounds to break off a track and return to command.
- Rationale: It would reduce landowner complaints since trained dogs would be less likely to go on property where the dog is not wanted.
- Discussion:
 - Trained dogs cause fewer conflicts.
 - Can train (“tone”) a dog to leave someone’s property.
 - A landowner asked the proposer to include a requirement to stay off private land where the dog is not welcome (“prohibited land”).
 - i. Some members shared that they are not opposed to this proposal, but other enforceable measures (law or regulation) are also needed to keep the dogs being trained from going on private land where they are not wanted; and hounds need to be trained on lands where hunters have permission to train their dogs.
 - The proposal would require the owner to be present with their dog.
 - Landowners were concerned that if this proposal came to be law, that hunters will use it as an excuse to turn out more dogs and increase conflict.
- Ballot: Yes 9; No – 6. Test for Consensus: 3s – 8; 2s – 1; 1s – 4.

Expand the Length of Statewide Bear Chase Season (June 1st to the 1st Friday in October)

Proposal: Request to DWR to expand bear chase season statewide to begin June 1 and run through to and include the first Friday in October (ends before bow season). Includes 24 hours a day in that time.

- Intent/Rationale:
 - Current bear chase season varies across the state. The current chase season causes hunters to hunt in pocketed concentrations in time and space, as they “follow” the locations allowing bear chase season across the state. This proposal would simplify bear chase season.

- It would also reduce agricultural damage by bears by enabling dogs to chase bear out of the fields of crops during the summer.
- Discussion
 - The dogs would reduce deer, bear, and coyote damage to agriculture.
 - The Farm Bureau supports hunting for species it considers a nuisance.
 - It keeps hunters busy hunting in their own local areas where they are familiar and allowed to hunt.
 - Training reduces incidences of dogs hunting on land where the dogs are not wanted.
 - A landowner requested that the proposal include a requirement that the dogs not be allowed to go on private land where the dogs have not been given permission to hunt, because it was thought that the current proposal would allow dogs on private land where they are not wanted and would do so without any accountability.
 - i. A member noted that he could not support this proposal on behalf of his organization without the accountability piece.
 - A landowner requested that the extended bear hunting chase season presented in the proposal be shortened.
 - A member clarified that deer and bear hunting methods differ and that bear dog hunters follow dogs on a certain path for one bear.
 - A member not opposed to the proposal was concerned the change would affect bow hunting season. It should be examined to discern how it would affect other types of hunting.
 - Some landowners thought it may only increase bear-dog conflicts with landowners.
 - A bear dog hunter said there are few complaints during bear chase season.
- Ballot: Yes- 9; No – 6. Test for consensus: 3s – 9; 2s – 0; 1s – 6.

Open Counties for Hunting Bears with Dogs during Regular Fall Firearms Season

Proposal: Request DWR to open certain Counties for the hunting of bear with dogs during the regular fall firearms bear season.

- Intent: The intent is to address the inconsistency for some counties where chase versus hunt seasons are allowed.
- Rationale: In counties where hunting is not allowed (excluding urbanized areas), there are more complaints about more property nuisance and agricultural damage.
- A member asked that if we are going to expand bear hunting, will you amend this expansion to provide that hounds will not be allowed on lands unless permission is given. (The provision was not revised.)
- The ballot: Yes – 11; No – 4. Test for Consensus: 3s – 10; 2s - 1; 1s - 4.
- Reasons given for not supporting consensus:
 - This is not within the scope of this committee since the 2020 Bear Management Plan applies.
 - This proposal does not keep dogs off land where they are not wanted.

Consensus Testing Explained

After the above proposals were balloted and before they were tested for consensus, testing for consensus was reviewed and applied to the proposals that had been balloted at the November 3rd SAC meeting.

Each SAC member was asked to indicate whether he or she fully supported the proposal (by raising three fingers), had objections but could live with the proposal (by raising two fingers), or could not support the proposal (by raising 1 finger.) It was further explained that when one or two fingers are raised, the facilitator may follow up by asking what those not fully satisfied with the proposal (those who had raised 1 or 2 fingers) would need to be included in a new proposal to move them to support the new proposal. Others can make suggestions for this purpose too. The new proposal is then tested for consensus.

Consensus Testing on Proposals Related to Code of Virginia §18.2-136

The second proposal below amending §18.2-136 was originally introduced and balloted at the November 3rd meeting. The other proposals were introduced at the January 12th meeting.

Proposals to Amend Code of Virginia §18.2-136 and a Related Statute

- The current statute is included here for reader convenience:

Virginia code § 18.2-136. (Right of certain hunters to go on lands of another; carrying firearms or bows and arrows prohibited.) (Code 1950, § 29-168; 1964; 1975; 1988; 1991; and 2007):

Fox hunters and coon hunters, when the chase begins on other lands, may follow their dogs on prohibited lands, and hunters of all other game, when the chase begins on other lands, may go upon prohibited lands to retrieve their dogs, falcons, hawks, or owls but may not carry firearms or bows and arrows on their persons or hunt any game while thereon. The use of vehicles to retrieve dogs, falcons, hawks, or owls on prohibited lands shall be allowed only with the permission of the landowner or his agent. Any person who goes on prohibited lands to retrieve his dogs, falcons, hawks, or owls pursuant to this section and who willfully refuses to identify himself when requested by the landowner or his agent to do so is guilty of a Class 4 misdemeanor.

First Proposal tested for consensus (An addition to the existing law – proposed changes in bold): On posted prohibited lands with detailed contact information, when executing a dog retrieval hunters must **obtain permission** from the landowner or leaseholder prior to entering the property.

- Intent/Rationale:
 - i. The proposal would require seeking consent from the landowner or contacting a notification system to enter property prior to retrieving a dog.
 - ii. The landowner is looking for the right to grant permission, to have the right to say “no.”
 - iii. The member making the proposal stated that his organization supports the current law but where the property is properly posted with detailed contact information, his organization would support requiring notification of the landowner prior to entering the property.
- Discussion:
 - i. The burden is on the dog owner because the hunter accepts the risk of their dog going onto another’s land when they let their dogs run.
 - ii. A landowner noted that the landowner will not know the kind of person coming onto his or her property.

- iii. Members recognized the underlying conflict between landowners' private property rights and deer and bear dog hunters right to protect the safety of their personal property, the dogs.
- iv. A hound hunter expressly stated that he gives the landowner the respect of calling the landowner to retrieve a dog, and he noted that it is rare that a hunter will go on the property of another to retrieve a dog unless the dog has become stationary.
- v. A deer or bear dog can be in danger when a property owner refuses to permit the hunter access to retrieve their dog.
 - When the tracking collar shows the dog is stationary, that indicates that the dog may be in danger.
 - Reference was made to the recent dog shootings.
- vi. A landowner said the onus is on the landowner to return the dog to the hunter safely to the hunter if the landowner refuses the hunter permission to enter the property. However, it is the hunter who has allowed his own property, the dog, to impact the landowner's property,
- vii. Hunters noted the difficulty in contacting an absentee landlord.
- viii. A modification should occur in concert with a modification of the statutes on posting - §18.2-134.1 and §18.2-132.
- ix. Members (landowners and hound hunters) thought there might be more agreement on requiring that a hound hunter be required to "try to contact a landowner."
- x. Test for Consensus: 3s – 5; 2s – 2; and 1s – 7

Second Proposal (An addition to the existing law – proposed changes in bold): If the landowner's name and phone number is posted, this would mean that the hound hunter **must attempt to call/text and notify the landowner** that s/he is exercising the RTR law (18.2-136) to retrieve hunting dogs. Call goes to the landowner during legal daylight hours. **If unable to contact the landowner, notification call must go to DWR dispatch (identifying who/where/when you're off the property)**. You can show your cell phone log as proof that you did try to call even if no signal.

- Intent: As noted above, the intent is to offer a more mutually agreeable proposal – the requirement of an attempt to notify the landowner and includes calling DWR if the landowner cannot be reached.
- Reasons given for not supporting this proposal were because of the difficulty of having cell coverage in some locations.
 - i. In the mountains a cell phone signal can be difficult to obtain.
 - ii. No cell service in many Piedmont or coastal areas.
- A landowner said when you hunt with your dog, you would assume the risk of having to go find cell service to retrieve your dog.
- Hound hunters objected to having to drive off to find cell coverage.
- (Prior Ballot: Yes – 13; No – 3.) Test for Consensus – 3s - 3; 2s – 0; 1s – 11

Third Proposal: Revise the statute as follows -

Fox hunters and coon hunters, when the chase begins on other lands, may follow their dogs on prohibited lands, and hunters of all other game, when the chase begins on other lands, may go upon prohibited lands to retrieve their dogs, falcons, hawks, or owls but may not carry firearms or bows and arrows on their persons or hunt any game while thereon. ***If land is so posted, a hunter shall attempt to contact the landowner or his agent by phone, text, or email via the method provided on the posted sign during legal daylight hunting hours, except when (i) a dog is in immediate danger or (ii) the hunter has a prior agreement with the landowner or his agent.*** The use of vehicles to retrieve dogs, falcons, hawks, or owls on prohibited lands shall be allowed only with the permission of the landowner or his agent. Any person who goes on prohibited lands to retrieve his dogs, falcons, hawks, or owls pursuant to this section and who willfully refuses to identify himself when requested by the landowner or his agent to do so is guilty of a Class 4 misdemeanor.

- Reasons for objecting:
 - i. A landowner said the proposal infringes on a landowner’s right to protect his or her contact information.
 - ii. A hound hunter said he could not support the proposal because hounds have been recently shot.

- iii. There is a risk of losing control of the proposal in the legislature.
- Test for consensus: 3s – 3; 2s – 1; 1s – 8.

Regulation Related to §18.2-136

Proposal: Request DWR establish an expectation such as a best practice (but no amendment to the law) that landowner (or landowner agent) notification will be attempted if landowner contact information is posted.

- Intent/Rationale: This proposal was offered on January 12, 2023 as a way forward to address the notice issue through ethics/best practices rather than through the legislative process.
- Discussion by SAC:
 - i. A hound hunter said hound hunters are reluctant to move forward on the right to retrieve law (§18.2-132.1) because of recent shootings, but he asked if DWR could develop an education program on ethics recommending the hunter contact the landowner or landowner agent prior to entering property to retrieve their dog.
 - ii. A hound hunter remembered both landowners and hound hunters preferred a non-statutory solution.
 - iii. Another member affirmed a non-statutory path.
 - iv. A landowner said there is no problem with an ethics or DWR program but the concern is about a hunter who ignores the posted signs and walks onto the property to retrieve his or her dog.
 - v. A hound hunter said bad actors go on property regardless of the law too.
 - vi. A landowner said the Right to Retrieve law's decriminalization of trespass prevents a notice of trespass from working to address this issue.
- Reason for lack of support: Although not legislative, it does not get the bad actors.
- Test for Consensus - 3s – 10; 2s – 2; 1s – 2

Proposal: Request DWR to explore strengthening posted property requirements as to hunting, fishing, trapping to reduce unintended trespassing.

- Intent: The proposal was offered to strengthen the posting requirements in Code of Virginia §18.2-134.1.
- Rationale: Stronger requirements would help hunters better identify a landowners' private property and facilitate communication between a landowner and hound hunter.
- Discussion:
 - i. Posting against hunting, trapping, fishing is a specific posting statute unlike posting for other reasons.
 - ii. This proposal was a package deal with "Attempt to ... Notify the landowner" proposal originally offered on November 3rd [and included above.]
 - iii. A landowner asked if this proposal would create unintended consequences.
- Test for Consensus 3s – 14; 2s – 1; 1s – 0 = **Consensus**

Testing for Consensus on Proposals Balloted at November 3rd Meeting

Those proposals balloted at the November 3rd meeting and of greatest interest to the group were evaluated via testing for consensus to identify any remaining nuances and clarify members level of support.

Proposal: Request DWR to Explore Reducing Overlap of [deer] Hound Hunting and Still Hunting Seasons

- Intent: The proposal was intended to reduce conflict between landowners and hound hunters.
- It had been explained at the November meeting that the seasons would remain the same length but would not overlap.
- Could it increase the number of bucks shot because shed bucks may be present in the later season?
- Would hunters participate more in November than January?
- Overlap with rabbit season.
- Have two weeks of muzzleloader.
- (Prior Ballot: Yes – 9; No – 6; One abstention.) Test for Consensus – 3s-2; 2s-1; 1s-12.

Proposal: Request DWR to Explore how to Close the Coyote / Fox Loophole

- Intent: This proposal had been offered on November 3rd with the intent to keep hunters from claiming they are hunting coyote and fox as an excuse when their dogs are hunting deer or bear with dogs out of season.
- With a deer training season, this would not be a loophole.
- Reasons for not supporting this proposal:
 - i. This proposal makes too broad a request.
 - ii. Representation for fox hunters is lacking on the SAC.
 - iii. The dogs of mounted fox hunters were not included in this proposal, but a member noted that a person cannot tell the difference between mounted fox hunter dogs and other fox hunting dogs.
- (Prior Ballot: Yes – 8; No – 7.) Test for Consensus: 3s – 5; 2s – 1; 1s – 7.

Proposal: Require Electronic Tracking Collars for All Deer and Bear Hunting Dogs while Hunting.

- Discussion:
 - A member said the proposed deer hound training season would also require tracking collars.
 - No other discussion was held at this meeting.
- (Prior Ballot: Yes 11; No – 4.) Test for Consensus: 3s – 10; 2s – 0; 1s-4.

Proposal: Require all deer and bear hunting dogs to be fitted with an identification chip that can be read by law enforcement and animal control agencies.

This proposal did not earn enough support during balloting on November 3rd and so was not tested for consensus.
(Prior Ballot: Yes – 2; No – 13.)

Proposal: DWR to explore a Permit/License/Registration System

- Intent: In contrast with a statutory proposal created by the members, this proposal had been intended to give DWR support for exploring a Permit/License/Registration System.

- No discussion was held at this meeting.
- (Prior Ballot: yes – 8; no – 7.) Test for Consensus: 3s-5; 2s-1;1s-8.

Proposal: Remove Fox and Coyote Closure Prohibition

- The proposal would repeal Code of Virginia § 29.1-525.2 (Fox and Coyote Closure Prohibition)
- Intent: The intent of the proposal was to give hound hunters more opportunity to train their dogs for hunting, which would reduce conflict during the season.
 - Discussion
 - i. In these enclosures, dogs do not get on other’s land. They are confined.
 - ii. The hunter would have the opportunity to train and exercise his or her dogs in a confined area outside the season, which would reduce conflict during the season.
 - iii. Currently all pen enclosures are booked solid. Only so many dogs can be run per acre. If more enclosures could be built, there would be more opportunity to train without any conflict with private landowners.
 - iv. From a wildlife control perspective, wild coyotes and foxes are taken from the wild and put into the pens.
 - v. Fox pens and training seasons (and when used in combination) are an effort to reduce conflict.
 - vi. A few participants were very opposed to this proposal but this was not explored further in discussion as this proposal was not a primary focus of the group.
 - vii. (Prior ballot: Yes – 8; No – 7.) Test for consensus: 3s – 10; 2s – 1; 1s – 3.

Proposal: DWR to provide hound hunting education information to hound hunting Counties [and cities] for them to post on their website.

- There is no obligation for the County to do this [that is, to post the information on their website.]
- What is the level of detail of “information” to be shared?
- It is not a strong enough proposal.
- Reasons given for not supporting this proposal
 - i. The proposal increases opportunity for hounds to run on private property where they are not wanted.

- ii. The proposal does not include a provision to prohibit dogs from going onto private property where they are not wanted.
- (Prior Ballot: Yes – 12; No – 2.) Test for Consensus: 3s – 9; 2s – 1; and 1s – 4.

Consensus Testing for Proposals First Presented for Discussion/Balloting on January 12, 2023

At this time in the January 12th meeting, SAC members tested the proposals discussed in Section III for consensus. For reader convenience, the results for testing for consensus have been included in Section III, along with the balloting on those proposals.

Wrap Up and Next Steps

Ms. Altizer shared that IEN would be working on the final report and that a draft would be sent to SAC members prior to its release. IEN aims to submit the final draft report in February. Preliminary findings will be presented at the DWR Board Meeting on January 17th. Director Brown shared that the following Board meeting is scheduled for March 21st but that the issue could be addressed at a special session of the Board. He thanked the members for their professionalism and for their time and engagement in a very challenging, contentious, long-time issue, and the meeting adjourned.