

**MINUTES OF THE LITTLE CALUMET RIVER BASIN DEVELOPMENT COMMISSION  
HELD AT 6:30 P.M. THURSDAY, JULY 7, 1994  
AT THE COMMISSION OFFICES  
5100 SOUTHPORT ROAD  
PORTAGE, INDIANA**

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Chairman George Carlson called the meeting to order at 6:40 p.m. Nine (9) Commissioners were present. Quorum was declared and guests were recognized.

Development Commissioners:

George Carlson  
Charles Agnew  
Steve Davis  
Robert Huffman  
Robert Trelo  
William Tanke  
Nathaniel Leonard  
Arlene Colvin  
John DeMeo

Staff:

Sandy Mordus  
Jim Pokrajac  
Dan Gardner  
Lou Casale

Visitors:

Herb Read - Izaak Walton  
Bill Petrites - Highland  
Ruth Mores - Hammond Resident  
Don Shapiro - Highland  
Cecilia Wallace - NIRPC staff  
Mike Vander Heyden - Dyer  
Construction  
Ray Young - Contract & Community  
Services  
Pete Zak - South Shore Marina  
Mary Jane Zak - " "  
Mike Doyne - Doyne's Marine Inc.  
Patrick Mysliwy - Hammond  
attorney

The minutes of the June 2, 1994 meeting were approved by a motion from Chuck Agnew; motion seconded by Arlene Colvin; motion passed unanimously. A correction was then made to the minutes inserting the word "not" in front of "a viable alternative" causing it to read "it is not a viable alternative" in the last paragraph on page 3; motion to correct the minutes was made by Bill Tanke; motion was seconded by Bob Huffman; motion passed unanimously.

Executive Director's Report - Mr. Gardner gave a brief report on the press conference regarding the Corps' minority contracting commitment that was held at the Congressman's Office on June 6th. Mayor Barnes and Congressman Visclosky were both in attendance.

Mr. Gardner also discussed the meeting held in Indianapolis with the DNR regarding the requirements for the DNR permit to build in a floodway that is required before any further construction can begin in the east reach. The permit application has been submitted with as much information as we currently have; the Corps needs to provide some technical data, the Corps mitigation plan, some downstream modeling and confirmation of levee re-alignment for Highland/ Griffith. Public notice has been given.

LCRBDC Minutes  
July 7, 1994  
Page 2

Mr. Gardner referred the letter in the packet asking the Corps to pursue accelerating the Corps eligible participation in the recreation area known as the Oxbow Park. Discussion was held on the possibility of a transfer of property or lease arrangement so the property could be in the Commission's name since Corps regulations say any recreational development they fund must be held in the sponsor's name.

Mr. Gardner announced that the DNR permit for construction in a floodway for removal of the abandoned Erie R.R. bridge has been approved and received. Staff is in process of assembling the bid package to go out for bids. Bob Trelo made a motion authorizing staff to proceed with bidding; motion seconded by Bob Huffman; motion passed unanimously. Mr. Gardner asked for Board consensus to send a letter to Hammond inquiring about the \$18,000 once earmarked with Community Development Funds and to also send a letter to Highland to see if there is any funding in their budget that they could give us toward this project. It is Hammond and Highland that will benefit from this bridge removal and the concern is that any money this Commission spends for removal will not receive credit from the Corps for the project for which it is contractually responsible.

Legislative Committee - George Carlson referred to Senator Coats' new release announcing \$3.3 million of federal funds for the project. He also reported that as a result of Mr. Gardner's attendance at the State Budget Committee meeting and our request for the remaining \$2 million from the 93/95 budget for drawdown purposes, it was approved by the State Budget held June 22. Mr. Gardner added that we have received the 95/97 biennial budget forms for submittal back to the State Budget Agency by August 19th. Mr. Gardner will review available funds, future funds, construction dates, utility relocations, future acquisition, Corps deadline dates, etc. in order to determine an accurate figure on the amount of money that would be needed for this next biennium.

Land Acquisition Committee - Land Acquisition Chairman Chuck Agnew made a motion to increase the offer price to \$5,407.81 (amount will cover past due real estate taxes) in order to avoid condemnation; motion seconded by Nathaniel Leonard; motion passed unanimously.

Project Engineering Committee - Mr. Huffman reported that the Wicker Park Manor construction progress is at about 16% complete. The retention pond on the west side of Indianapolis Blvd. is about 95% complete. Final completion date is March 1995. He also reported that a final inspection on Stage II Phase 2 and Stage III is scheduled for mid August.

LCRBDC Minutes  
July 7, 1994  
Page 3

Mr. Gardner referred to the letter in the packet from the Federal Emergency Management Agency (FEMA) saying it is incorrect to assume project funding and completion status can be used in determining when an area can be taken out of the floodplain designation. The Corps is attempting to provide drawings & documentation when 50% complete to be given to the town and DNR for their use in their dealings with FEMA. We will try to accommodate and provide everything that we can do as a Commission in order to see this area removed from the floodplain. The concern is that SBA loans for property owners come due very shortly and it was anticipated that the process to remove the floodplain restrictions would have been started. That is not the case. Homeowner Dominic Vasile expressed his dismay over the slowness of the whole process. There was a lengthy discussion concerning the contractor's delay in building the new levee. Mike Vander Heyden from Dyer Construction (the contractor) stated he is awaiting IDEM approving a site that he wants to use for borrow material. Although there are several other approved sites, Mr. Vander Heyden is attempting to get another site approved. After much argument back and forth, Mr. Gardner stated he would talk to the Corps and see exactly what the problem is. Mr. Trelo inquired if there was anything the Commission could do for the homeowners in the meantime.

Marina/Breakwater Committee - Committee Chairman Bill Tanke gave the marina report. The main topic was the issue of sandmining that Dyer Construction has been doing in which they are asking for a waiver to allow them to take the sand to Illinois. Mr. Vander Heyden's attorney, Patrick Mysliwy, gave some background information on the sandmining. In our contract with Superior/Dyer, they are suppose to obtain a waiver from the Commission before any sand is taken out of state. Although it is after the fact, they are requesting a waiver now. Dyer has a contract for 100 yards of sand for a public project in Illinois. Lou Casale, Commission's attorney, stated that the Commission may be restricting inter-state commerce laws by disallowing this sandmining. Mr. Mysliwy has stated that the market for sand in Indiana is non-existent right now and this is a project that needs sand that Dyer can provide.

Herb Read, Izaak Walton League, spoke opposing the waiver. Although he supports the marina project, he feels the sand should not only stay in Indiana but should go on the shoreline to replace beach erosion. It is desperately needed on the beach. He stated that if Mr. Vander Heyden did not like the terms of the contract, he should have spoken then and felt that the only reason he is asking for a waiver now is because he got caught hauling sand into Illinois.

LCRBDC Minutes  
July 7, 1994  
Page 4

Mr. Tanke gave a little history on our commitment to the federal government to build a marina and in order to build that marina, the sand must be removed. After meeting with attorney and staff, the Commission has developed a position letter. Since the Commission's prime objection is to build a marina and therefore the sand must be moved and since the project in Illinois is a public project (not private), Mr. Tanke made a motion to grant the waiver; motion was seconded by John DeMeo; motion passed. There was one nay vote from Commissioner Steve Davis.

Mr. Agnew pointed out that this Commission did not deserve the threatening letter that was received from Dyer Construction. He felt it was completely out of order and unnecessary.

Mr. Gardner added that the Commission still supports 100% the idea of the sand going on the beach. There needs to be a funding mechanism to get it there. We have, in the past, offered the sand at no cost. That is a standing offer. Mr. Gardner stated that once the marina obligation is met, the Corps of Engineers will dredge the waterway periodically and those clean dredgings will be placed on the beach for mitigation.

Mr. Huffman made a motion to send a letter to Dyer Construction stating that he violated the terms of the contract by not getting a waiver first; motion seconded by Bob Trelo; motion passed unanimously. Mr. Mysliwy added that it was not intentional to violate the contract.

Herb Read, reacting to the Commission's granted waiver, stated he understands and appreciates the position the Commission is in but at least would like to see the Commission reaffirm whatever it can do support the sand being used on the beach and explore whatever means it can to assist the sand getting to the beach.

Mr. Agnew continued the motion by adding the Commission's support of the endeavors of the various environmental groups relative to this issue; motion seconded by John DeMeo; motion passed unanimously. It was stressed to Dyer Construction that the waiver is for this contract only and for only 100,000 yards.

Mr. Tanke then made a motion to adopt the position paper on the sand removal as the Commission's position paper and forward a copy of it to the Governor's Office. This letter is to be addressed to the Izaak Walton League and will be made part of these minutes and included as Attach A. The motion was seconded by John DeMeo; motion passed unanimously.