

**KENDALL COUNTY FOREST PRESERVE DISTRICT
COMMISSION MEETING MINUTES**

SEPTEMBER 19, 2017

I. Call to Order

President Gilmour called the meeting to order at 9:00 am in the Kendall County Board Room.

II. Pledge of Allegiance

All present recited the Pledge of Allegiance.

III. Invocation

Commissioner Prochaska offered an invocation for the meeting.

IV. Roll Call

X	Cullick	X	Gryder
X	Davidson	X	Hendrix
X	Flowers	X	Kellogg
X	Gilmour	X	Prochaska
	Giles	X	Purcell

Commissioners Cullick, Davidson, Flowers, Gryder, Kellogg, Prochaska, Purcell, and Gilmour all were present.

V. Approval of Agenda

Commissioner Prochaska made a motion to approve the agenda as presented. Seconded by Commissioner Flowers. Aye, all. Opposed, none.

VI. Citizens to Be Heard

No public comments were offered by citizens present at the meeting.

VII. Approval of Claims in an Amount Not-to-Exceed \$24,815.43.

Commissioner Hendrix made a motion to approve claims in an amount not-to-exceed \$24,815.43. Seconded by Commissioner Cullick.

Motion: Commissioner Hendrix
Second: Commissioner Cullick

Roll call

Aye	Opposed	Commissioner	Aye	Opposed	Commissioner
X		Cullick	X		Gryder
X		Davidson	X		Hendrix
X		Flowers	X		Kellogg
		Giles	X		Prochaska
X		Gilmour	X		Purcell

Motion unanimously approved.

VIII. Approval of Minutes

- **Kendall County Forest Preserve Commission Meeting – September 5, 2017**
- **Kendall County Forest Preserve Operations Committee Meeting – September 6, 2017**
- **Kendall County Forest Preserve Committee of the Whole Meeting – September 13, 2017**
- **Kendall County Forest Preserve Finance Committee Meeting – September 13, 2017**

Commissioner Flowers made a motion to approve the minutes for the Forest Preserve Commission meeting held on September 5, 2017; the Operations Committee meeting held on September 6, 2017; the Committee of the Whole meeting held on September 13, 2017, and the Forest Preserve Finance Committee meeting held on September 13, 2017.

Seconded by Commissioner Prochaska.

All, aye. Opposed, none. Motion unanimously approved.

IX. Motion to Approve OSLAD-LWCF Grant Agreement #17-00992 in the Amount of \$750,000.00 between the Kendall County Forest Preserve District and the State of Illinois - Illinois Department of Natural Resources to Support the Proposed Acquisition of 135 +/- Acres of Property Known as the Little Rock Creek – Maramech Addition

Commissioner Gryder made a motion to approve the OSLAD-LWCF grant agreement #17-00992 in the amount of \$750,000.00 between the Kendall County Forest Preserve District and the State of Illinois – Illinois Department of Natural Resources to support the proposed acquisition of 135 +/- acres of property known as the Little Rock Creek – Maramech Addition. Seconded by Commissioner Hendrix.

Commissioner Davidson asked if the questions regarding future costs following acquisition had been addressed. Commissioner Kellogg stated that President Gilmour had answered questions he had on the proposed acquisition.

Commissioner Purcell asked whether there had been time to consider options for reducing costs for public access. Director Guritz stated that the cost estimates presented were based on contracting out for all work, further stating that the District will explore opportunities for reducing costs through community-based support and outside grant opportunities.

Motion: Commissioner Gryder
Second: Commissioner Hendrix

Roll call

Aye	Opposed	Commissioner	Aye	Opposed	Commissioner
X		Cullick	X		Gryder
	X	Davidson	X		Hendrix
X		Flowers	X		Kellogg
		Giles	X		Prochaska
X		Gilmour	X		Purcell

Motion carried by a vote of 8:1.

X. Motion to Approve a Proposal from Polach Appraisal Group, Inc. in the Amount of \$4,500.00 to Complete "Yellow Book" Fair Market Appraisals of Parcel Numbers 01-33-400-006; 01-03-100-040, and 01-33-200-004 as Specified within OSLAD-LWCF Grant Agreement #17-00992

Commissioner Hendrix made a motion to approve the proposal from Polach Appraisal Group, Inc. in the amount of \$4,500.00 to complete the yellow-book fair market appraisals. Seconded by Commissioner Cullick.

Commissioner Purcell asked whether the District would be reimbursed for the cost of the appraisal. Director Guritz stated that 50% of the appraisal cost will be reimbursed by the LWCF-OSLAD grant, with the remaining 50% reimbursed from The Conservation Foundation.

Motion: Commissioner Hendrix
Second: Commissioner Cullick

Roll call

Aye	Opposed	Commissioner	Aye	Opposed	Commissioner
X		Cullick	X		Gryder
	X	Davidson	X		Hendrix
X		Flowers	X		Kellogg
		Giles	X		Prochaska
X		Gilmour	X		Purcell

Motion carried by a vote of 8:1.

XI. Resolution #17-09-001 Authorizing the Kendall County Forest Preserve District's Assumption of the 2017 9-Month Prorated Estimated Tax for Parcel #05-02-400-029 Totaling \$20,199.43 Based on an Equalized Assessed Valuation of \$298,150.00 Multiplied by the 2016 Actual Tax Rate of 10.16238%

Commissioner Kellogg made a motion to approve Resolution #17-09-001 authorizing the Kendall County Forest Preserve District's assumption of the 2017 9-month prorated estimated tax for parcel #05-02-400-029 totaling \$20,199.43 based on an equalized assessed valuation of \$298,150.00 multiplied by the 2016 actual tax rate of 10.16238%. Seconded by Commissioner Flowers.

President Gilmour recited resolution #17-09-001.

Commissioner Gryder asked what the next steps would be towards opening Pickerill-Pigott Forest Preserve to the public. Director Guritz stated that there's a number of tasks that will need to be accomplished, including entrance drive improvements, establishment of a parking area, and demolition of the existing house and shed on the hilltop. Director Guritz stated that he is contacting Upland Design to request a proposal for preserve master planning for the site, and is working to set a date to invite Board members to take a look at the property and the Pickerill home to build familiarity with the preserve and opportunities for future improvement projects.

President Gilmour stated that Ken Pickerill is well-loved, and well-known in the communities, and the forest preserve is grateful for his generosity.

Commissioner Purcell asked whether there was any sense of the capital funding requirements needed for the property. Director Guritz stated that funds are limited, with initial costs largely dependent on Board directions, existing infrastructure needs, and short and long-term plans.

Director Guritz stated that because of Ken Pickerill's reputation in the community, it would not be surprising to see an outpouring of community support for the improvements.

Commissioner Purcell asked whether there were thoughts on what should be done with the Pickerill house. Director Guritz stated that one of the benefits of master planning is the opportunity to receive community input. Because cost is an issue for the District, there may be opportunities to partner with other organizations that would be able to take on the costs for maintaining and improving the home site. Commissioner Purcell stated that he is concerned with the District's ability to take on the home site within current budget constraints.

Motion: Commissioner Kellogg
 Second: Commissioner Flowers

Roll call

Aye	Opposed	Commissioner	Aye	Opposed	Commissioner
X		Cullick	X		Gryder
X		Davidson	X		Hendrix
X		Flowers	X		Kellogg
		Giles	X		Prochaska
X		Gilmour	X		Purcell

Motion unanimously approved.

XII. Discussions and Directions Pursuant to the Negotiation of a Railway Crossing Agreement for Hoover Forest Preserve with OmniTRAX – Illinois Railway

The Board of Commissioners discussed the OmniTRAX - Illinois Railway request for reimbursement for completed crossing improvements totaling \$66,339.30, and back-payment of annual crossing fees totaling \$9,000.00 absent an approved crossing agreement.

Director Guritz reported that the District was successful in working with the United City of Yorkville to petition the Illinois Commerce Commission to secure an order and commitment from OmniTRAX - Illinois Railway to complete the grant-funded rail crossing improvements at Hoover Forest Preserve.

Director Guritz presented past documentation related to the District's efforts to negotiate a crossing agreement with OmniTRAX - Illinois Railway dating as far back as 2007 with the acquisition of Hoover Forest Preserve. Director Guritz reported that the effort to negotiate a crossing agreement continued into 2012 and did result in a draft agreement in consultation with the State's Attorney's Office. The draft agreement would have required the District to extend general liability insurance coverage for the crossing, commit to an annual crossing fee, and assume all future costs for improvements within the crossing area.

Director Guritz reported that improvements completed in October 2016 for which the company is seeking reimbursement totaling \$66,339.30 does not match the improvements requested as part of an engineering and cost study completed by HR Green-SEC Group on behalf of the District that was submitted to Illinois Railway and subsequently used to develop the "Exhibit A" cost assessment included in the 2012 draft crossing agreement. The improvements completed in 2016 for which the company is seeking reimbursement based on the costs outlined in the Exhibit A attachment does not match the HR Green-SEC Group scope of work. Director Guritz further stated that OmniTRAX may also need to deconstruct the completed crossing improvements in order to install the grant-funded crossing improvements required as part of the ICC court order and US Department of Transportation grant project. Director Guritz reported that the improvements completed in October 2016

could have been accomplished as part of the larger federal grant project, and OmniTRAX was aware of the ICC petition and proceedings.

Director Guritz stated that the State's Attorney's Office has opened a dialog with the company in order to negotiate an agreement acceptable to the Board, which is needed.

Kendall County State's Attorney Weis stated that his office has been discussing the issues with OmniTRAX representatives, and researching the past history with support from Lisa Coffey, including work to determine whether or not the District could pursue legal action to resolve the matter. At this point, this has yet to be determined, and should be avoided if possible, with future discussions on the topic possibly considered in closed session. Initial questions include determination of actual costs for work performed versus what has been presented, and whether the District is liable or responsible for repaying these costs moving forward. Once additional information is known on this subject, the Board will need to provide direction in open session for continued negotiations, including what level of involvement the State's Attorney's Office will have in supporting the negotiations. As part of this process, Director and Board member involvement will be needed to represent the District in any sit-down discussions to conclude negotiations and secure the final agreement.

President Gilmour asked the Board whether there were any questions for either State's Attorney Weis or Director Guritz on the topic.

Director Guritz stated that the ICC docket was recently updated by OmniTRAX indicating their commitment to satisfying the order with a request for a one-year time extension to complete the improvements.

Director Guritz added that discussions with other government agencies on the topic of railway crossing agreements indicate that the crossing agreements typically require the agency to take on liability and costs for future improvements.

Commissioner Davidson asked whether Lisa Coffey would continue to act as the District's legal representative. State's Attorney Weis stated that if the Board's direction is to move forward with negotiating the crossing agreement that Lisa Coffey would continue to serve in that role.

Commissioner Gryder asked whether there was any kind of assignment of a pre-existing agreement to the District at the time the District was acquiring Hoover Forest Preserve from the Chicago Area Scout Council. Director Guritz stated that there was correspondence on the topic with Illinois Railnet – later Illinois Railway – to develop the new crossing agreement, with the understanding that the crossing rights were not carried on title. The District did submit an application and application fee early in the process to draft the crossing agreement.

President Gilmour pointed out the timeline received from OmniTRAX that was included in the Board packets. Director Guritz cautioned that there are discrepancies in the timeline presented based on the District's documentation.

Commissioner Davidson stated that crossing easements are typically inherited when farmland changes owners, which should be explored as this topic is researched.

Director Guritz reported that while the timeline indicates that Hoover Road was declared a public road within past crossing agreement negotiations, the ICC petition process and jurisdictional transfer had not been completed, which needed to be accomplished in order to qualify to receive federal assistance for the proposed crossing improvements.

XIII. Motion to Approve a Notice and Grievance Procedure for the Kendall County Forest Preserve District as Required by Title II of the Americans with Disability Act

Commissioner Gryder made a motion to approve the Title II ADA notice and grievance procedure for the Kendall County Forest Preserve District as presented. Seconded by Commissioner Hendrix.

Commissioner Purcell asked why this was under consideration. State's Attorney Eric Weis reported that this is a requirement under federal law.

All, aye. Opposed, none.

XIV. Motion to Approve the 2018 Winter Camp Fees and Charges

Commissioner Cullick made a motion to approve the 2018 winter camp fees and charges as presented. Seconded by Commissioner Hendrix.

Motion: Commissioner Cullick					
Second: Commissioner Hendrix					
Roll call					
Aye	Opposed	Commissioner	Aye	Opposed	Commissioner
X		Cullick	X		Gryder
X		Davidson	X		Hendrix
X		Flowers	X		Kellogg
		Giles	X		Prochaska
X		Gilmour	X		Purcell
Motion unanimously approved.					

XV. Executive Session

None.

XVI. Other Items of Business

None.

XVII. Citizens to Be Heard

No citizens present at the meeting offered public comments.

XVIII. Adjournment

Commissioner Kellogg made a motion to adjourn. Seconded by Commissioner Gryder. Aye, all. Opposed, none. Meeting adjourned at 9:39 am.

Respectfully submitted,

David Guritz
Director, Kendall County Forest Preserve District