

FLOODPLAIN PERMIT COMMITTEE MEETING  
*201 West Gray, Multi-Purpose Room*

*Monday, July 5, 2016*  
*3:30 p.m.*

Minutes

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PRESENT: Shawn O'Leary, Director of Public Works  
Susan Connors, Director of Planning/Community Development  
Scott Sturtz, City Engineer  
Ken Danner, Subdivision Development Manager  
Sherri Stansel, Citizen Member  
Neil Suneson, Citizen Member

OTHERS PRESENT: Todd McLellan, Development Engineer  
Rachel Warila, Staff  
Chris Serrano, Construction Manager  
Leah Messner, Assistant City Attorney II  
Rick McMichael, Plains All American Pipeline, L.P.  
Matt Isom, Plains All American Pipeline, L.P.  
Heather Tuggle, Plains All American Pipeline, L.P.  
Derek Willis, Plains All American Pipeline, L.P.  
Mary Francis, Citizen  
Barrett Waller, Citizen  
Cynthia Rogers, Citizen  
Aleisha Karjala, City Councilmember  
Karen Blasier, Citizen  
Jim McCullar, Citizen  
Casey Holcomb, Citizen  
Judith B. Coker, Citizen  
Karen Chapman, Citizen  
Sereta Wilson, Citizen  
Frank Layito, Citizen  
Dana Niblett, Citizen  
Lyn Rogers, Citizen  
Steve Ellis, Citizen  
Shannon Shepherd, Citizen  
Sarah Chan, Citizen  
Sereta Wilson, Citizen  
Sean Braddy, Citizen  
Bridget Burns, Citizen  
Bobby Stevens, Citizen  
Sydne Gray, Citizen

Tim LaBarge, Citizen  
Sara Bass, Citizen  
Sam Griffey, Citizen  
Matt ?? (did not sign-in), Citizen  
Diane Frost, Citizen  
Matt Failing, Citizen

The meeting was called to order by O'Leary at 3:30 p.m.

**Item No. 1, Approval of Minutes:**

O'Leary called for a motion to approve the minutes from the meeting of June 20, 2016. Suneson mentioned three editorial changes to the minutes including the duplication of a word, the request to change the word relative to relevant and the request to add a citizen's first name. Stansel also requested a change to a comment, which she thought Hudson had made but after reviewing the minutes, the comment was from O'Leary so changes were made but the comment was further clarified. A motion was then made to approve the minutes with corrections by Suneson and seconded by Sturtz. Approved 6-0. It was noted that six members of the committee were present and a quorum was established. (Jane Hudson was not present).

**Item No. 2, Flood Plain Permit Application No. 573:**

O'Leary then announced the first and only application of the day, which is Floodplain Permit Application #573 for a proposed 16 inch crude oil pipeline from Cushing, Oklahoma to Gregg County, Texas that will cross the Little River floodplain in East Norman. He then asked staff members if they had any comments on this item. McLellan introduced Matt Isom and Derek

Willis, representatives from Plains All American Pipeline, L.P. (Plains), and followed with the Staff Report.

McLellan explained that the total length of the pipeline project is 362 miles, of which approximately 2.3 miles will be within the Norman city limits. He stated that the pipeline's alignment in the City of Norman originates approximately 0.5 miles south of the intersection of 180<sup>th</sup> Ave SE and Alameda Street and will run southwesterly exiting the city limits approximately 0.3 miles southwest of the intersection of 168<sup>th</sup> Ave SE and E. Imhoff Road. He added that the pipeline route through Norman is located on the southeast side of Lake Thunderbird dam and is not located in the Lake Thunderbird watershed.

McLellan stated that the proposed area will traverse existing pipeline and power line corridors where possible and horizontal directional drilling methods will be used for crossings of highways and rivers, including the Little River. He mentioned that horizontal bores will be employed to cross smaller infrastructure such as city and county roads and bridges, including East Imhoff Road. He added that the majority of the project will be constructed primarily by conventional open cut trenching methods and that typical pipeline construction activities would include clearing and mowing vegetative areas as necessary, installing erosion and sediment control measures, site grading, trench excavation, welding and placing the pipe, trench backfill, valve station construction, restoring the site to preconstruction grade, seeding and/or sodding to restore vegetation and removing erosion control measures when pipeline installation is complete.

McLellan stated that approximately 26 acres within the City of Norman will be disturbed by the pipeline construction activity and approximately 6 of those acres are located in the Little River Special Flood Hazard Area Zone A. He said that construction will occur within a 100 foot wide right-of-way (ROW); 50 feet of which will be permanent and 50 feet will be temporary for construction and additional 25 foot workspaces may also be required in some areas. McLellan also mentioned that one valve station will be located within the City of Norman but outside of the floodplain. He added that pipeline ROW easements were obtained by the applicant through private negotiations with the individual landowners and the City of Norman was not a party to those negotiations.

McLellan said that the Little River floodplain will be crossed by a combination of Horizontal Directional Drilling (HDD) and open cutting. He explained that the HDD under Little River will be approximately 1200 feet long and approximately 50 feet below the Little River stream bed with another HDD under a tributary south of Little River that will also be approximately 1200 feet long and approximately 32 feet below the tributary stream bed. McLellan said that in addition, the pipeline section that will cross East Imhoff Road within the floodplain will be horizontally bored and be 10 feet below the channel on the south side of the road with the remainder of the pipeline located within the floodplain constructed by the the open cut method.

McLellan mentioned that Southwest Environmental Consultants, Inc. (SWCA) has been retained by Plains to conduct an extensive wetland and water body delineation survey per United States Army Corps of Engineers (USACE) guidelines of the proposed Red River

Pipeline from Cushing, Oklahoma to Longview, Texas. He said that this work consisted of on-site field investigations and office methods. He added that the proposed pipeline falls under the jurisdiction of the USACE (Tulsa and Ft. Worth Districts) and is being constructed under the self-verifying Nationwide 12 Permit with Best Management Practices (BMPS) being followed.

McLellan stated that Southwest Environmental Consultants, Inc. (SWCA) has been retained by Plains to evaluate the potential to impact federally listed threatened and endangered (T&E) species associated with the Red River pipeline. He said that the species evaluated were identified from the United States Fish and Wildlife Service (USFWS) T&E species list for all impacted counties and that the SWCA also sourced the Oklahoma Natural Heritage Inventory, which provides known occurrence records for listed species that occur in or near the project area. McLellan also said that a field reconnaissance was conducted to evaluate the presence or absence of T&E species and suitable habitats for T&E species. He said that based on the evaluations, SWCA has professionally opined that the project will have no effect on the federally listed T&E species within the City of Norman.

McLellan noted that construction of the proposed project will employ Best Management Practices (BMPs) during the course of construction activities, which include clearing vegetation, excavating the pipeline trench, welding and laying the pipe, backfilling the pipe trench, re-establishing preconstruction contours, and restoring permanent vegetation. He explained that after the clearing is completed but before grading begins, erosion/sediment control measures will be installed where necessary to minimize runoff and sedimentation into

adjacent lands, wetlands, waterbodies, roads, or other areas. He said that after completion of construction, the project site will be graded and disturbed areas will be revegetated.

McLellan said that temporary erosion/sediment controls will include; but are not limited to silt fencing, matting, and hay bales. He explained that these controls are designed to keep sediment from flowing off the project site, where it may harm the environment, and these temporary erosion controls will be properly placed and maintained throughout construction. He stated that they will be reinstalled as necessary, until they are replaced by permanent erosion/sediment controls or until construction activities have ceased and permanent vegetation has become established. He added that as part of project restoration, all portions of the ROW impacted, including any wetlands and other water bodies will be restored to preconstruction conditions and contours.

McLellan noted that according to the latest DFIRM, the project site is located in unstudied areas of Little River and Roulette Creek (Zone A). He mentioned that the pipeline route is located outside the Lake Thunderbird watershed, since it is on the east side of the dam and will not impact any Water Quality Protection Zones.

McLellan then discussed the Applicable Ordinance Sections:

4(b)(1) Fill Restrictions– McLellan explained that the use of fill is restricted in the floodplain and that no fill will be brought into the floodplain for this project. He said that material excavated from the trenches and drilling pits will be used as backfill, compacted, and left

slightly above grade to allow for trench settlement. He added that wood chips from the removed trees, seeding, and/or sodding will be placed to prevent erosion in disturbed areas.

4(d)(iii) Special Requirements for Drilling Oil and Gas Wells in Special Flood Hazard Areas- McLellan discussed that all new or replacement flowlines, pipelines, etc. that will cross rivers, streams, creeks and channels shall be bored to be below the stream bed. He said that the depth below the stream bed shall be a minimum of 10 feet and the pipe used for the crossing shall be 1 pipe grade higher, or have a wall thickness twice the thickness of the standard pipe used for the flowline, pipeline, etc. He also said that if the flowline, pipeline, etc. becomes exposed, the crossing must be rebored. He added that the ground surface shall not be disturbed within 50 feet of the river, stream, creek or channel banks. McLellan said that the applicant has submitted plan and profile sheets that indicate the new pipeline will be 10 to 50 feet below stream and channel crossings within the floodplain. He said that the new pipeline will have a 0.50 inch wall thickness under Little River and tributary crossings, a 0.41 inch wall thickness for the East Imhoff Road bore, and a 0.31 inch wall thickness in the open cut areas. He stated that the pipeline will have a maximum operating pressure of 1,480 psi, that it will be pressure tested within the range of 1,857 to 2,064 psi prior to going into service, and the pipeline will be cathodically protected to reduce corrosion potential, therefore the new pipeline meets this section of the ordinance.

5(a)(viii) No Rise Considerations- McLellan stated that for proposed development within any flood hazard area (except those designated as regulatory floodways), certification that a rise of no more than 0.05 ft. will occur in the BFE on any adjacent property, as a result of the

proposed work. McLellan said that the applicant's engineer has provided a letter indicating the project will not impact the floodplain or cause a rise in the BFE, which meets the ordinance requirements.

McLellan detailed Section 429.1(5)(c) of the floodplain ordinance states that approval or denial of a Floodplain Permit Application shall be based on all provisions of the floodplain ordinance and relevant factors. McLellan then stated it is Staff's recommendation that Floodplain Permit Application #573 be approved.

O'Leary then introduced Senior Director of Operations for Plains, Rick McMichael who gave a presentation of prepared remarks detailing the companies' commitment to safety and reliability. He mentioned that in many cases they exceed the safety operating design standards and in the case of the City of Norman's Floodplain Ordinance they were exceeding requirements by installing pipe of greater depth and wall thickness than required, and exceeding the buffer distance from the affected water body. He added that the pipeline route was selected to minimize impact to the environment and to threatened and endangered species. He said that Plains conducted the required environmental and archaeological studies and is constructing the Red River pipeline under a Nationwide 12 Permit from the United States Corps of Engineers. McMichael stated that in the City of Norman there were no species along the pipeline route eligible for listing in the National Register of Historic Places. In addition, McMichael said that this project will have no effect on federally listed threatened or endangered species and that Plains had received a letter from the USFWS concurring this finding. He added that this effort will replace an existing pipeline with a new pipeline and the



construction will be overseen and inspected by Pipeline and Hazardous Materials Safety Administration (PHMSA), the USACE, the Occupational Safety and Health Administration (OSHA) and other applicable permitting agencies. He then introduced Matt Isom, Plains Pipeline Manager of Engineering to discuss some of the technical aspects of the project.

Isom stated that he would be giving a presentation showing the proposed pipeline route and the boundaries of the City of Norman's city limits and mentioned that Lake Thunderbird is to the northwest of the proposed route, which is roughly two miles outside of the watershed. He explained that three types of construction would be done in the area including conventional trenching, boring, and horizontal directional drilling (HDD). He mentioned that the depth would be 50 feet below Little River and more than 30 feet below the tributary crossing a little farther south.

O'Leary then brought the discussion back to the committee for any questions or comments before opening the floor to public comment. Connors asked for further clarification about the two HDDs and the open trenching in between and wanted to know why they were not HDD through the entire floodplain area. McLellan stated that Plains would not be crossing any streams or channels in the area between the HDDs and it was probably more economical to do it that way. Connors then asked if the area was floodplain but with no surface water. O'Leary added that they require boring only under creeks and streams and the area between the HDDs does not have a creek or stream. He asked Isom if it was a cost issue that led to Plains choosing this method and Isom responded that this was correct.

Suneson asked why Plains was boring a greater depth under the northeast section and shallower under the southwest section. O'Leary added that he believed Suneson was asking about much longer lengths. Isom responded that there were much longer lengths to get the standoff distance to the buffer from the feature and that whenever they do these drills they have an entry/exit requirement that has to be met and it has to do with a function of the length of the drill. O'Leary asked if the the two bores are 1,200 feet in length each and Isom responded that they were, and to allow them to stay flat and get different profiles with the ground this was how they designed the drills.

Suneson said that from a Federal Emergency Management Agency (FEMA) point of view, there is no difference between where the horizontal boring and where the trenching is done. O'Leary responded that the area was all Zone A – FEMA floodplain. Suneson responded that he had a problem with the horizontal boring in two areas and trenching across the area because it was all considered Zone A and he could not understand, other than cost, why Plains would not put a horizontal bore underneath the entire floodplain area. Isom responded that to meet the requirements of the permit, they were required to do the HDDs and that was why they had designed it this way. O'Leary replied that the City's ordinance only requires boring under creeks and streams.

Suneson asked what type of material the boring would go through. Isom replied that he did not have the geotechnical boring logs with him at the moment but they could provide this

information at a later time. He stated that more than likely they would attempt to hit the bedrock and stay within it. Suneson responded that he would like to see the data that shows where the alluvium ends and where the bedrock begins within the floodplain. Suneson then mentioned that he was concerned about a release of water from the dam during a flood that could expose the pipeline and asked Isom what the trench depth would be. Isom said that the trench depth would be about 5 feet in open cut areas. Suneson mentioned in the floodplain application that horizontal drilling was not checked and he felt that the application was incomplete.

Suneson then mentioned that he thought it would be helpful if the committee had information presented today about the permitting process and a letter from the USACE. Heather Tuggle, Manager of Environmental Permitting at Plains mentioned that they had received their Pre-Construction Notification from the Fort Worth District and it was not included in materials presented because it does not apply to the Floodplain Permit Application and in the Tulsa district they are constructing the pipeline under the Nationwide 12 Permit. They would need to provide Pre-Construction Notifications for two river crossings but they are not located in the City of Norman so they are not applicable in this case.

O'Leary responded that he would like to address these comments because he would not want this to go forward without a complete application. Suneson asked what the likelihood of the pipeline becoming exposed if the trench between the two horizontal drills was made in loose sand and gravel and flood water runs over this segment of pipeline. Tuggle replied that they

could look up the dam maximum release data from the Oklahoma Water Resources Board (OWRB). Suneson said that a key report from a hydrologic engineer should be included in this application because he thinks a lot of people would feel more secure if a report was provided that showed there was absolutely no chance of the pipeline being exposed during a high water event.

O'Leary then opened up the floor for public comment. Tim La Barge, 116 Squirrely Lane, stated that his residence is not actually within the City of Norman but rather Newalla, Oklahoma which is 7 miles east of Lake Thunderbird. He stated that in the previous Sunday flood the rain helped to push down a fence that put about 8 inches of mud between himself and his vehicle due to pipeline construction. He said that he has been having to walk through mud everyday and he has not been able to get in contact with anyone from Plains to ask them any questions. He asked what he was supposed to do to get in contact with them. He said that he felt like Plains does not want to be responsible for the dirt and silt that washes down the hill and that they did not put up erosion fences. McMichael responded that they were currently assessing the effects from the flash flood from the previous weekend and that they would address any property owner concerns that have anything to do with the pipeline, just as they do on the entire route of the pipeline. He said that he would provide a business card from stakeholder relations for the citizens to contact and that crews were currently out assessing damages and would address his concerns.

Sam Griffey from Moore, Oklahoma who is the Director of the Conservation District in

Cleveland County said they also have an interest. He asked how many professional engineers registered in the State of Oklahoma representing Plains were at the Floodplain meeting today. He said that they needed to have professional engineers and a geologist representing this project state that this project would not be detrimental to the environment. O'Leary responded that they do require a licensed engineers' stamp on the Floodplain Permit Application. McLellan added that Blackshare Environmental from Tulsa, Oklahoma did certify the information in the Floodplain Application packet and it was not a requirement of the Floodplain Ordinance for them to attend the meeting.

Sarah Bass asked if Plains had consulted with local tribes that may have traditional cultural properties on this land and if this information has been made available to the City of Norman. Tuggle responded that they had conducted all of the required cultural and natural resource surveys to comply with Nationwide 12 and that they are working with the Corps of Engineers who had reached out to the local tribes. She added that Plains has also sent letters and maps to all of the tribes along the entire route and are currently working with them.

Mary Francis from Norman then presented O'Leary with a pledge to sue the Floodplain Permit Committee for damages from citizens who have threatened to join a class action lawsuit against each committee member individually to sue for full damages including attorney fees if the committee approves the Plains floodplain permit application to cross the Little River and its malfunction results in the contamination of water in any amount and in any way.

Casey Holcomb explained that at the last Floodplain Permit Committee meeting there was a discussion regarding city ordinance provisions describing protective habitats and that he understood that Plains has stated that there would be no effects on critical wildlife habitats in and near Norman but he would like to request documentation from the Oklahoma Biological Survey (OBS) regarding the wildlife habitat in this critical area that is known to act as a wildlife corridor. Holcomb also mentioned his previous concern about pesticide runoff and that he would like to see a hazard mitigation plan that addresses pesticide runoff. He also asked if the residents that live in Newalla and Little Axe were affected by the city ordinances and permits. O'Leary responded that he did not think many of those questions applied to the Floodplain Ordinance of the City of Norman but that he would let the applicant respond to potential biological impacts that could result from the pipeline.

Tuggle said that in regard to natural resources and biological concerns Plains is complying with all federal and state permitting requirements and selected the current route to have the least environmental impact possible. She noted that they were working with the USFWS and that a letter of concurrence was provided by the agency that found no threatened or endangered species. She added that in regard to pesticide application that they do not use pesticides in their pipeline maintenance activities unless it involves an invasive weed that requires them to apply pesticide for removal and in that case they would use a pesticide that is approved by the Environmental Protection Agency (EPA). Holcomb responded that he would like to see documentation provided to the City in regard to wildlife protection along the route.

McMichael replied that he would like to concur with Tuggle that they do not use any pesticides to control vegetation.

Sturtz asked for a follow up to the question regarding erosion control during construction of the pipeline. Isom responded that during construction they follow Best Management Practices (BMPs) for erosion control, utilizing silt fencing and hay bales and that they said that they will address issues and problems with landowners due to the recent flash flood. O'Leary asked if this was a regulatory issue or a voluntary issue and if they were regulated by the State of Oklahoma for stormwater pollution protection practices. Tuggle replied that Plains is exempt from stormwater pollution laws in the State of Oklahoma but that they do adhere to BMPs.

An unidentified resident discussed erosion on her property from recent flash flooding near the pipeline and O'Leary responded that this was a situation that private property owners would need to discuss with Plains. Griffey then questioned why Plains was able to apply for a permit to build a pipeline in an area where residents were already dealing with effects from a small flash flood. O'Leary responded that the last flood was a significant flash flood because the City received a lot of rain in a short period of time and that there were lots of problems and complaints within the city limits. Griffey then stated that the committee should not come unprepared and treat these people as if their concerns did not matter. McMichael responded that Plains had just found out about the flood and that crews were already out assessing damages. He said that if they find any damages resulting from construction of the pipeline that they will address them with each landowner.

Matt Failing from 6201 170<sup>th</sup> Street in Noble, Oklahoma asked if there was information available as to how the pipeline might handle an earthquake. Suneson said that he gets this question often, and it depends on whether or not the pipeline is located in bedrock or alluvium.

Karen Blasier stated that she wanted to reply to the previous question from Holcomb about pesticides and asked if herbicides would be used to clear brush and undergrowth. McMichael responded that they do not use herbicides and that they only mow the grass.

Steve Ellis stated that he wanted to follow up on the question regarding bedrock versus alluvium and asked if the data regarding the material is readily accessible. He added that he felt concerned about the trenching and filling in the floodplain. Isom responded that it should be fairly easy for them to provide the data requested because they have done geotechnical sampling and analysis on the pipeline but never had an issue with 4 feet of cover on a pipeline. Stansel responded that the committee has seen pipelines along Little River that have been exposed in past flooding events and inquired as to what the costs might be if Plains used HDDs throughout the floodplain. Isom responded that he would have to go back to the office and find this data, because he did not have it readily available. He added that the Floodplain Ordinance required a 50 foot buffer but that Plains was exceeding this amount significantly by doing 1,100 to 1,200 foot HDDs. He added that the drills were far enough apart and deep enough that they do not expect any issues with erosion.



Diane Frost asked if a needs assessment was done to see if there was a financial need for this pipeline that trumped social good, or if the pipeline was just “business as usual”. O’Leary responded that as far as the City’s Floodplain Ordinance is concerned, there is no requirement for a needs assessment. McMichael responded that they also did not do a needs assessment but added that Cushing, Oklahoma is the pipeline “Capital of the World” and probably the biggest storage facility in the world, and that pipelines are a critical part of the nation’s infrastructure that fuels our economy. McMichael then stated that he wanted to remind the committee that this new pipeline is built with the latest technology that is going to replace an old pipeline, which is the safest mitigation measure.

Francis asked if the City of Norman could request an Environmental Assessment from Plains that is more specific to this floodplain permit, rather than the broader requirements of a federal Environmental Impact Statement. O’Leary commented that they had consulted with the City Attorney’s Office and that they could not request an Environmental Assessment but could only request what is in the current Floodplain Ordinance. Tuggle responded that Plains did satisfy the NEPA requirements and that liquid carrying pipelines do not require the full Environmental Impact Statement (EIS) but they did conduct an extensive environmental survey.

Ellis asked if the pipeline that is being replaced is located close to the dam and does it run through Norman. McMichael responded that it is not located in the current route because the

route has changed. Ellis asked if he knew if the new route was upstream or downstream relative to the dam. Isom said that the new route was further east away from the dam. O'Leary asked if the location was probably outside of the city limits and Isom said that it was.

Shannon Shepard said that it came to her attention and the attention of other audience members concerns regarding the safety record of Plains for oil spills, and that she would like to hear more information from the applicant about how this pipeline would be different in our community as opposed to California and Alberta, Canada. O'Leary responded that the committee does not review safety records and that it was not in the City of Norman's Floodplain Ordinance requirements to review it any further. McMichael responded that he was happy to answer the question even though it had nothing to do with the permit. He stated that the pipeline in California and the proposed pipeline are completely dissimilar, because the pipeline in California was an overinsulated line that transported heavy heated material. He explained that this information is public record and the corrosion was caused by heated material under excessive insulation, that the proposed pipeline is not that kind of pipeline and not handling that kind of material. Sturtz replied that he thought he read that there would be cathodic protection on this line also and Isom said that there would be.

Frost said that many audience members know that Cushing is the pipeline "Capital of the World" and that is the reason many citizens have shown up for meetings to protest because they are tired of dirty energy companies in the oil and gas industry, and they want to see us going in a new direction using clean energy sources and do not feel that there is a need for

another pipeline.

Griffey asked what is the leak detection and immediate response guarantee, considering what was done in California destroying a bay area, and how much time and how much oil could be spilled and how will the company prevent a spill from occurring. McMichael replied that this pipeline would be a new 16” pipeline with heavier wall pipe, which is 0.3 to 0.5” thick with a maximum operating pressure of 1480 psi. Griffey asked if there would be a pigging station, where the refuse would be going from the station, and if it would end up at the county. McMichael said they would be operating under DOT regulations. Griffey also asked what the response time would be for a pipeline leak. McMichael responded that they have a dual leak detection system which relies on pressures at the valve station from automatic valves that are remotely controlled and are automatically shut if the pipeline or computer system discovers a problem.

O’Leary then brought the discussion back to the committee for further discussion or action. Suneson stated that he felt that Plains should put more information on their website, such as what has been requested at the meeting to help alleviate citizens concerns and reduce the amount of questions they may have. He also suggested that if there are any homeowners in the audience to take photos of their property before Plains comes, and if there is a problem later on then they will have documentation of the situation before and after the incident. He added that he was personally interested in the alluvium/bedrock issue, what the maximum cubic feet per second could be from the release of water from the dam, and what the effects on the

pipeline could be, and thinks a registered professional engineer should prepare this type of report. Suneson said that he thought this floodplain permit should be delayed to give Plains more time to supply requested data, and to create a website that citizens could use to send complaints to Plains that they could address. Suneson then asked for a motion to postpone to another date so that Plains could provide more requested information and give them time to respond to complaints and public questions. O'Leary said the next available meeting would be July 18<sup>th</sup> or August 1<sup>st</sup>.

Suneson then stated that he would like to get the City Attorney's opinion on personal liability from the threatened lawsuit by the citizens. Leah Messner from the City Attorney's office introduced herself and explained that while this has not reached the point of litigation, she does not want to speculate on what the outcome could be, but her standard advice to a committee would be that as long as they are not acting in an arbitrary or capricious manner outside of their scope, as members of the floodplain committee they would not be exposed to individual liability. She added that she does not believe that it has occurred at this point. O'Leary then asked Suneson to make his motion, and clarify the data that was requested from the applicant; particularly in the non-boring area. Suneson responded that any information that has been brought up at the meeting should be addressed by the applicant, including permits from the U.S. Army Corps of Engineers, the U.S. Fish & Wildlife Service, and other applicable agencies.

O'Leary commented that there was a motion on the floor to postpone Floodplain Application

#573 to July 18<sup>th</sup> with the submittal of additional data, which was seconded by Stansel. O'Leary asked if there was further discussion on the motion to postpone. Connors responded that she thought the committee should only require information that helped them to make their decision based on the floodplain ordinance, and that many comments were made that were not relevant to the ordinance. O'Leary said that he also did not see a basis in the floodplain ordinance that would require Plains to provide the additional requested data. He added that they have had many previous floodplain applications for pipelines located 4 to 5 feet deep below the floodplain and he did not believe that any of those permits were required to supply additional data outside of the Floodplain Ordinance.

O'Leary asked if there were any other comments from the committee and there were none. He then asked for a vote for all those in favor to postpone Floodplain Application #573 to July 18<sup>th</sup>. The vote was 2-4 with 2 in favor, and 4 opposed (Connors, O'Leary, Danner, Sturtz). Motion failed. O'Leary asked if there were any other motions. Danner made a motion to recommend approval with no conditions, which was seconded by Connors. Approved 5-1 (Suneson opposed).

### **Item No. 3, Miscellaneous Discussion**

O'Leary then stated that the filing deadline for the July 18<sup>th</sup> meeting has passed with no applications and the application for August 1<sup>st</sup> is still pending. O'Leary added that the committee was still working with Sherwood Construction regarding the last meeting, where the application was denied, and that city staff understood from that vote that the applicant was

to remove all fill they had previously placed in the floodplain. He said that Sherwood had indicated a desire to appeal the denial to the Board of Adjustment. Sturtz made a motion to adjourn the meeting, which was seconded by Connors. Approved 6-0.