

MINUTES OF THE LITTLE CALUMET RIVER BASIN DEVELOPMENT COMMISSION
HELD AT 6:00 P.M. THURSDAY, SEPTEMBER 5, 2002
6100 SOUTHPORT ROAD
PORTAGE, INDIANA

Chairman William Tanke called the meeting to order at 6:10 p.m. Seven (7) commissioners were present. Pledge of Allegiance was recited. Quorum was declared and guests were recognized.

Development Commissioners:

William Tanke
Robert Huffman
Mark Reshkin
George Carlson
Steve Davis
Arlene Colvin
Robert Marszalek

Visitors:

Jim Flora – R.W.Armstrong Company
Sandy O'Brien - Hobart
Don Ewoldt – Lake Erie Land Company
Imad Samara - COE
Mark Lopez – Congressman Visclosky's Office
Bob Blaesing - COE
Elizabeth McCloskey – U.S. Fish & Wildlife
Dave Taborski – Gary resident
Glenn & Patricia Stotts – Gary residents
Bill Petrites – Highland resident

Staff:

Dan Gardner
Sandy Mordus
Lou Casale
Jim Pokrajac
Judy Vamos

The minutes of the August 1st meeting were approved by a motion from Bob Huffman; motion seconded by Mark Marszalek; motion passed unanimously.

Chairman's Report – Chairman Bill Tanke stated there was no Chairman's Report.

Executive Director's Report – Executive Director Dan Gardner informed the Board that staff is continuing to monitor our expenditures from the budget that was put together with remaining state monies available to the Commission. We are doing priority spending only.

- Regarding mitigation, Mr. Gardner referred to Committee Chairman Mark Reshkin. Mr. Reshkin reported that 2 meetings have been held, on August 14th and August 30th. Attendance included the COE, IDNR, IDEM, IN Dunes National Lakeshore, LEL, several Commission/committee members, SHEF, Trust for Public Land, Sandy O'Brien that were either invited or attended. The mitigation plan was re-evaluated and re-affirmed using Hobart Marsh area. The attorney has been researching several mitigation issues that were brought up. It was also important to look for partners to carry out the mitigation plan. We have just received a letter today from Trust for Public Land, indicating they are interested in partnering with us in order to move along the plans for acquisition in the Hobart Marsh area. It was stated that in order to show "good faith effort", land must be purchased for mitigation. Although funds are limited, staff has "earmarked" \$250,000 in the priority budget spending to allow for mitigation land purchase. Several appraisals have been done and the COE is in the process of reviewing those appraisals. Once they are approved, we can make an offer to purchase. Once an offer is accepted, we will ask the COE to do a management plan at that time. Another Environmental meeting will be scheduled shortly.
- In regards to Burr Street Phase 2 build-out, we continue to pursue funds from the City of Gary in early 2003 (most likely from the city's casino funds) to allow for Phase 2 construction. By completing Burr Street, it will not only be the last piece of the puzzle for Gary to come out of the floodplain, but it will enable us to move forward with the IDNR permit for the west reach levee construction. Mayor King has indicated support.
- In regards to crediting, staff is continuing to credit all prior expenditures to recapture monies that have been spent. Discussions are still ongoing with the FHWA. Mr. Gardner has talked to Jeff Viohl from the Governor's Washington

office, and he has volunteered to see if he can help us out by talking to INDOT directly. At the worse case scenario, we are able to get 20% credit.

- Staff is also working on the submittal of the IDNR permit for the west reach. There will be about 1,000 people to contact via certified mail. Once the contact is made with the residents by mail, we anticipate we will be getting many telephone calls. We will work with the elected officials of the communities affected to keep them updated.
- Commissioner Bob Huffman asked Mr. Gardner if we would be in the Mayor's city budget for funding for Burr Street and whether we would have to make a presentation to the City Council. Mr. Gardner replied that the Mayor indicated he would pursue casino monies (not the city's budgeted monies) when that budget is put together in January. We will follow the Mayor's lead in addressing the Council members. Council approval is needed.

Old Business – Attorney Lou Casale read a letter he wrote addressing whether it would be prudent for the Commission to cancel its liability and property insurance, as well as the D&O liability insurance. After researching the matter and talking to the Chief Legal Counsel for the IDNR, he has recommended that we continue insurance coverage. (The question arose when Mr. Fahey suggested that the Commission did not need to carry separate insurance due to exemptions and immunities provided by the Indiana Tort Claims Immunity Act, as per legal advice provided by the Chief Legal Counsel for the IDNR.)

- Discussion ensued on whether the Commission wanted to increase the liability limit to \$2 mil/\$3 mil for an additional premium of around \$7,500. After discussing, Commissioner Steve Davis stated that he was asked by IDNR management to request that we put off a vote until next meeting. Mr. Huffman made a motion to defer the matter to the Finance Committee until next month; motion seconded by Arlene Colvin; motion passed unanimously.
- Jim Pokrajac is working with the attorney to get a legal description of the ditch by Village Shopping Center. It has been determined that they are not, nor can they be, tied into the city lines.

Land Acquisition/Land Management Committee – Committee Chairman Arlene Colvin gave the report. She made a motion to increase an offer on DC1034 from \$1200 to \$2150 to cover the loss of a tree; motion seconded by Steve Davis; motion passed unanimously. Ms. Colvin then made a motion to authorize the condemnation on this same property if the owner does not take the increased offer; motion seconded by Bob Marszalek. Commissioner Steve Davis abstained from voting. Commissioner Bob Huffman also abstained. Commissioner George Carlson also abstained. Discussion followed. Mr. Davis stated that he is getting a clarification from Indianapolis on whether it is a conflict if he votes on condemnations. (he has normally abstained on condemnation votes in the past). Mr. Huffman stated that he thinks the condemnation vote should be only after we know for sure that the property owner refuses the increased offer and not have both motions made in the same night. Mr. Carlson asked the attorney the difference between abstaining and voting no and Mr. Casale replied that an abstention vote goes with the majority. Mr. Carlson proceeded to change his vote to no. The vote passed with the majority approving the condemnation (only if the condemnation is necessary).

- Mr. Marszalek made a motion to complete Phase 2 of the Charles Agnew Handicapped Park at a quoted cost of \$44,000. Monies will be used from the LEL account and repaid back to the account from LEL once credits are sold; motion seconded by Bob Huffman; motion passed unanimously.
- Ms. Colvin made a motion approving 3 contracts to be paid out of LEL funds. They are (1) \$3,500 to C&H Mowing to do a second and final mowing this fall, (2) \$650 to Congress Enterprises to clear debris from Commission property and (3) \$150 to South Shore Marina for posting of signs on Commission property. Motion seconded by Steve Davis; motion passed unanimously.
- The Colfax to Calhoun ditch has been cleaned out and inspected in response to landowners petition several months past.

Project Engineering Committee – Committee Chairman Bob Huffman gave the engineering report. He reported that we had received a memo from Highland indicating local concern/dissatisfaction with the COE's contractor, Overstreet, regarding work quality, scheduling and communications. Several meetings were held and all appears to be resolved.

- Plans have been received from INDOT for their project along Indianapolis Blvd. in Highland. The plans did not

include the storm sewer and lift station design but they will be forwarded in early October when finalized).

- A FEMA meeting was held on August 23 at the Lake County Surveyor's Office to discuss the re-mapping of floodplains in Lake County. It was stated at the meeting that the process could begin for Gary to be taken out of the floodplain once a commitment is made for 100% funding and the levee project construction is 50% completed. We need a written commitment from Mayor King to begin the process of removing Gary from the floodplain.

Legislative Committee – Committee Chairman George Carlson gave the legislative report. He reported that the Committee met yesterday to devise strategy for a legislative approach. Mr. Carlson went over the agenda from that meeting. He referred to the credit sheet in which staff is continuing to update each month as credit which is then submitted and approved by the COE. He also referred to the priority spending budget sheet in which staff is monitoring how dollars are being spent. He also referred to a budget sheet that staff is working on to match estimated dollar amounts to the COE's schedule in order to reach a figure for the state budget request. Mr. Gardner added that the COE schedule is being finalized and will be shared with us at a meeting on September 13th. At that time, we can finalize our budget request based on the new COE schedule. We have not met with any area legislators yet to discuss future state funding. We know the picture looks bleak but we need to continue working on acquiring property in the Stage VI area and properties in the Hobart Marsh area.

Recreation Committee – In Committee Chairman Emerson Delaney's absence, Bob Huffman gave the report. He reported that we submitted a plan to the COE for a ramp in the Stage VI-2 levee to tie into the Highland trail system. Highland had already approved the plan.

- A letter was sent to North Township requesting written confirmation that we can tie our trail into the existing Wicker Park trail, thus saving quite a bit of money. It was stated by Imad Samara that we would complete the ramp as part of our Stage VI-2 project, but that the town of Highland would be responsible to connect their trail from Liabe to our ramp. We have not had a response yet from North Township.

- Mr. Huffman asked whether the recreation trail would be included with the Burr Street Phase 2 project. Mr. Pokrajac explained that the COE will build the trail as part of the Phase 2 levee construction but will be paid for through separate funding. The completion of the trail from Martin Luther King Drive to the EJ&E RR will be completed except for the Grant Street and Broadway crossings which will be done as part of the Recreation Phase 2 project.

Marina Committee – Committee Chairman Bill Tanke requested approval of the October 1st marina revenue bond payment. Steve Davis made a motion to approve the payment of \$28,643.84; motion seconded by Arlene Colvin; motion passed unanimously. Mr. Tanke continued to say that the tentative meeting that was scheduled with Bank One to pursue the buildout of the marina was cancelled; more financial information is needed from the city. Mr. Gardner has been in contact with John Smolnar from the Portage Port Authority and they are pursuing obtaining the financial information that is needed. A meeting will be scheduled once that information is received.

Finance Committee – In Committee Chairman Curt Vosti's absence, Mr. Gardner referred to the financial statement and the claim sheet. Bob Marszalek proceeded to make a motion approving the claim sheet for August with total claims being \$52,656.22; motion seconded by Bob Huffman; motion passed unanimously.

- Mr. Gardner added that the Audit Report for years 1998, 99, 00, and 01 has been received and there were no negative findings. There are a few minor bookkeeping and reporting issues that will be changed to reflect State Board of Accounts recommendations, but nothing of significance. Copies of the audit are public record and as such, are available upon request.

Environmental Committee – Committee Chairman Mark Reshkin's report was given earlier.

- Mr. Reshkin asked whether standing water from the river posed a problem for the West Nile virus to appear. Mr. Gardner speculated that we could probably assist the city of Gary with funds for spraying mosquitoes if they needed. Arlene Colvin will check with the city.

• Attorney Casale read his memo to the Board members regarding his legal opinion as to the question of whether or not there exists a regulation or statute that would prevent the Commission and a third party from entering into an agreement to develop wetland mitigation banking on Commission property. His conclusion was that he has been unable to find such a regulation/statute prohibiting us from entering into an agreement. Further discussion will take place at the next committee meeting.

Policy Committee – Committee Chairman George Carlson stated that his committee met prior to tonight's meeting. One item that was discussed was to eliminate the words "as determined" from the bylaws (Item #3 in the bylaws, under Authorization to Travel). He thinks that it is too broad and open to leave in the term "as determined" The Board members only should have the authority to appoint a party to attend a conference. After discussion with the committee, it was decided to address this issue if and when it ever comes up again. Mr. Carlson proceeded to make a motion that approved sending Bob Marszalek to the NAFSMA conference; motion seconded by Bob Huffman; motion passed unanimously.

Public Relations Committee – Committee Chairman Bob Marszalek stated that there was no report.

Other Issues – Commissioner Huffman requested if it was possible to e-mail him the Land Acquisition/ Management Work Study agenda prior to the meeting. Judy Vamos will comply.

New Business - Executive Director Dan Gardner referred to the letter from USGS requesting an agreement be put in place to allow the Commission to pay USGS directly (instead of going through IDNR) for the 2 gage stations on the Little Calumet River that we have paid for many years. In view of the situation, that this is not a creditable item and, therefore, cannot be drawn from the State, there is no mechanism in place for us to obtain the monies. We need to talk to IDNR about how to deal with this. Mr. Gardner was instructed to write a letter to USGS informing them of the budget situation, with Mark Reshkin, Bill Tanke, Steve Davis and Lou Casale approving it before it is mailed out and copy the letter to Sean Fahey, Beth Compton, and Jeff Viohl. Commissioner Mark Reshkin cautioned us to move carefully as the gage stations play an important role in TMDL's.

Statements to the Board – Sandy O'Brien expressed concern that enough money will not be offered to property owners in Hobart Marsh and fears they will not accept an offer. She says that since the appraisals are just based on MLS listings and not actual private sales, the offers will be too low. Commissioner Reshkin asked her to make her concerns known to Judy Vamos, who is coordinating the appraisals/offers.

Liz McCloskey – Inquired how the recreation trail will cross the EJ&E tracks. Jim Pokrajac answered that we have a letter from EJ&E that will allow us to cross their tracks as long as they are held harmless and in compliance with their safety standards. The attorneys will work out that language when the time comes.

Mr. Stotts, property owner along Colfax to Calhoun, commented on the ditch cleaning behind those properties. Although the dirt was cleaned out from the ditch, he stated that there is still standing water. Jim Pokrajac added that the ditch was satisfactorily cleaned out but there is still some water because the slope of the ditch is so flat. He will work with the COE/contractor at the final inspection to see if anything else can be done to improve the situation. Chairman Tanke asked Imad to get elevations relative to design in that area to check on settlement and work with Jim Pokrajac to coordinate.

Sandy O'Brien – Stated that she was pleased that we are looking into Trust for Public Land. She suggested that we hold off on making any offers in Hobart Marsh and wait for Trust for Public Land to do it. Mr. Gardner added that we are under scrutiny with State officials to begin purchasing mitigation property.

There being no further business, the next meeting was scheduled for Thursday, October 3, 2002.