

**FOREST PRESERVE DISTRICT COMMITTEE
MINUTES
MAY 16, 2006**

The DeKalb County Forest Preserve District Committee met Tuesday, May 16, 2006 at the Afton Forest Preserve Shelter at 6:00 p.m. In attendance were committee members Ms. Fauci, Mr. Anderson, Ms. Turner, Mr. Rosemier, Mr. Lyle and Superintendent Hannan. Mr. Gudmunson arrived after the call to order. Guests included Greg Milburg, Joe Scudder and Dan Lobbes.

APPROVAL OF MINUTES

Ms. Fauci asked if there were any additions or correction to the minutes of April 18, 2006. Hearing none, Mr. Rosemier moved to approve the minutes, seconded by Ms. Turner and the motion passed unanimously.

APPROVAL OF AGENDA

Ms. Fauci noted that since the Committee had a fairly full agenda and limited daylight at the shelter, that the two speakers for the evening be moved to the top of the agenda. Mr. Lyle moved to accept the amended agenda, seconded by Ms. Turner and the motion passed unanimously.

BIRD CONSERVATION NETWORK – GUEST SPEAKER

Ms. Fauci recognized Mr. Joe Scudder from the Bird Conservation Network who had requested to address the Committee.

Mr. Scudder began by handing out a proposal prepared by the Bird Conservation Network (BCN) for bird monitoring. He presented the Committee with a detailed history of the bird census activities undertaken by the BCN and outlined the territory covered by the Network activities. He noted that the BCN has established bird monitoring sites in Northern Illinois, Southern Wisconsin and Northwest Indiana. He further commented that the BCN was affiliated with the Chicago Wilderness Project, which recently adopted DeKalb County into its Chicago Metropolitan Region.

Mr. Scudder than noted that his reason for his appearance tonight was to discuss receiving allowance to establish monitoring sites throughout the County to establish data on trends in bird populations. He noted that establishment of sites goes hand-in-hand with the volunteers who will gather the data which will be compiled into a formal report on bird population trends and activities.

He noted that sites are frequently established on Forest Preserve land as well as parks, State refuge areas and on the lands of private owners who agree to allow their land to be used for the census. Mr. Scudder noted that he had been asked by the BCN to contact the DeKalb Forest Preserve District as well as the Illinois Department of Natural Resources (IDNR) to begin establishing acceptable sites. He reported that the IDNR biologists were reviewing his request and that the Forest Preserve District was the next logical stop. Local municipal sites would be handled as needed.

He explained to the Committee that the sites selected are usually those which are particularly critical for bird habitat. The sites would be broadly identified and then each area a volunteer observer (monitor) would then move from site to site in the area, spending approximately 5 minutes per site and would collect data on what birds can be seen or heard within a 75 yard

perimeter. The monitor would then record GPS tracking data to determine their exact position within the site and would record that along with the population data for later transmission to Cornell University to be compiled into an annual report.

Mr. Scudder pointed out that the monitors were all volunteers and that there would be no direct cost to the County for the activities. The only obligation on the County's part would be to receive the annual report with the request that they take the data into account when making decisions regarding habitats, etc.

He noted that the data is quite extensive and is broken down by bird species and their habitat components (trees etc). This data can be quite useful, he commented, in planning future plantings, habitat preservation and restoration, etc. At this time, the Network has almost 100,000 records to date. He noted that the data gathered so far has identified such issues as the extraordinary decline of grassland species over the past 30 to 40 years. He noted that these species had declined 75% to 100% in some areas and that the numbers continue to plummet. He went on to note that DeKalb County is quite fortunate to have some very strong numbers when it comes to certain species, most notably the Red-headed Woodpeckers at MacQueen and Russell Woods, and the Sedge Wren, a threatened species now often found at the Afton preserve.

Mr. Scudder then went on to note that the packet he had handed out to the Committee contained worksheets showing the data the volunteer monitors would be responsible for gathering. He noted that the counts are typically taken twice each June and then during breeding season. These times are selected so that the species observed will more likely be resident species and not those simply migrating through the area. He commented that after sites and monitors are established, it is the responsibility of the BCN to make sure they are reporting in as needed. He noted that to be a monitor, an individual must have a minimum of three years experience and be able to recognize major species by sight and sound. Mr. Scudder went on to comment that he believed there were quite a few very experienced birders in the County who would more than meet the criteria. He identified one particularly well-respected and established individual, Pete Olson, who recently led Spring bird-walks through two of the County Preserves.

Mr. Scudder then commented that it would be his hope that the monitoring activities could somehow be instrumental in creating educational programs for local area schoolchildren with the goal being to expand interest in birding to the next generations.

Ms. Fauci asked if the Committee would need to take a formal vote on participation and Mr. Scudder replied that would be the prerogative of the Committee. Mr. Hannan then commented that he would strongly support the Committee's approval of the program and went on to remind the members that environmental education is a statutory charge to the Forest Preserve District. A program such as this would be very helpful in meeting that tenet of the statute. Mr. Scudder commented that the Russell Woods Nature Center does an excellent job of educating area residents, and would coordinate very well with the BCN's desire to do more in local schools. He closed by noting that the Network also hoped to start an Illinois Audubon Society chapter in the near future.

Mr. Rosemier commented that it seemed to be a very good idea to have the monitors participate actively in site selection, but asked if there would be other input as well. Mr. Scudder replied that there were also local list serves available that would also be used to identify critical habitats to monitor as well as threatened species. He went on to note that they would be speaking with area experts to make determinations relevant to specific species. He further commented that he himself was something of a local owl expert and would lend his expertise in that regard.

Mr. Rosemier moved to approve participation in the Bird Conservation Network, seconded by Mr. Lyle and the motion passed unanimously.

Mr. Hannan commented anecdotally that there had been recent sightings of a Bald Eagle along the Kishwaukee River in the Russell Woods area and there was some speculation that it may be looking for nesting sites in the one of the more remote parts of the County or continuing on it's northern migration.

LAND CONSERVATION FOUNDATION – GUEST SPEAKER

Mr. Hannan began by reminding the Committee that during their last meeting they had discussed the question of utilizing the services of advisors to assist with land acquisition negotiations. The Committee had directed Mr. Hannan to bring some of those individuals to a future meeting to discuss the scope and range of their services. To that end, he had invited Mr. Dan Lobbes from the Conservation Foundation in Naperville to speak.

Mr. Lobbes began by telling the Committee that the Foundation had been founded in 1972 by business leaders in DuPage County who wanted to help their Forest Preserve District become more effective in land acquisition. The Foundation now works in DuPage, Will and Kane Counties and has recognized that many of the pressures and issues faced by those more urban areas are coming to DeKalb County as well. The Foundation is located in Naperville Illinois on a 60 acre farm with conservation easements. He noted that the farm has 50 acres in active production of organic produce and alfalfa in a community supported agricultural operation. They have grown from 35 to 200 individuals who pay a fee of roughly \$500 per share and are then allowed to take home a bushel of produce per week as shareholders.

He then went on to note that land protection efforts also improve rivers and streams and supports sustainable development.

Mr. Lobbes then handed out his first “toolkit” document (copy attached) to the Committee and reviewed several approaches to coordinating the needs and desires of Forest Preserve Districts and private individuals with a conservation ethic.

He began by discussing Fee Simple Transactions, noting that these are literal outright purchases. The Fee Simple approach, while the most direct, is also often the most expensive with Districts often paying the highest prices for the land.

Another approach to land purchase used would be the Option Method. In this approach, an option is set between the seller and buyer with a price and timeline determined and a non-refundable deposit provided to the seller to secure the agreement. Ms. Fauci asked how the amount of the deposit is determined. Mr. Lobbes responded that is all negotiable. Some are 10% of the overall purchase price, but other approaches may be utilized as well. Mr. Hannan commented that another advantage of this approach is that it provides time for grant approval timelines which must occur prior to the District taking full possession of the land. Mr. Lobbes noted that his group was negotiating an Option arrangement with Kendall County Forest Preserve District currently for that very reason.

Right of First Refusal is also utilized by Districts seeking to secure certain key areas. The structure of this arrangement simply establishes a formal arrangement whereby when a private landowner elects to sell their land, the District is given the right of first refusal. In this situation there is, however, no guarantee regarding the price or the sale.

Mr. Rosemier asked if the Foundation acted as a negotiator in all of these situations. Mr. Lobbes replied that it has a very broad range of negotiation experiences. He then provided the Committee with his second document, Protecting Land (copy attached). He noted that organizations such as his are often most effective because they are not perceived as being “governmental” agencies. Mr. Anderson asked what his fee structure is for such activities. Mr. Lobbes responded that his fee is approximately \$85 per hour time and mileage.

He noted that another service the Foundation or similar organizations can provide is to buy and hold land for Districts while they work with grant agencies to secure matching funds. In most instances they will purchase the land and then work out an arrangement with the District to allow for a payback of the purchase price, plus a small interest accommodation (generally about 1% over the purchase price). Mr. Hannan noted that this approach was used by DeKalb in coordination with the Nature Conservancy to acquire MacQueen Forest Preserve. He noted that the Nature Conservancy’s involvement not only secured the land until a matching OSLAD grant could be obtained, but they helped negotiate a lower-than-market price for the land at the time of purchase, thus saving the district \$45,000. Other lower than market sale prices on other acquisitions have also financially benefited the District.

Mr. Anderson asked if the land purchased on behalf of a District is then placed into a trust. Mr. Lobbes replied that the land is held by the Foundation and no conservation easement is applied until the land passes to the Forest Preserve District.

Mr. Lobbes then discussed the advantages of using Life Estate provisions with some willing sellers who may want very much for their land to pass to the Forest Preserve, but are not quite at a point where they are ready to vacate the land. By applying a Life Estate provision to the sale, the seller retains the use of the land and the right to occupy it either for their natural lifetime or until they formally relinquish the right. On occasion, he noted, some sellers may bring down their sale price if they are allowed the land use.

Mr. Gudmunson asked if the seller would still be subject to capital gains. Mr. Lobbes responded that they would, as the transaction would be almost identical to an outright sale. He did comment that there could be some savings in the fact that a purchase by a Forest Preserve District would generally be excused from paying transfer taxes, realtor fees etc. He noted that some Districts will also pay some of the sellers’ costs such as those for surveying, title work or closing costs.

Mr. Rosemier asked if the Life Estate provision would be tied solely to the owner at the time of the sale or whether it could be passed to a future recipient. Mr. Lobbes responded that while this is a generally negotiated component it usually is restricted to the current owner or owners.

Mr. Lobbes then discussed the tax advantages of outright land donations, noting that donors generally can claim the full value of the land as a deduction. He commented that this approach has many facets as well, including Life Estate provisions, surrender of the land through the will process or partial sales and partial donations.

He noted that more and more developers are electing to make land donations on parcels that may not be viable for development. He commented that a donation may free the developer from having to maintain and pay tax on land they would otherwise not be able to use.

He then moved on to the principle of the Bargain Sale. This is accomplished when a sale price is negotiated below market value and may be accomplished through either outright discounting by the seller or through partial sale, partial donations. In the case of the partial donations, they can offset any loss through the use of a charitable deduction for the value of the land they have surrendered. This has a dual benefit of making the land more affordable for the District as well as helping the seller to offset some of their capital gains. He noted that this can be very popular with sellers, and especially if combined with some cost-sharing.

Ms. Fauci asked if that concept is still viable if an area becomes too attractive to developers. Mr. Lobbes responded that every sale and every seller should be looked at as a unique and individual case. He advised that the best approach is to simply run the numbers through the different approaches and sometimes the sale can be made more attractive than an outright sale for development.

Mr. Lobbes then handed out a pamphlet regarding Conservation Easements. He noted that this is a legal agreement a landowner makes to permanently restrict development of the property. Public agencies then monitor and enforce the restriction in perpetuity. He commented that more and more Forest Preserve Districts are using such easements to buffer their preserves. This was very critical in maintaining the integrity of the preserve as development right up to the very boundary diminishes quality. He concluded that such easements give confidence and knowledge that the land will stay undeveloped regardless of ownership.

Ms. Fauci asked if the Forest Preserve District must pay for an easement if it has a hand in negotiating with a private owner. Mr. Lobbes responded that would be negotiable, but commented that there are three levels of tax benefits available in such situations. The first would be a charitable contribution deduction equal to the value of the land that is being surrendered which can be taken for up to the 6 years from the date of the agreement. He further commented that each conservation easement can be tailored to the specific needs or uses for the property. For example, an owner could say that currently farmed land must always be a farm, or that no trees can every be cut down or that land which had horses on it will always have horses on it, etc. Easement qualifications and criteria are included in the brochure distributed.

The second type of tax benefit may come through a property tax reduction. Generally, land is assessed at 1/3 of its market value. But easement land may receive an assessment of 1/12th of the market value, generating substantial property tax savings. He noted that one such negotiation he had been involved with concerned a landowner who could not afford her property taxes when the assessment was at the 1/3 level, but with the easement, the reduced assessment allowed her to stay in her home.

The third type of tax benefit would come through an Estate Tax reduction. A conservation easement existing on a property can result in a 40% reduction in the calculation of the estate taxes (up to a cap of \$500, 000 in value).

Mr. Lobbes commented that the majority of landowners who elect to utilize a conservation easement are primarily doing it because they possess a strong conservation ethic. He noted that conservation easements actually first began on the East and West coasts and have only recently moved to the Midwest. However, despite that he was quite impressed with the strength of Illinois statutes with regard to the process. He closed by commenting that many Districts have negotiated conservation easements in concert with right-of first-refusal approaches to, in essence, bank the land for the future at a lower cost (due to the loss of development potential). Ms. Fauci commented that seemed like a form of agricultural "rent control".

Mr. Hannan then noted that the land of some of the individuals who had been identified as future willing sellers to the DeKalb Forest Preserve District is currently farmland. He asked how long such land, under grant conditions, had to remain farm until it could be converted to District use. Mr. Lobbes responded that with Acquisition Grants, there was generally no requirement, but that Development Grants typically required 3 to 5 years, but that some counties have elected to continue farm licenses for up to 10 years.

Ms. Fauci asked if land donated outright to the District could be used for matching grant purposes. Mr. Lobbes replied that land which is transferred to the Districts' ownership before the grant is approved cannot be used for grant matching funds. This is another reason organizations such as the Land Conservation Foundation will often take ownership on behalf of the District to allow the District time for grant approval.

Mr. Anderson asked if the Forest Preserve name is placed anywhere on the original deed. Mr. Lobbes replied that major grant providers, such as OSLAD maintain that the District must have no legal interest. However, they will allow for letters of intent to be drawn up between the Foundation and the District, but no legally binding interest can be spelled out on the deed before the grant is finalized.

Mr. Gudmunson asked if any counties had utilized casino funds to acquire lands. Mr. Lobbes responded that Kane County is currently the only county to do so. Mr. Hannan commented that when the Riverboat came to Elgin they paid a very large rent to the Kane County Forest Preserve District to use 300 feet of the Fox River Trail property when they were required to locate a "parking space" for the Riverboat.

Mr. Lobbes then closed by reviewing the services offered by the Foundation and outlined in the handouts he had provided. He closed by noting that land negotiations can take a long time to complete. He commented on a recent negotiation that took upwards of 4 years to complete. While it tried everyone's patience at one time or another, it resulted in the preservation of a 100 acre farm that was more than worth the wait.

Ms. Fauci thanked Mr. Lobbes for his very thorough presentation.

MESSAGE FROM CHAIR ON THE LAND ACQUISITION PROCESS.

Ms. Fauci then provided the Committee with a process document and letter she had prepared regarding land acquisition (copy attached) as well as a copy of the statute governing Forest Preserve District's (copy attached). She commented that the documents should quite clearly outline certain duties and responsibilities of the District as it proceeded towards future acquisitions.

Ms. Fauci then noted that after consideration it was her opinion that there would be no need for an additional "citizen's group" as had been previously discussed, as this Committee really carried the charge of the County's citizens to act on their behalf. She further commented that Mr. Hannan's many years of service and previous experience would give the Committee a firm place to start from when beginning their future activities. However, she cautioned that the Committee should not be afraid to seek professional assistance to maximize their future acquisitions for the benefit of their constituents. She noted that, of course, such assistance will have a cost – but any considerations in that regard should be focused on the protection of habitat and not by any political considerations. She closed by noting that at times in their future considerations, they

may have to move to Executive Session. However, it will be her intention to keep any proceedings in this regard as transparent to the public as possible.

Hr. Hannan commented that he had recently obtained a copy of the DuPage County priority criteria for land acquisition (and it is similar to the one he drafted and gave the Committee) and would share that document with the Committee before the next meeting.

Mr. Rosemeier asked if it would be possible for the Committee members to see lands being discussed as well as just hearing about them? Mr. Hannan commented that it should be perfectly appropriate for members to individually view lands of individuals who wished to maintain anonymity.

Mr. Rosemier then asked when it would be appropriate to discuss hiring a third party negotiator. Hr. Hannan commented that would likely depend on the property, the owner and the timelines that present themselves. He noted that it would likely be best handled on a case-by-case basis.

Mr. Anderson asked if there were other organizations who had serves similar to the Foundations that could speak with the Committee.

Mr. Hannan responded that he knew a few more, in particular an ex-Director of the McHenry County Conservation District who does such negotiation as an independent contractor. He commented that he could ask this individual to come to the Committee at a future meeting. He then cautioned that many groups who are engaged in these activities will not come out to DeKalb as it is still perceived as being “too far” away from their primary areas of interest.

Mr. Rosemier asked if there were any circumstances that might necessitate speeding up any land acquisitions. Mr. Hannan responded that he was not aware of any identified willing sellers rushing to complete things at this point.

MONTHLY REPORTS

Mr. Hannan reported that the budget has passed for this year and a truck bid purchase was approved and is in process. Bids will be coming in soon for a truck replacement and the District would be looking to replace a 31 year old John Deere tractor/loader. He noted that the tractor/loader could be very useful in future wetland bank construction and maintenance (plowing, discing, planting/seeding, weed maintenance, trail maintenance, earthwork, lifting, loading, hauling materials, etc.) , and other forest preserve work.

Mr. Rosemier asked when the land acquisition loan from the County would be paid off. Mr. Hannan responded that would be accomplished by the end of November 2006.

Mr. Hannan then reported that he had received a \$4000 grant from the DeKalb Community Foundation for improvements to the Natural Resource Center. These funds will be used to expand the office facilities at the Center. Thank you Peggy Doty for her grant application and award.

Mr. Hannan then passed copies of the annual audit report to the Committee and noted that 2 of the minor recommendations have already been resolved. The first item concerned end of the fiscal year replacement tax revenue deposits and the second concerned payments received on a C2000 grant.

Mr. Hannan then passed out a copy of the IDNR grant criteria used to identify priorities in land acquisitions. He noted that Mr. Anderson had requested the document be given to the Committee

at this meeting. He closed by noting that the IDNR strongly encouraged applicants to bring their proposals in line with the priorities and considerations outlined in the document. To that end, he commented that the IDNR was very pleased with the County's comprehensive land use plan, noting that it demonstrated good, forward thinking on growth and preservation. He noted that the District's membership in the Kishwaukee River Ecosystem Partnership and Watershed Plan, and the Greenways and Trails Plan will also be quite useful when developing grant proposals and making sure the proposals were well tailored to what the grant agencies wish to support.

Ms. Fauci asked if the IDNR document were a PDF that could be sent to the Committee members. Mr. Hannan was not aware of that and noted that this was a part of a larger book available to grant seeking agencies. Ms. Fauci noted that she will try to scan the document for distribution to the Committee members.

Mr. Anderson asked how the IDNR is funded through the State. Mr. Hannan noted that most is funded through a percentage of the real estate transfer taxes. There are sometimes Federal supplements through off-shore drilling royalties which is added to the OSLAD budget. Mr. Hannan noted that Potowatomi Woods was partially acquired through the former OLT grant process.

Mr. Hannan then discussed two recent bird walks that were done by Pete Olson in the Afton Preserve and the Wilkinson-Renwick Marsh. He passed lists to the Committee that had been prepared by an attendee and showed the wide variety of birds spotted during the walks. Mr. Hannan commented that this supported statements made earlier by Mr. Scudder regarding the wide diversity of species that can be seen and enjoyed in the County preserves (see attached). He closed by commenting that the bird walks were well attended and quite appreciated by those who attended.

He then discussed that this Spring the Natural Resource Center has served over 2000 area children with programs at the NRC and other preserves. Mr. Hannan then presented the Committee members with photos of bird walks and other activities that the children attended. (see attached)

Another event coming up will be the Kishwaukee Sunrise Rotary's 8K Run at Potowatomi Woods this coming Saturday. At this time 100 runners are expected. Ms. Fauci noted that she will be there to represent the District and support the runners. Forest Preserve staff has the areas looking good and ready for the event.

Mr. Hannan then reported that all of the summer camps at the NRC are currently full. This will entail six different programs throughout the summer. Mr. Anderson asked if the children are mostly from the County. Mr. Hannan reported that at this time, it appears all of the children are from DeKalb County. He then went on to report that several Eagle Scout projects were proceeding in the Preserves and that April months shelter fees and activities reports contained a wide variety of activities from the dog training exercises held at Afton, fishing, canoeing and kayaking on the Kishwaukee River and many Earth Day activities as well.

COMMITTEE MEMBER DISCUSSION

Mr. Anderson asked if the Committee would be meeting at the Potowatomi Woods location in the near future. Mr. Hannan replied that the District staff were still proceeding with concrete pouring and other work and that at this point plans were still underway for an August formal dedication. He recommended that the Committee might want to hold off the meeting there in August when the improvements are complete.

Ms. Fauci then asked where the Committee wanted to hold its next meeting. The consensus of the Committee was to hold the meeting at Chief Shabbona. Mr. Hannan commented that when the group elected to meet at Sannauk, he could give the members an indication of where the willing seller is located in the area and if they wanted, individually, to look over the land, they could.

Mr. Rosemier asked if the Committee members should attend an upcoming meeting of the Planning and Zoning Committee when they would be considering a large development near Cortland. He wondered if there might be opportunities for land donation that could arise. After discussion, the Committee determined to leave it to individual members to decide to attend or not.

ADJOURNMENT

Mr. Anderson moved to adjourn, seconded by Mr. Rosemier and the motion passed unanimously.

Attached are monthly reports and Forest Preserve activities.

Respectfully submitted,

Julia Fauci, Chairperson
Forest Preserve District Committee

JF:kjr