

Lake Maxinkuckee ENVIRONMENTAL COUNCIL

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FROM THE DIRECTOR - COUNCIL PROJECTS 2010

LMEC councilman Allen Chesser used our portable sprayer and a state-approved chemical to greatly reduce a stand of phragmites at the Curtiss wetland. Phragmites are the tall plants you can see in the background of the photo to the right. We have been spraying this area for a couple of years with the hope of eventually eliminating this invasive species from the wetland area.

Councilman Dave Blalock has also sprayed for phragmites recently at the Wilson wetland and reports good, positive vegetation growth at the Wilson Wetland that was re-designed a couple of years ago.

To the right is councilman Dan Baughman with Allen planting trees on the levees at the Curtiss Wetland this past March. The levees had become rather barren due to beaver activity, so to help stabilize them we worked with property owner Sean Murphy to plant

over 100 bald cypress and river birch trees. The root systems of the trees (both of which love water) will strengthen the earthen levees that were put in place to slow the water flowing through the Curtiss ditch and into Lake Maxinkuckee. Follow-up visits to check on the trees will take place through 2010 and beyond.

Extra trees were taken to the town park, and with the permission of the park superintendent, Dan and I planted 14 river birch along the lake shore and 5 bald cypress near the flag pole. The rest of the trees were donated to the Culver Tree Commission so they could start their own nursery. Bob Porter, Street Superintendent for the Town of Culver, was excited to get a head start on building a nursery because it will provide a good source of trees when grant funds are few. A healthy tree canopy can help slow rainfall and lessen soil erosion and runoff.

We are focused on water testing this year, as well as doing maintenance work at the three major wetlands. Currently, there is one water testing program running in conjunction with the Marshall County Health Department. They have been very responsive to our search for the cause of high bacterial readings at one point in the eastern Lake Max watershed. This program will continue through the summer. A second water testing program is being conducted by the staff of JFNew at two of the wetlands. One location is to determine the source of bacteria found there last year and the other is simply a routine five year check. Fallen trees have already been cut up at the Kline Wetland and removed, and the control structures at the Kline and Curtiss have been shortened to allow for more water flow. Councilman Gary Shaffer is managing the Curtiss Wetland while Allen Chesser retains oversight at the Kline with input from councilman Dr. John Bernero. Duckweed is high right now both at the Kline and the Curtiss as well as in parts of the lake but it is not harmful unless it completely covers a body of water preventing sunlight from reaching into the water.

The LMEC is working to encourage more in-lake vegetation growth at the Semler/Rhodes properties, building on the original Lake and River Enhancement re-vegetation project that was installed in 2007. That project had about a 30% success rate in some plant species by last summer, while others species completely failed to thrive. This time, Bill Rhodes, also an LMEC councilman, will be trying a type of planting structure that he's designed himself. He will be installing some plants from JFNew's nursery and moving other plants from parts of Lake Maxinkuckee. Property owner Jerry Semler is going to work with JFNew on a three year planting project to increase his water lilies, purple iris, pickerel weed and bullrush. JFNew will be building concrete donuts to put the small plants in, starting them at their nursery and then moving them into the lake next year. They will be protected during each growing season over the next three years with screen enclosure structures. JFNew guarantees at least a 65% success rate on plant growth after the three year period. It's important to remember that you should NOT bring in plants from anywhere else! Use only very reputable nurseries in our area or you might be bringing in an invasive species like hydrilla!

Speaking of which, one hydrilla search is planned in the lake this year and Dan Baughman is handling this project. It is scheduled for August 12th and 90% of this project will be paid for with the 2010 Ralph C. Vonnegut, Jr. grant. Dan and I will continue to test Lake Maxinkuckee for water clarity, phosphorus and Chlorophyll a through the 2010 season in conjunction with Indiana University.



Kathy J. Clark, Executive Director LMEC

MAXINKUCKEE VILLAGE SEWER CONSERVANCY DISTRICT UPDATE We wanted to keep you informed about the progress of Aker Properties, LLC in their attempt to become a sewer conservancy district. This process is required in order for them to get local approval to build the first of several phases of a residential project that may eventually surround the Culver Marina. After initially submitting an application to the Marshall County Circuit Court the matter was referred to the Natural Resources Commission for investigative purposes. The LMEF urges you to go to www.culverLMEC.com to review the report in its entirety. It can be found on the Newsletter page of the website.

The NRC is an autonomous board that addresses issues pertaining to the Department of Natural Resources. One of the many things they do is determine if certain goals are met when anyone has applied to become a sewer or water conservancy district. The twelve-member board includes six citizens chosen on a bipartisan basis, one commissioner from the Department of Transportation, one from the Department of Environmental Management, the Director of the Department of Natural Resources, the Director of the Office of Tourism Development, the Chair of the Natural Resources Advisory Council, and one representative of the Indiana Academy of Science.

Many of you attended the two days of public hearings held by the Natural Resource Commission in February at the Vandalia Railroad Station at the Culver Town Park. Judge Stephen Lucas of the NRC received testimony and input, including reports done by the Department of Natural Resources and the Indiana Utility Regulatory Commission. Judge Lucas then submitted a written recommendation to the full Natural Resources Commission for their hearing on May 18th.

The Petitioner's attorney notified the NRC late in the afternoon of May 17th that no one from their side would be attending the Commission hearing. Mr. Snyder, attorney for the LMEF and Mr. Welch, attorney for his parents, both were in attendance the next day as was the executive director of LMEC and about a dozen Lake Maxinkuckee property owners. The hearing, was one of over 20 scheduled for that day with the NRC. Mr. Snyder and Mr. Welch were granted permission to make statements. Judge Lucas explained some of the details of this extensive sewer conservancy case to the Commission and they then voted (11 for, 1 abstention) to send the full, 100 page report Judge Lucas had written to the Marshall County Circuit Court. In Indiana, the statutory responsibilities of the Commission are applied to the proposed district and they then make a determination under Indiana Code and report to the Court whether the proposed district meets the following conditions: *(LMEF is providing the following excerpts from pages 83 to 100 of the NRC report for information purposes only, please be advised that it is recommended that you go to www.culverLMEC.com to view the report in its entirety.)*

The proposed district appears to be necessary. **NRC decision - Not necessary:** "Without a complete and rigorous exploration of opportunities provided by the East Shore Corporation, by the Town of Culver, and perhaps most clearly by the South-West Lake Maxinkuckee Conservancy District, the proposed Maxinkuckee Village Conservancy District has not been shown to be necessary." *(NRC Report, page 90)*

The proposed district holds promise of economic and engineering feasibility. **NRC decision - Part 1, maybe; Part 2, No:** "The economic viability of the proposed (district) is problematical but perhaps meets the threshold of economic feasibility. If functioning properly, the wastewater treatment proposal has promise of economic feasibility. The proposal does not provide for redundancy or another adequate strategy in the event of a system failure. The potentially adverse consequences from a system failure are magnified by the location of the proposed conservancy district near the Kline Wetlands, at the mouth of the Kline Ditch, and adjacent to Lake Maxinkuckee. In this regard, the proposal does not provide for engineering feasibility." *(page 94)*

The public health will be served immediately or prospectively by providing for sewage disposal. **NRC decision - Immediately, unknown; Prospectively, might once all housing units are built:** "The commercial business would be connected to the cluster septic system "immediately" once the planned system "goes online". Without the effluent from the proposed condominium unit diluting the effluent from the commercial businesses, it is unknown whether the planned cluster septic system would be able to treat the concentrated commercial effluent. If functioning properly, the planned cluster system would prospectively serve the public health by treating residential sewage from the PUD. In this manner the (District) would appear to serve the public health prospectively." *(page 94)*

The proposed district proposes to cover and serve a proper area. **NRC decision - No:** "Whether because not all portion (s) of the district would appear to be served by its stated purpose, because the area to be served is not destined for subdivision, or because the Petitioner has not illuminated reasons for boundaries that are derived from the Conservancy District Act, the proposed (District) has not been shown to cover and serve a proper area." *(page 96)*

The proposed district could be established and operated in a manner compatible with established conservancy districts, flood control projects, reservoirs, lakes, drains, levees, and other water management or water supply projects. **NRC decision - Petitioner failed to show sufficient evidence on any facet of this question:** "The DNR indicated concern for any development that would detract from the water quality in the area. Through cooperation, management plans have been established for Lake Maxinkuckee. The improvement and protection of Lake Maxinkuckee and the associated wetlands are a priority of the DNR, the LMEC, and the Culver community." *(page 99)*

“A properly functioning wastewater treatment facility with the (District) should have no adverse impact upon Lake Maxinkuckee or the Kline Wetland. But (the Petitioner) testified that he had “no idea” as to whether damages could result from the creation of the proposed conservancy district. (The Petitioner) also testified that he had not conducted any studies or analyses regarding surface water drainage impacts to the Kline Wetland or the wetlands contained within the proposed conservancy district boundaries. The Proposed conservancy district is also in close proximity to the South-West Lake Maxinkuckee Conservancy District and the East Shore Corporation, a company providing private sewerage services. Evidence was not presented to indicate whether the Petitioner explored, studied, or analyzed impacts to the existing conservancy district or the private sewerage.” (page 99)

“The purpose of Rule 5 is to “establish requirements for storm water discharges from construction activities of one acre or more so that public health, existing water uses, and aquatic biota are protected.” “Andrew Bender agreed the PUD’s proposed soil erosion protection plan ... meets the bare minimum requirements” of Rule 5. “But he also testified that during construction compliance with Rule 5 alone is not sufficient to protect the Kline Wetland or the two small wetlands within the proposed conservancy district boundary. The Kline Wetland is included in the Lake Maxinkuckee watershed. The wetland serves to filter sediment and nutrients, particularly those which are associated with the largest tributary of Lake Maxinkuckee, and is “currently doing a very good job.” Compliance with Rule 5 is not enough for the (District) to establish compatibility with the Lake Maxinkuckee Management plan or to protect the Kline Wetland and Lake Maxinkuckee.” (page 99 - 100)

“Formation of the (District) is a preliminary stage. The evidence is not sufficient to conclude that the development would not be compatible with the protection of the Kline Wetland and the management of Lake Maxinkuckee. Neither is the evidence sufficient to determine the development would be compatible. Compliance with Rule 5 and with other statutory requirements of the Army Corps, IDEM, and the Culver Plan Commission is a threshold. But the responsibility of the Petitioner is to establish compatibility with the management of Lake Maxinkuckee for purposes of the Conservancy District Act. The evidence is insufficient to determine the Petitioner has satisfied this responsibility.” (page 100 - end of report excerpts)

While the decisions made in the NRC report appear to be good news for Lake Maxinkuckee, it is only prima facie evidence that the district should not be established, it is NOT a final determination by the local Circuit Court Judge. While the evidence presented will control the Court’s decision—we believe that a strong presence in the courtroom will clearly indicate your opposition and concern. The LMEF will let everyone know as soon as the local hearing date has been set.

We want you to know that the PUD Defense Fund is still raising money for legal expenses. If you wish to help us, you can send your donations to LMEF at P.O. Box 187, Culver, IN 46511. When we consider the environmental catastrophes that are happening in the world today—it is so clear that planning for the “what ifs” is extremely important.

FOAM - IS IT BAD OR IS IT NATURAL? Foam on a lakeshore is probably not due to detergent contamination. Most foam is a product of nature. Small trout stream often have pools of foam where fish will hide. “Natural” foaming occurs when small aquatic organisms (such as algae) die and decompose, releasing a variety of organic compounds. Organic compounds leached from soil also cause foam. As wind or currents stir the water, foam is produced and may accumulate in quantities on windward shores, in coves, or in eddies. The natural foam has a somewhat earthy or fishy aroma, and it breaks down rather quickly. Foam from silt or erosion is usually a dirty brown color (like that in the photo.) Foam is often seen in the early morning hours and is gone by midday. Detergent foam, by contrast, will have a noticeable perfumy smell from additives which give your wash that “rose garden” or “lemon fresh” smell. Detergent pollution and foam can be a problem, but the foam will be localized close to the source of the discharge. If it smells “good”, call the LMEC to report it.



TRASH AT DNR LANDING LMEC councilwoman Tammy Shaffer and I have had our work cut out for us cleaning up at the DNR boat landing on the West shore and at the Kline Wetland. It seems some boaters can’t read very well since they seem to not have noticed the many “Do not litter” and “No dumping” signs installed by the Department of Natural Resources at both sites. We have been stopping by when in the area to pick up after some folks who can’t seem to understand the rules of good citizenship. If you are here boating, be nice to Lake Maxinkuckee and **TAKE YOUR TRASH HOME WITH YOU!** Anyone who sees someone leaving trash around the lake please report the car license number to LMEC at 574-842-3686 or to the DNR code enforcement at 574-457-8092. You will get ticketed! Isn’t it just simpler to take your trash home and dispose of it properly?

TAKE A LITTLE ADVICE FROM THE LAKE ♥ Be clear ♥ Make positive ripples ♥ Look beneath the surface
♥ Stay calm ♥ Shore up friendships ♥ Take time to reflect ♥ Be full of life!



**Photo opportunities
abound at Lake Max-
inkuckee.**

A friend of the LMEC, Katy Lewallen, took some photos at the Maxinkuckee Wetland and Conservation Area (also known as the Kline Wetlands), and decided to share this shot with us. The picture was taken on an early spring morning in 2009, while she was walking with her family around the lake. We are happy to share it with all of you.

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