

**KENDALL COUNTY FOREST PRESERVE DISTRICT
COMMITTEE OF THE WHOLE MEETING MINUTES**

SEPTEMBER 13, 2017

I. Call to Order

President Gilmour called the meeting to order at 5:38 pm in the Kendall County Board Room.

II. Roll Call

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

III. Approval of Agenda

Commissioner Cullick made a motion to move agenda item XI – Kendall County Plants of Concern – Informational Report to follow the Director’s report, and approve the agenda as amended. Seconded by Commissioner Purcell. All, aye. Opposed, none.

IV. Citizens to be Heard

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

V. Director’s Report

Director Guritz provided updates on priority projects.

Director Guritz reported on Dog at Large ordinance violations and need to enforce this issue when public safety is a concern.

Director Guritz reported that the District has received the Little Rock Creek grant agreement from the Illinois Department of Natural Resources, and requested that copies of the OSLAD-LWCF grant agreement remain at Commission stations to avoid waste of paper when the item is considered for approval at an upcoming Commission meeting.

Director Guritz reported that he had received letter of commitment from The Conservation Foundation informing the District that they will reimburse the District for the non-reimbursable portion of the yellow book appraisal needed as part of the OSLAD-LWCF grant project requirements.

Director Guritz also reported on the preliminary cost estimates for the initial parking lot and trail for Little Rock Creek, with a report attached to the Director’s Report, with the understanding that a RTP (Recreational Trails Program) grant will be sought to leverage District capital funds to complete the proposed 0.75-mile multi-purpose trail loop. The RTP grant program match requirement is 20% of the total project cost, or \$20,000.00.

Director Guritz asked that the Committee of the Whole review the Superintendent's report, reporting that the Grounds Maintenance and Natural Resources staff are doing a great job this year, taking on many needed improvement projects.

VI. Kendall County Plants of Concern – Informational Report

Director Guritz introduced Natalie Nowak, an Oswego East High School student and District volunteer to present the results of her summer internship focusing on rare, threatened, and endangered plant species known to occur in Kendall County from past floristic quality inventory efforts spanning the past four decades.

Natalie Nowak, Oswego East High School student and District summer volunteer intern reported on her efforts to compile a master database for plant community floristic quality surveys completed over the past four decades held in the District's files.

Ms. Nowak contributed over 100-hours of time to complete the project, participated in field surveys to geo-locate conservative plant species known to occur at Maramech Forest Preserve, and participated in a meeting with the DuPage County Forest Preserve District to examine the best approaches for integrating the data onto the Kendall County GIS servers.

Ms. Nowak's efforts also included cross referencing the master spreadsheet against the Chicago Botanic Garden's Plants of Concern species list. The District partners with the Chicago Botanic Garden to document locations of rare or listed plant species, and retains annual monitoring data submitted by the District's Natural Area Volunteers who monitor local populations.

Ms. Nowak's study contributed to the working knowledge of the District by identifying additional plants of concern species documented within the District's preserve areas.

The District is partnering with the Chicago Botanic Garden to host a Plants of Concern training on March 3, 2018 at Hoover Forest Preserve, which serve to both recruit and train new NAV-Plants of Concern volunteers to support continued efforts to identify, document, and geo-locate rare and listed plant species populations.

The master database has already been used to secure seed funding for the restoration of the Eldamain-Schaeffer Road Fen located in Subat Forest Preserve. \$5,500 was received from the Kendall County Highway Department as part of their incidental take permit fee for impacts to mussel species in Rob Roy Creek for Eldamain Road improvements.

Ms. Nowak stated that she was inspired to help support the District's efforts after participating in the Project Maramech field trip program.

Director Guritz reported that the effort required compiling 32 separate surveys into a single spreadsheet. The master database provided location records for over 700 native-species, and 250 non-native species found in Kendall County natural areas.

Director Guritz reported that he was surprised to learn that the Lyon-Richard Young Forest Preserve contains the richest diversity of native-plant communities and plants of concern over the District's other preserve areas, and should be considered for designation as an Illinois State Nature Preserve through the Illinois Nature Preserves Commission.

Additional recommendations included expanding restoration and management efforts where rare and State-listed species are found, and expanding populations into other suitable habitat areas.

Commissioner Purcell expressed interest to hear that 18 different species of rare or State-listed plants are found at Lyon-Young Forest Preserve.

Ms. Nowak reported that she did not understand at first how important this work is, and how forest preserves efforts help conserve local species.

Director Guritz reported that baseline studies are needed for several forest preserve areas as funding becomes available. Director Guritz stated that the effort is needed to facilitate the transfer of knowledge, internally and externally.

President Gilmour thanked Ms. Nowak for her work efforts, stating that this type of work is the most important purpose for forest preserve districts.

VII. Executive Session

Commissioner Cullick made a motion to enter into Executive Session under 2(c)5 of the Open Meetings Act for the purpose of discussing the purchase or lease of real property for the use of the public body, including meetings held for the purpose of discussing whether a particular parcel should be acquired. Seconded by Commissioner Purcell.

Roll call: Commissioners Cullick, Davidson, Flowers, Gryder, Prochaska, Purcell, and Gilmour, aye. Opposed, none. Executive Session called to order at 6:12 pm.

Commissioner Davidson made a motion to adjourn from Executive Session. Seconded by Commissioner Cullick. Aye, all. Opposed, none.

Regular meeting reconvened at 6:35 pm.

VIII. Whitetail Ridge HOA Memorandum of Understanding for Temporary Parcel Access to Henneberry Woods Forest Preserve

Director Guritz provided updates on continued negotiations to secure temporary construction access to complete the Henneberry Woods Forest Preserve Restoration and Mitigation project. Whitetail Ridge HOA President, Debbie Mika informed Director Guritz that the Board of Directors for the HOA would consider reducing the minimum setback to 500' so long as a provision were included stating that the public roads through the

subdivision would not be utilized for a future public entrance into Henneberry Forest Preserve.

The Committee of the Whole discussed the memorandum, noting that even if the District does not enter into the agreement does not limit completion of the requested improvements in the future.

At this point, the goal is to complete the restoration and mitigation project, with an alternative access plan and proposal to be considered at the October 3, 2017 Commission meeting.

Commissioner Purcell asked why the alternate plan is not being discussed in open session. Director Guritz reported that the MOU does not fit the criteria for closed session discussions under the Open Meetings Act.

Director Guritz stated that long-term access is needed to properly manage and maintain preserve resources.

The Committee of the Whole discussed the history of the District's acquisition of Henneberry Woods Forest Preserve noting that the subdivision plans included public roads connecting the Whitetail Ridge and Henneberry Woods subdivisions, with concept plans for building-out additional housing units within the entire forest preserve footprint. The traffic on the public roads, if that plan had moved forward, would be considerably more significant than the eventual public visitation to the preserve.

Commissioner Davidson stated that this is an issue that needs to be resolved, understanding that neither of the subdivision Associations want public access to pass through their respective neighborhoods. The Committee of the Whole concurred with this assessment, understanding that whatever solution is eventually achieved will not be popular either way.

The Committee of the Whole postponed further consideration pending the outcome on discussions to secure an alternative access to preserve lands with the District's personnel, contractors and equipment.

IX. SemperFi Land, Inc. Change Order Discussion

The Committee of the Whole postponed discussion on the SemperFi Land, Inc. change order tied to the proposed memorandum of understanding.

X. Illinois Department of Resources OSLAD-LWCF Grant Agreement #17-00992

Director Guritz presented the proposed grant agreement between the District and the State of Illinois – Illinois Department of Natural Resources awarding a \$750,000.00 50% matching grant for the “Little Rock Creek – Maramech Addition” project from the Open Space Land Acquisition and Development - Land and Water Conservation Fund. The proposed

acquisition of 135 +/- acres will protect in perpetuity a 1.25 mile stream corridor along Little Rock Creek, which is one of the highest-quality streams (top 5%) in the State of Illinois.

The Conservation Foundation has secured a purchase agreement for the property as part of their pledge to raise all required matching funds, which includes a \$600,000.00 grant award from the Illinois Clean Energy Community Foundation, and additional matching funds from the Hamill Family Grant to conserve important natural areas within the lower Fox River Watershed. The Conservation Foundation has notified the District of its intention to close on the property by the end of the calendar year.

Director Guritz stated that the first step is to approve the grant agreement next Tuesday, and to get underway with the appraisal effort. The Conservation Foundation has agreed to cover the non-reimbursable portion of the appraisal fee, with the remaining amount covered under the grant agreement.

After the appraisal is returned, and approved by the Illinois Department of Natural Resources, the District can begin to negotiate the purchase agreement with The Conservation Foundation, with the understanding that the approved appraisal will establish the fair market value for the parcel, with Illinois Department of Natural Resources guidance with negotiating the allowable costs for the purchase agreement.

Completion of the acquisition and property closing is scheduled to be completed by the end of the calendar year based on The Conservation Foundation's purchase agreement.

At closing, the District will wire an amount up to \$746,000.00 representing no more than 50% of the total acquisition costs, with The Conservation Foundation's donation providing the required match. Following closing, a final billing statement will be submitted to the Illinois Department of Natural Resources for full reimbursement.

The Committee of the Whole discussed the grant agreement and proposed acquisition project.

Commissioner Davidson asked at what point in the process is the Commission able to walk away if they do not wish to move forward with the project. Director Guritz stated that the first step is to approve the grant agreement and project appraisal. After the appraisal is completed, Commission will discuss and negotiate the terms of the purchase agreement that will be presented to The Conservation Foundation. If the terms are acceptable to both agencies, Commission will consider the final purchase agreement for approval. If the District's Board elects not to pursue the acquisition, the Illinois Department of Natural Resources will be informed of the decision to cancel the grant agreement. Director Guritz advised that there is no reason to believe that the grant funds available will not fully cover the closing costs, cautioning that there would be significant impacts if the grant funds available are sufficient to close on the acquisition, and Commission elects not to move

forward with the acquisition. The grant agreement has been forwarded to the Kendall County State's Attorney's Office in preparation for Commission discussions of the proposed grant agreement.

Commissioner Purcell asked Director Guritz to clarify the project, and how the appraisal is tied to the grant agreement. Director Guritz stated that the appraisal dictates the land value, with Commission authorizing the negotiation of the purchase agreement with The Conservation Foundation based on the results of the appraisal. The Illinois Department of Natural Resources approves the appraisal, and determines the allowable costs for the acquisition based on the appraised value. The Board of Commissioners then determines what amount should be initially offered within the purchase agreement, and following completion of negotiations, will consider the purchase agreement for approval.

Commissioner Purcell asked who suggested using Polach Appraisal Group, Inc. Director Guritz stated that the firm was initially recommended by The Conservation Foundation, and that the District approved the appraisal with The Conservation Foundation covering 50% of the preliminary appraisal costs.

Director Guritz provided an example of how this works. If the preliminary appraisal indicated a land value of \$10,500.00 per acre 18-months ago, and the comprehensive appraisal indicates a combined present fair market value of \$11,000.00 per acre, and the Illinois Department of Natural Resources approves the appraisal, the District's OSLAD-LWCF grant is able to cover 50% of the land purchase, with The Conservation Foundation's donation providing the 50% required match in full. In this instance, the total purchase price for the 135-acres would be \$1,485,000.00, and the District would pay half of this amount to The Conservation Foundation at closing.

Commissioner Purcell stated that his concern is that the District pays a fair price for the land. Director Guritz stated that the fair market value is established by the appraisal, which is subsequently approved by the Illinois Department of Natural Resources.

Commissioner Purcell asked why Polach Appraisal Group is the recommended appraiser over Ted Schneller. Director Guritz stated that both firms carry the requisite qualifications and are approved to complete the "yellow book" appraisals. Because Polach Appraisal Group completed the preliminary study, it is presumed that they can build off of their initial study and complete the full appraisal at a lower cost.

Commissioner Purcell stated that what he did not want to see is an appraisal at 15-20% above the market value that someone else would profit from. Director Guritz stated that he understood this, and that Commission could decide to secure a second appraisal if needed, understanding that the cost for the second appraisal would likely have to be incurred by the District.

Director Guritz stated that the amount of the grant will limit how much additional cost per acre can actually be afforded if the full appraisal indicates a higher fair market value, with the maximum amount needed to acquire the full 135 +/- acres only 4-5% higher than the initial appraised value. The maximum appraised value, or purchase cost under the grant agreement is \$11,051.00 per acre, or \$1,491,885.00.

Commissioner Purcell asked Commissioner Davidson what the current value of farmland in that area is going for. Commissioner Davidson stated that current farmland value is between \$9,000 to \$10,000 per acre, but that buildable land near woodlands will be higher than this for development purposes.

Commissioner Gryder made a motion to forward the grant agreement to Commission for consideration. Seconded by Commissioner Prochaska. Aye, all. Opposed, none.

XI. Polach Appraisal Group, Inc. Proposal

Director Guritz presented a proposal received from Polach Appraisal Group, Inc. in the amount of \$4,500.00, including a letter from The Conservation Foundation pledging to reimburse the District for 50% of the appraisal costs, with the remaining half reimbursable to the District under the OSLAD-LWCF grant agreement.

Commissioner Gryder made a motion to forward the proposal from Polach Appraisal Group, Inc. to Commission for consideration. Seconded by Commissioner Prochaska. All, aye. Opposed, none.

Commissioner Purcell requested that Director Guritz compile a report that would include a rough timeline for the project, how much District funding will be needed, and the timeframe for reimbursement. Director Guritz stated that this information would be provided, and that an initial cost estimate reviewed with Upland Design for the parking lot (\$78,000) and trail improvements (\$198,000) had been provided in the Director's Report, with the trail project affordable if the District is able to secure Recreational Trail Program funding. Commissioner Purcell suggested that Director Guritz speak with Fran Klaas as well to provide an estimate of the initial public access project costs.

XII. Ellis Farm Pond Restoration Project Budget and Timeframe

Director Guritz presented the budget for a proposed in-house restoration project funded by The Conservation Foundation's grant from LyondellBasell. Director Guritz stated that the project can be completed in-house for \$3,500.00.

Commissioner Purcell asked whether we have staff time to accomplish the project. Director Guritz stated that some initial work has been performed to mow and clear shoreline brush species, stating that due to these constraints, the project will likely be delayed to spring or fall 2018.

Commissioner Gryder made a motion to forward the grant proposal from The Conservation Foundation to Commission for approval. Seconded by Commissioner Prochaska. Aye, all. Opposed, none.

Commissioner Purcell adjourned from the Committee of the Whole meeting at 7:05 pm.

XIII. OmniTRAX-Illinois Railway Crossing Agreement and ICC Order Compliance Updates

Director Guritz presented correspondence from OmniTRAX and the Kendall County State's Attorney's Office related to continued efforts to negotiate a public rail crossing agreement for the rail crossing at Hoover Forest Preserve. The packet includes engineering specifications and a cost opinion completed by HR Green – SEC Group submitted to OmniTRAX as part of previous efforts to negotiate a crossing agreement and proposed crossing improvements.

The Committee of the Whole discussed the status of negotiation of a railway crossing agreement with OmniTRAX-Illinois Railway, including the pending federal grant-funded rail safety improvements through IDOT for the public road crossing at Hoover Forest Preserve to be completed as directed by the Illinois Commerce Commission final order.

Director Guritz reported that the ICC Docket had been recently updated by OmniTRAX attorneys requesting a 1-year extension to September 2018 to complete the project.

Director Guritz reported that OmniTRAX is requesting \$9,000.00 in back-payments for annual crossing fees, and \$66,339.30 for crossing improvements completed in October 2016, absent an approved agreement. Director Guritz stated that the improvement costs completed in October 2016 do not match up with the HR Green-SEC Group engineering study and specifications presented to OmniTRAX-Illinois Railway pursuant to the District's past efforts to negotiate a crossing agreement, suggesting that the "Exhibit A" in the draft agreement was developed by OmniTRAX in response to the submitted drawings and estimates.

Director Guritz reported that the October 2016 improvements could have been delayed and completed under the terms of the federal grant and Illinois Commerce Commission order had the company recognized the opportunity to engage during the lengthy petition process. It is unclear at this point whether the OmniTRAX improvements completed in October 2016 will be able to remain in place as the federally-funded rail safety improvement project moves forward.

Director Guritz noted that per correspondence with other Kendall County government and municipal agencies including the United City of Yorkville, different railway companies approach crossing agreements differently, with some waiving annual crossing fees for

government agencies, but adding that typically the agency holding the crossing agreement agrees to pay for future maintenance costs for the crossing improvements.

The Committee of the Whole reviewed the Kendall County State's Attorney's Office memorandum requesting directions from Commission regarding current efforts to negotiate a crossing agreement.

Director Guritz recommended directing the State's Attorney's Office to request that OmniTRAX consider waiving or lowering the annual crossing back-payments and future payments, and submit additional documentation for the actual costs incurred for the October 2016 improvements completed for consideration as part of the negotiation of the final agreement.

Commissioner Davidson stated that he has several questions that will need to be addressed by the State's Attorney's Office before providing directions on how best to respond to the OmniTRAX requests.

The Committee of the Whole discussed the Kendall County State's Attorney's memo, electing to defer the discussion to the Commission meeting when the State's Attorney's Office legal counsel is available to respond to questions from the Board.

XIV. Baker Woods Forest Preserve – 2018 Farm License Agreement Bidding Timeframe Discussion

Director Guritz requested direction on the timeframe for bidding the 41-acre +/- farm parcel at Baker Woods. Commissioner Davidson stated that future competitive bidding needs to be completed no later than September 1 of the prior year to provide sufficient notification to the current farm operator, and lead time for the incoming farm operator.

XV. ADA Notice and Grievance Procedures

Director Guritz presented a draft notice and grievance procedure received from the Kendall County State's Attorney's Office recommended for Commission approval as part of the District's compliance requirements with Title II of the Americans with Disabilities Act.

Commissioner Gryder made a motion to forward the notice and grievance procedure to Commission for approval. Seconded by Commissioner Prochaska. Aye, all. Opposed, none.

XVI. KCFPD Annual Sponsors Program Enrollment Package

Director Guritz presented updates to complete and publish the approved Annual Sponsorship Program package for the District.

Director Guritz reported that efforts will get underway in September to secure sponsors for 2018.

XVII. Winter Camp Fees and Charges

Environmental Education Coordinator Emily Dombrowski presented the proposed fees and charges for the District's 2018 winter camps.

The Committee of the Whole reviewed the camp descriptions and prices, and complimented Ms. Dombrowski for her creativity and tying into popular themes.

Commissioner Prochaska made a motion to forward the proposed winter camp fees and charges to Commission for approval. Seconded by Commissioner Cullick. All, aye. Opposed, none. Motion unanimously approved.

XVIII. Executive Session

None.

XIX. Other Items of Business

Director Guritz reported on the early termination of Ken Pickerill's life estate at Pickerill-Pigott Forest Preserve. The electrical meter has been added to the District's account for payment effective September 1, 2017. This is the only utility cost for the estate. The District has received a signed copy of the quit-claim deed, which will be filed with the Kendall County Clerk's Office, with the parcel tax-exemption filed with the Illinois Department of Revenue following recording of the quit claim deed.

Director Guritz requested Committee of the Whole direction in consideration of a request received from Ken Pickerill regarding the District's assumption of the 2017 pro-rated tax bill estimated at \$18,500.00. The Committee of the Whole instructed Director Guritz to place the item on the upcoming Commission agenda for consideration.

The Committee of the Whole discussed the possibility of asking the taxing bodies for relief from payment of the property taxes for 2017.

Director Guritz stated he would work to secure a proposal for preserve master planning from Upland Design, Inc. to begin in early 2018.

XX. Citizens to be Heard

None.

XXI. Summary of Action Items to be Taken

President Gilmour requested a summary of action items to be taken.

Director Guritz reported that agenda items moving forward to Commission for consideration of approval included the OSLAD-LWCF grant agreement, the Polach Appraisal

Group proposal, the ADA notice and grievance procedures, and the 2018 winter camp fees and charges. Items postponed for consideration included the Whitetail Ridge HOA memorandum of understanding and SemperFi Land, Inc. change order discussion.

Discussion of the status of negotiations for the OmniTRAX crossing agreement, including consultation with the Kendall County State's Attorney's Office will also be scheduled for discussion on the upcoming Commission meeting agenda, with the Ellis farm pond restoration project grant agreement considered on a future agenda once a grant agreement is received from The Conservation Foundation.

XXII. Adjournment

Commissioner Cullick made a motion to adjourn the meeting. Seconded by Commissioner Gryder. All, aye. Opposed, none. Meeting adjourned at 7:23 pm.

Respectfully submitted,

David Guritz
Director, Kendall County Forest Preserve District