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**MINUTES
PUBLIC FORUM REGARDING
TREE TRIMMING ALONG THE TRAIL SYSTEM
Tuesday, January 12, 2010
DuPage County Board Room
7:15 p.m.**

The public forum was called to order at 7:20 pm with Chairman Schillerstrom presiding.

County Board Members Present: Grant Eckhoff, Dirk Enger, Rita Gonzalez, Tony Michelassi, Debra Olson, Don Puchalski, Jeff Redick, John Zediker

Others present: Calvin Butler, Senior Vice President of Corporate Affairs for Commonwealth Edison; Mike McMahon, Vice President of Technical Services for Commonwealth Edison; John O'Halloran, Commonwealth Edison; Tim Anderson, Executive Director ICC; Matt Harvey, ICC General Counsel; Roy Buxton, ICC Engineer; Beth Penesis, Intergovernmental Affairs Liaison, Governor's Office

County Board Chairman Robert J. Schillerstrom thanked representatives from the Illinois Commerce Commission, Commonwealth Edison and the Governor's Office for coming out to listen to the concerns of DuPage County residents as well as the public itself for their attendance. Chairman Schillerstrom continued saying tree trimming along the Great Western Trail and Illinois Prairie Path is a very important issue to DuPage County residents, members of the County Board and to him. The County has worked diligently over the last seven years to improve and expand the system, recognizing it is important for transportation and recreational purposes. There are three east-west trails that go through the County, and we are working on three north-south trails through the County, connecting them with local trails and regional trails that run outside the County; we are committed to spending money on the trails and to making them as user friendly and as beneficial to the people of the County as possible. The forum proceeded with statements by Commonwealth Edison followed by the ICC, DuPage County State's Attorney Robert Douglas, to discuss the legal ramifications that impact the relationship between the County, Commonwealth Edison, the ICC and the Conservation Foundation President and CEO Brook McDonald, to talk about the DuPage County Trail Maintenance Task Force he has chaired since 2002 that has dealt with issues regarding tree trimming on the path. Then the forum was opened up to statements by County Board Members wishing to speak and public comment and questions.

Calvin Butler, Senior Vice President of Corporate Affairs for Commonwealth Edison, thanked Chairman Schillerstrom and Members of the County Board for the opportunity to be here and to the public for taking the opportunity to give their input and opinions. Conservation and maintenance of the Great Western Trail and prairie path is very important to Commonwealth Edison; the relationship and partnership with DuPage County and the maintenance of the trails goes back quite a ways. Mr. Butler and his team work with and manage relationships with over 450 municipalities that Com Ed serves. He is here tonight for the opportunity to discuss this; to talk about how important it is as Com Ed approaches the conservation and maintenance of the trails and the paths to balance the interests of everyone; and to assure everyone that no matter what happens this evening in the discussion, Com Ed hopes to continue to have open dialogue with members of the Board and the public.

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Mr. Butler continued by saying Com Ed's priorities are protecting the safety of customers and employees, providing their customers with reliable electrical service, maintaining adequate electrical clearance, and aesthetics, which drove a lot of this discussion.

Mr. Butler admitted that Com Ed made a mistake when it was performing its vegetation management process, i.e., trimming trees. The contractors went through and cut down trees to their stumps rather than remove them, which stimulated this conversation and brought Com Ed to this forum. Com Ed acknowledged their mistake and began having discussions with the County Board and the Task Force to resolve this problem and to make sure it doesn't happen in the future. No one wants to remove a healthy tree, but it is a necessity - and necessary to talk about and meet the standards of reliability and safety. It's how you do it that is the question – how and what you do afterwards.

Mr. Butler said that this year more than 450,000 customers have been impacted by tree and vegetation-related outages, and that number continues to go down through Com Ed's efforts to go out and keep the clearances and maintain reliability; it used to be much higher. The ICC and Federal Energy Regulatory Commission (FERC) take this very seriously, and Com Ed takes this very seriously. Com Ed strives for transparency in this issue. Since May, Com Ed has been having on-going conversations to let everyone know what they're doing and why they're doing it, to clearly communicate their mission and purpose to the 450 municipalities they serve. Relationships and understandings have been struck on what Com Ed has to do, how they do it and what are municipalities' options if they want something different.

Com Ed has to manage the vegetation adjacent to Com Ed transmission and distribution systems to meet the regulatory requirements in the name of safety and reliability. Com Ed encourages the use of native prairie plant species on Com Ed property and easements along the DuPage County Trail System because they are compatible to being near the wires, Com Ed knows their growth and they won't interfere with reliability and safety. Com Ed also partners with the other stakeholders of the Trail System including the Forest Preserve District and the DPC Transportation Department. Since May, Com Ed has been working diligently and has not done anything in a vacuum. Com Ed is here to encourage open dialogue and keep it ongoing, but must manage Com Ed property in a manner that is consistent with the Forest Preserve District by removing those exotic, invasive species that are growing in places that are choking off natural species. That is what Com Ed is cutting and removing.

Mr. Butler talked about the timeline of conversations: May 19, 2009 Com Ed presented a vegetation management plan to the Trail Maintenance Task Force at their meeting; June 22, met with Chairman Schillerstrom to discuss vegetation management along the DPC trail system, and as a result of that meeting met with the Trail Maintenance Task Force staff to discuss vegetation plans; in July, Com Ed received authorization to proceed with a standing stump mitigation plan, removing standing stumps between July 24 and September 11, and Mr. McMahon and his staff voluntarily agreed to replant 750 trees, walking the trail with members of DOT and the Task Force asking where they want the 750 trees planted under no obligation to do so; in September, Com Ed participated in a Maintenance Task Force meeting to present the vegetation management plan; October 20, Transportation Committee unanimously

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approves Com Ed's vegetation management plan along the system, and the Environmental Committee also approves (not unanimously) Com Ed's vegetation management plan (Mr. Butler said he hopes this demonstrates how actively Com Ed worked with the Board and others to keep this process moving forward – transparency); in November, met with Tom Cuculich, Chief of Staff, to discuss tree trimming and planting program; November 6, because everything was stopped, performed emergency tree trimming because branches were growing into wires – reliability and safety; November 12, Com Ed provides to DPC 21 day notification letter concerning non-emergency tree trimming; November 17, meet with DPC officials to explain the option to allocate costs because this is over and beyond Com Ed's standard vegetation plan; December 14, met with Board Member Gonzalez, with Members Enger and Michelassi joining by phone, and members of the Commission at the Governor's Office to discuss this issue; December 17, Com Ed completes planting native shrubs and standing stump mitigation plan complete; which bring us to the public forum here today, January 12. Com Ed continues to have discussions and meet to bring this issue to a close. The next steps are open dialogue and continued discussions – with options to understand what the County wants, recognizing a one-for-one re-planting is always viable but to understand what that means, giving a deeper understanding of what Com Ed's vegetation plan is and lay it out.

Mike McMahon, Vice President of Technical Services, presented the technical aspects of what Com Ed does, how they do it and why they do it, and referred to pictures of trees growing into power lines causing the wire and tree to burn; vegetation (tree) in-growth and overhang are two of the primary causes of outages for all utilities. The National Electric Safety Code, adopted by the ICC and practiced by every utility in the country, specifically prohibits this kind of action because of the safety risk it poses for the public, not only outages but to passer-bys on the trail system if the wire falls to the ground. Safety first, then reliability, electrical clearance and stumps. The 2003 Northeast blackout, that put 40 million people out of power, started with a tree.

Commonwealth Edison is regulated by the ICC, which requires all electrical utilities to follow the American National Standard Institute (ANSI) A300 standards for tree trimming practices. Com Ed follows the most current OSHA standards and the National Electric Safety Code (NERC), which require the utility to trim or remove trees that may interfere with its wires or take action to prevent the grounding of wires through trees, i.e., trees cannot touch wires. Com Ed is also regulated by the Federal Energy Regulatory Commission (FERC). After the 2003 blackout, FERC created NERC. Compliance with NERC standards is mandatory and fines can range up to \$1M/day from when the violation occurred, if a violation exists (most of Com Ed's operations do not fall under this rule).

The ICC has notification requirements, and recently Com Ed has strengthened these requirements to include transmission. Before Com Ed does any tree trimming activities, they are required to notify the municipality or Chairman of the County Board no less than 21 days and no more than 90 days in advance, customers with power lines are notified by mail, and Com Ed publishes notice in the newspaper.

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Property along the West Chicago Prairie Path is owned by Com Ed and leased to the County for use as a trail. Some of this Com Ed has a perpetual easement on which means and says they have the right to trim, cut and remove such trees, bushes, saplings, as may be required from time to time for the enjoyment and utilization for such perpetual right of easement. They also have permanent easements obtained originally from the railroad. Permanent easements allow Com Ed to keep down brush and trees on that portion of the premises lined between the tracks and power lines. On every inch of this property, Com Ed has the legal rights embedded in easements, rights-of-way and direct property ownership, and it says Com Ed has the ability and right to maintain that system for safety, reliability, electrical clearances and aesthetics.

Standard non-emergency electrical clearances are based on the minimum safe approach distance, which depends on the line voltage. The higher the line voltage, the farther away you have to be from the lines. There are two cycles - a distribution cycle that is four years, so every single circuit is trimmed once every four years and a transmission cycle which is five years, and that is embedded in Com Ed's rates.

There is ability in the law for non-standard electrical clearances and services which, at the request of the County, Com Ed can trim more frequently, and Com Ed is happy to comply with that request. The law allows various ways to recover that cost; the law allows local government to enact an ordinance different from the utility standards, but the additional cost to the utility to comply with that standard is the responsibility of the local government. Com Ed is more than happy to accommodate DuPage to trim more frequently or plant more trees, but that cost is the responsibility of DuPage – in fairness and equality to other local governments.

Com Ed works with DuPage in re-plantings, standing stumps and prairie restoration.

Tim Anderson, Executive Director of the Illinois Commerce Commission, said the ICC has heard from residents and officials for several months about this issue and has engaged in meetings and realizes the extent of the problem. The ICC is a state agency that regulates public utilities; the general primary focus of the ICC is the reliable service with minimal interruptions and making sure the electric companies do what they're supposed to do.

Tree trimming is the most important thing that electric companies can do to ensure reliability of the system. Com Ed has stated they have to trim and that is a fact, the ICC pushes for them to do it and to follow ANSI Standards, which give a broad view of how vegetation management should be done. The standards do not dictate how much of the tree should be trimmed, but the utility has the obligation to trim to the appropriate clearance. It's a balance of reliability and making sure the trees are kept healthy.

Rob Douglas, DPC Assistant State's Attorney, said Chairman Schillerstrom asked the SAO to render an opinion regarding the rights and restrictions of Com Ed performing its maintenance along the prairie path and Great Western Trail. The prairie path was acquired by the County in 1968 and was the former right-of-way of the Chicago-Aurora-Elgin Railroad which operated an interurban electric rail system, and they granted Com Ed a perpetual easement that goes from one side of the right-of-way to the other, which gave

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the utility the right to own and operate an electrical distribution system with full rights of ingress and egress from such property at all times in connection with the exercise of the above rights including the right to trim, cut, remove such trees, bushes, saplings and other vegetation as may be required from time to time for the enjoyment and utilization of such perpetual right in easement. This effect of this easement is to impose upon the County the right to allow Com Ed to come in and exercise judgment for their operation in removing trees and vegetation, taking that prairie path out of the regulatory structure which is covered under the ICC regulations. When the County purchased the right-of-way for the IL Prairie Path, because of this easement, we went to Com Ed and requested the right to put the path on that right-of-way in the position that it is now, and there is an agreement on file with Com Ed that has been renewed from time to time allowing the path to be in the position it is.

The Great Western Trail, while there are Com Ed easements out there, there is no particular language that covers tree trimming and vegetation removal, which brings it under the statute that Mr. McMahon alluded to, 220 IL Compiled Statutes 5/1 101 which is the non-emergency vegetation management activities – they have to comply with the ANSI A300 standards and provide notice prior to doing their work. This does not mean that the County cannot put stricter standards on Com Ed – the County can pass an ordinance which would require stricter standards and more activities on the part of Com Ed; however, any costs above complying with the statute shall be borne by the entity that requires them to do the additional work.

Chairman Schillerstrom stated in 2003, as a result of tree trimming concerns that took place in 2002, the County created the DP County Trail Maintenance Task Force Committee - a group of affected users, County Board Member Deb Olson is the Board's representative to the Task Force, Brook McDonald, President and CEO of the Conservation Foundation who agreed to chair it, representatives that include bicycle users from the Prairie Path and other groups, the County Engineer, and others.

Brook McDonald said in 2003, the DP County Trail Maintenance Task Force was formed with people from The Morton Arboretum, the Forest Preserve District and different trail groups. The initial objective of the Task Force was to create a comprehensive plan for the long-term maintenance and management of the trails that the County manages. That plan had 31 recommendations; the Task Force meets one-two times per year, and County staff person Deborah Fagan implements the plan. Plan Recommendation 26 is working with Com Ed to develop a long-term maintenance plan for the trail system. At their regular meeting in May, it was brought to their attention that Com Ed had just gone through and trimmed the trees the way they did last spring, and the Task Force was surprised at how they did it, and he commended Com Ed for admitting that they made a mistake. They met with Com Ed who agreed to clean up the mess and take care of the standing stumps, and the Task Force was very specific on how they were to use herbicides – direct application on the standing stump, no spraying or broadcast spraying, and they used the same products and the same technique and best management practices the Forest Preserve uses. Com Ed completed this and re-planted 750 species of native trees and sub-canopy species of shrubs.

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The second issue the Task Force dealt with Com Ed on, which Com Ed initiated, was to do the prairie restoration along the Prairie Path and Great Western Trail in conjunction with the Forest Preserve District.

The third issue, and the most important, was the long-term maintenance and management of the Great Western Trail and prairie path.

The Task Force recommended if a tree was to be trimmed to a standing stump or deformed in some fashion, that Com Ed take the tree down, treat the stump using best management practices - no spraying, direct application to the stump – and they want a re-vegetation plan as part of that long-term maintenance plan.

County Board Member Rita Gonzalez said in May 2009, Don Kirchenberg, voluntary president of Friends of the Great Western Trail, brought to her attention the inappropriate tree trimming and herbicide spraying practices implemented by Com Ed along DPC trails and in homeowners' yards, which is unacceptable. After hearing from several constituents, she felt a public forum would be appropriate so the residents could voice their concerns, and she has been pushing for this for months. Gov. Quinn's office responded immediately, and a meeting was held in Chicago and was attended by representatives of the Governor's office, Com Ed, the ICC, Don Kirchenberg, County Board Members Enger and Michelassi by phone, and me. As a result of this meeting, Chairman Schillerstrom agreed to hold this public forum, and she appreciates his support and thanked the Governor's office because without his intervention, this meeting may not have been possible. After public comment this evening, she would still like to see the ICC create clear language and/or legislation regarding the healthy, responsible tree trimming practices and weed management. This is an issue that greatly affects the people and is occurring throughout Illinois, so something has to change. She thanked everyone for attending.

County Board Member Jeff Redick said the information presented by the ICC and Com Ed has been available and he doesn't dispute any of it or the statutory sections quoted. His issue is that as the practice continues, it is one that is set up to fail as it is currently being administered. It is a practice of trimming trees that is out of character with the vegetation that we need along the prairie path. Com Ed pointed out options to engage in re-planting and to do that Com Ed would pass the costs off entirely to DPC and its citizens. His problem with this is as it stands, Com Ed is in a four year cycle of trimming trees, and associated with that is a cost that goes along with that on an annual basis. By the time Com Ed finishes in four years, they have to go back to where they started, which is a perpetual cost to them. The re-planting plan that the County has engaged in, that Com Ed worked with the County on and implemented so far, is one that is intended to eliminate that future need for trimming. It takes away the character of vegetation that does not go along with these wires, ones that grow into the wires. That's the long term solution needed, but incumbent in executing that, Com Ed needs to recognize there is a long-term cost savings to them. The cost Com Ed would have to endure in year one could not and should not be passed on to the taxpayers of DPC or customers of DPC entirely. That would be a windfall for Com Ed, and just as Com Ed is saying it is unfair to the customers outside of DPC, for them to pay for DPC improvements along

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our paths, it is unfair to DPC customers to pay for the long-term savings that will be passed on to the people in other communities. Please take a look at the long-term look at the health of the Prairie Path and the vegetation along the Great Western Trail and be open-minded in that approach and recognize the long-term cost savings as you go forward with the re-plantings and passing these costs on to the taxpayers.

County Board Member Dirk Enger said his main concern is herbicide spraying on the stumps and doesn't condone spraying of any herbicides, believing stumps should be shredded and the remaining spread throughout the environment it came from. If Com Ed has to spray, why can't Com Ed flag where the herbicide is sprayed - there should be clear markings especially along the Great Western Trail where horses and other animals use the Trail? Also, regarding the towers and the massive, overgrown vegetation on the security barb-wire fencing, he would like to see that area clear cut and rock bed put down, which is highly visible, and then Com Ed would not have to come back every four years and users of the prairie path would be secured by seeing that fence out there, especially the horses should they run astray off the trail. Also, the Congressional Accountability Office, after the blackout, the report that came back to Congress stipulated that the grid system in the US has become a national security risk because, as recommended by the Congressional Office, like the railroad, the electrical companies have not invested in the technology available and infrastructure repairs that can be done to secure and ensure a stable system of servicing the grid, i.e., underground cable. In the report, the biggest risk within the grid system is the Midwest - the trees, and he would like to work with legislators to get funding and a tax incentive to go underground.

Public Comment

Public Comment was offered by the following:

Al Murphy, Alderman, City of West Chicago
Todd Scalzo, Councilman, City of Wheaton
Tom Grimston, Wheaton, member of Wheaton's Environmental Improvement Commission
Tom Richardson, Oak Brook, Sierra Club/River Prairie Group
Ray Bartels, Lombard, President, IL Prairie Path Not-for-Profit Corporation
Bob Mueller, Westmont, DuPage Green Party
Don Kirchenberg, Glendale Heights, Friends of the Great Western Trails, provided a handout
Janice Bockman, Hanover Park, concerned citizen
Paul & Jean Mooring, Glen Ellyn, the IL Prairie Path Not-for-Profit Corporation
Bonnie Gahrns, Glen Ellyn, concerned citizen
Don Pellico, Glen Ellyn, concerned citizen
Gary Grasso, Mayor, Village of Burr Ridge
Michael Hoffman, Warrenville, concerned citizen

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Record of attendance only:

Lonnie Morris, Lombard, Sierra Club River Prairie Group

Bob Sobie, Glen Ellyn, concerned citizen

Alan Bergeson, Wheaton, concerned citizen

Mike McMahon responded to questions regarding herbicides, saying he understands why people don't like them and the perception of them. The active ingredient in what Com Ed uses is the same as what people use on their lawns - Weed n Feed, Weed B Gone, Bush be Gone – any of the products one can buy at Home Depot. The difference is products Com Ed use are in a slightly higher concentration, when you buy them commercially, they are of a higher concentration and have to be diluted, about 3.5 times higher than off the shelf herbicides. The other difference is that everyone that applies herbicides is state licensed – they have to attend a course, take a test and are licensed for three years and receive annual training. The products Com Ed use break down, they are photo synthetic, so after about 30-90 days they dissipate. Products used on standing stumps, and he supports the targeted application of herbicides, are used in conjunction with the County, and he welcomed County inspectors to observe the application of herbicides. Herbicides need to be used because if you cut a tree to the ground and don't apply a herbicide, the tree will sprout fourfold. Com Ed does not endorse broadcast spraying and they typically don't do that. The EPA regulates all herbicides.

Regarding the cost to replace trees/shrubs, they were 5 gallon containers at \$55 each installed with a one year guarantee, with the requirement to be maintained long term by DuPage County.

Regarding putting utilities underground, overhead is less expensive to install and when there is an outage, it can be restored more quickly; underground is more expensive to install, and when an outage occurs, it takes longer to restore. The primary issue with underground is that it is very expensive and it comes down to the cost of the cable. Overhead aluminum wire is about \$2/foot; underground cable that will do the same job, depending on the kind of cable you use, which costs anywhere from \$26-\$42/foot. Com Ed would like to put everything underground, but it would place a considerable burden on the rate payers. Com Ed spends \$55-\$60 million/year across their service territory of 11,500 square miles on tree trimming costs excluding storms.

With no further public comment, Chairman Schillerstrom adjourned the forum and thanked everyone for coming out - members from the ICC, Commonwealth Edison and their reps, Rob Douglas, the County Board Members and the public - we will take this information and what was said and promised the County Board will continue to focus on this issue and come up with a reasonable solution.

Respectfully submitted,

Susan Hansen