

Members Present

Mr. Olthoff, Mr. Bertrand, Ms. Hertzberger, Mr. Hess, Mr. James, Mr. Marcotte, Mr. Scholl, Mr. Tripp, Mr. Washington and Mr. Whitten.

Members Absent

Mr. Stauffenberg and Ms. McBride.

In Attendance

Mr. Kruse, Mr. McLaren, Mr. Bossert, Delbert Skimerhorn, Mike Lammey, Don Pallissard, Leigh Marcotte, John Bevis, Keith Runyon, Tom Volini, Larry O'Connor and Carol Taylor.

1. Call to Order

The meeting was called to order by the Chairman, Mr. Olthoff, at 9:00 a.m. Quorum present.

2. Roll Call

3. Public Comment

Carol Taylor, Treasurer of POWER, distributed information to Members of the Committee and spoke regarding the flood plain. **(No information given to the Recording Secretary to be placed on file with these minutes).**

4. Approval of Minutes

A motion to approve the minutes of July 27, 2007 was made by Mr. James and seconded by Mr. Whitten. Motion carried.

5. Zoning

None.

6. Subdivision

None.

7. Solid Waste and Environment

None.

8. Transportation

None.

9. Other

• **Pembroke Township- Request for Grant Funds**

Mr. Olthoff advised that there was going to be a report by the State's Attorney's Office on this issue, but they were not present. Therefore, this issue will be on the agenda, again, for the next meeting.

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Mr. Scholl said that some time ago it was requested that they put together a tour of Pembroke Township. He was inquiring as to the status of this request.

Mr. Washington reminded Mr. Scholl that they had requested that the State's Attorney give an opinion as to whether the request for Grant Funds could be granted in accordance to the State Statutes and until that opinion is received, the tour of Pembroke Township is on hold.

Mr. Scholl added to his request that the State's Attorney be present at the next meeting.

- **Using the Natural Resource Inventory Report in Land Use Decisions - Presentation**

Mr. Olthoff advised that Rich Howell, who was going to make a report on this issue, had a family emergency and is unable to be present at today's meeting. Therefore, this issue will be postponed until the next meeting.

- **Minnie Creek Drainage District - Presentation**

(Information was distributed to Members of the Committee, but no information was given to the Recording Secretary to be placed on file with these minutes).

Larry O'Connor stated that John Suprenant, Rich Hansen and he, were all Commissioners of Minnie Creek. He said in a cover letter, he had listed some of their problems that would be caused in Minnie Creek by the Landfill and Ethanol Plant coming in out there. He said that they wanted to make it clear they are not asking this Board to solve any of their problems, but there was one area that they will need the assistance from the County in the future.

Mr. O'Connor made reference to the information that he had distributed.

Mr. O'Connor stated that the first one on Page 1 is an attachment of the easement that we've asked Mr. Volini to sign. He said that Mr. Volini has publicly stated that he would sign an easement so that they can maintain their drainage district. However, he sent a letter to their attorney saying that he (Mr. Volini) will not sign it, he wants to realign the north branch and any work that he has proposed and been permitted to do by DNR, he does not want to interfere with. So, at present date, they still have no signed easement to do their maintenance.

Mr. O'Connor stated that Attachment B is a cross section which has been approved by DNR.

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Attachment C is a cutaway of where Minnie Creek turns and heads on a northeasterly direction to the railroad trestle. In that area they are going to remove the entire west side of the bank to create their relief channel.

Attachment D is a picture of the existing railroad trestle. The obstruction of the timbers are still in there on the north side – there are three (3) of those tunnels/culverts (to his knowledge) that are to be left. The railroad put it in there to support the trestle to add some stability to it. There is no floor in there and it has been pushing into it over the years. The bottom picture is Minnie Creek in the north tributary coming in to that trestle. Everything is quite congested and a lot of improvements can be made.

Mr. O'Connor stated what he is trying to illustrate is when they have industry coming in they run into all these problems. In the future (Mr. O'Connor felt), it will be very beneficial to the drainage district if they had this area labeled as in the 100 year flood plain (DNR has labeled it as being in the 100 year flood plain). If that was in place, it would head off a lot of these problems and people will be aware of that before they came in. Mr. O'Connor further stated that he was hoping to get this labeled as a Commissioner, but he has been told that the request has to come from this Board here to have it studied as being in the 100 year flood plain. The Minnie Creek Commissioners cannot do that.

Addressing this issue, Mr. Olthoff asked Mr. Pallissard if this request have to come to the City because they have annexed this or would this come through the Planning Department.

Mr. Pallissard replied that he believed so. They are the jurisdiction with authority over that property and the County does not have jurisdiction over that.

Mr. Olthoff asked Mr. O'Connor if he had approached the City and Mr. O'Connor replied that he had not.

Mr. Olthoff sought clarification that the DNR had made this a 100 year flood plain and Mr. O'Connor confirmed that they had.

Mr. Washington advised that the permit was given before they designated it a flood plain.

Mr. O'Connor said that the flood plain issue was addressed first so that they knew what had to be done and then they issued the permit.

Mr. Olthoff sought clarification and said, "Mr. Volini has said what their engineering has said and DNR has approved what their engineering told them" and Mr. O'Connor replied, "that is correct".

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Mr. Scholl questioned the chronology and asked did the DNR take the steps prior to this area being annexed by the City, so if they did not realize this and they made a statement that they had to go through the Board, what was the chronology of this.

Mr. Volini addressed the Committee and stated that within the last six (6) weeks they were granted a permit by the DNR that is consistent with the permit that was granted almost three (3) years ago by the Illinois EPA. In connection with the construction of both the landfill and the ethanol plant, the permit from the DNR was consistent with the part thirty seven hundred regulations. In the determination of DNR, they felt that jurisdiction should not be contested so what they did was to design a set of improvements largely through the office of Gingerich, Gerreau and Bradley to create three (3) reservoirs, three (3) railroad bridge and one (1) relief channel and one (1) channel that is virtually a reservoir itself. Those improvements to the floodway exists both on the south side and the north side of the Herscher lead track and in the opinion of the DNR, the proposed improvements on both sides of the tracks are not only consistent with the part thirty seven hundred regulations, but all of those improvements collectively when constructed will not raise the flood elevation above the existing design elevation in the relevant flood flow/event, nor will they increase the velocity of the water going through the creek at that point given the relief channel.

Mr. Volini further explained that there is an inner play between what is practical and what the regulations require. What happens is that an eighteen square mile drainage area is channeled to a creek. Decisions are made over the course of many years to add water to that relief channel that was never intended to be added to that relief channel. At the other end of the spectrum is the bridge under the main line of the CNIC rail. He said that he spent four (4) years trying to have them rebuild that bridge, which is just as inadequate as inferred by Mr. O'Connor and they and Kankakee Valley have done some cleaning in that area as well. He said the timbers that you see are necessary, practically for the structural support of the bridge, but he couldn't get anything done about it. The CNIC has been consented to the nosecones and wing walls to help channel the flow. If you would examine the CNIC and IDOT bridge you will see that the cross section of the IDOT bridge is virtually four (4) times the free flow of cross section underneath to get under 57 as these culverts or tunnels at the CNIC bridge. All this water coming down, rightly or wrongly, from this 18 square mile drainage area and then you have a restriction at the other end. The improvements that they have presented to the DNR and on the basis of which their permit issued within the last 5 weeks or so will alleviate that situation will cause no increase despite the fact that the regulations allow half a foot increase in that flood elevation, these improvements will reduce that elevation by point zero three (3) feet and though they are allowed a ten percent (10%) increase in the velocity of the flow, it is virtually no increase in the velocity of the flow. Obviously, it would

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cost a lot of money to do those bridges, that relief channels and those reservoirs, but no alternative has been permitted at this point. Both the Illinois EPA and the DNR agree. There are other issues and they are looking at other solutions since they have been directed to look at this solution, they are looking at other up stream solutions and keeping their options open to first, comply with the DNR regulations and potentially other solutions is really all they are waiting for in connection with any easement or undertaking in connection with the maintenance of the south branch.

Mr. Olthoff asked if there was a chance of that culvert underneath that railroad/tunnel being enlarged.

Mr. Volini stated that in August of 2006 he entered into a contract with a firm called Alternative Energy Sources, a company located in Kansas City, Missouri, which has a staff mostly alumni from Archer Daniels, and they have been working with CNIC. They gave CNIC their prediction of the rail car moves that would emanate from the 250 acres of part of the north Pauquette property between Otto road and the Herscher lead track. It's possible that based upon the number of rail car moves off of that property generated by two (2) concentric circles of storage tracks and tracks to marshal the railroad cars that CNIC would make the decision to rebuild that bridge. He said that can only report truthfully now that he has not been able to get them to it. They may make an assessment on a per car basis the same way Aqua of Illinois has made an assessment on a per gallon basis in connection with the water line. It's more than \$20,000,000 a year in business for them, so it would seem pretty clear what should be done on the other hand railroads do not necessarily think like the rest of us. So, he cannot say with any assurance at all that they will modify that bridge.

Mr. Scholl said that there were two (2) things that stood out in his mind: (1) with a schematic that was given how would the channel be cleaned out? Is there any feasibility? In other words, would the schematic that was given - projected here it would appear that there is really no way that putting the channel out in the future. Is that your submission?

Mr. O'Connor said that was also his opinion and that is also his question. Regardless of who cleans it, how are they going to clean it?

Mr. Olthoff asked, in Attachment D, has that creek been cleaned just from the one side and the growth on the other side is higher and unable to clean that one.

Mr. O'Connor replied that between the railroad and the existing south bank of Minnie Creek there is an area there that has grown in trees. He said that he came on as Commissioner in January and replaced the person that was on it for thirty (30) years and he said that it has never been cleaned on that side. All

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maintenance work has been done from the north bank on the right. The last time it was cleaned maybe four (4) years ago. From County Highway 58 to the east a mile and west a mile it has been cleaned within the last four (4) years. The area desperately needs attention.

Mr. Scholl asked Mr. Volini in his program/plan, is there something set up to clean/maintain the ditch system that they propose.

Mr. Volini stated that they have cleaned Minnie Creek and three locations since last July. They have responsibility too, and the way he looks at it, they have the greatest responsibility in connection with keeping the drainage way clear as it traverses their property. Secondly, the area depicted on the bottom photograph is immediately adjacent to the area where they brought through the sewage line, the force main for Chebanse, being September of last year. There was not only a cleaning in that area, but actually, they excavated out the creek, laid the water line and then replaced the excavation. They aligned and realigned those easements for the convenience of Chebanse in order to facilitate that construction. Thirdly, the two (2) critical areas, in his opinion, are the area immediately abutting the CNIC railroad bridge, which is all going to be served by a major reservoir that they will be constructing there. The area of sensitivity is the main channel of the south branch and (he thinks) Mr. O'Connor and the other Commissioners will agree, they have cleaned that. The design plans call for flat elevation as a flood control berme being the north bank of the south branch of Minnie Creek and it is a flat embankment on top. It is a more stable embankment than they found when they started reinforcing it and it would certainly admit to cleaning of that critical area. They are able to deal with engineering improvements and constructed improvements with all the water that is being forcibly put to them and then restricted by the CNIC Bridge. There will be no impediment to cleaning the south branch and there will be certainly no impediment.

Mr. Volini further stated that they are cognizant of these responsibilities, they accept these responsibilities, they have spent over a year planning it, they have made six (6) submissions to the DNR and there was a lot of back and forth between their engineers and their engineers and they have satisfied not only the requirements of the regulations, but they have gone far beyond the part thirty seven hundred regulations as he has indicated. They are not going away, nor are they walking away from their responsibilities. The studies have been extensive, they logic has been rigorous and the follow through will be persistent, accurate and on the line.

Mr. Scholl said as interesting and complex as this issue seems to be, the bottom line is this area has been annexed to the City and the City's jurisdiction would

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appear to be what rules here and he felt that this issue should be deferred to the State's Attorney to find out if we actually do have jurisdiction here.

Mr. O'Connor said if it does come under the jurisdiction of City, then he will still ask this Board to pickup – there are several other miles upstream and downstream that should really have label as is it in a flood plain or is it not or to follow up on that.

Mr. Scholl confirmed with Mr. Pallissard that this issue would be looked into.

A motion to look into the flood plain issues on Minnie Creek from I-57 East to the Iroquois and from the 3000 Road West was made by Mr. Scholl and seconded by Mr. Bertrand. Motion carried.

10. Old/New Business

- Mr. Hess said that he brought up at the last meeting for an update on the Delegation Agreement and he was asking again today.

Mr. Kruse advised that they will be bringing forward a recommendation at the next PZA meeting. He said that they talked with Mr. Finley from the EPA yesterday and one of the concerns was will the EPA have one because of the state of the budget and the state of the affairs. Mr. Finley had assured that there will be monies available for Delegation Agreement for the Kankakee County and we will be moving forward with this recommendation at the next PZA meeting.

11. Executive Session

None.

10. Adjournment

A motion to adjourn the meeting at 9:40 a.m. was made by Mr. James and seconded by Mr. Tripp. Motion carried.

William Olthoff
Chairman

Chris Richardson
Administrative Assistant

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