

DUNE ACRES CRISES: PART II. THE 1970's.

Part I.

DUNE ACRES HISTORICAL COMMISSION

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At a meeting of the Town Board on November 8, 1972, Board Member Dan Jenkins reported that the level of Lake Michigan was only two feet below the all time high set in 1860. Heavy rains in the Fall indicated that the level would continue to rise again in the spring of 1973, posing a problem for the town water well (located down the blowout from the Clubhouse). This was only the beginning, of course. In the next few years, the whole water system from the town well to the pipes leading to the West End along the bluff of the dunes (and eventually freestanding from the banks) had to be protected from erosion. Eventually Beach Drive also had to be protected, as the waves were washing it out. And one by one beach front property owners were forced to erect steel barriers against the rising lake until an almost solid wall of steel ran along the foot of the dunes.

The Town Board, especially Jim Halley, the President, spent a good deal of time and effort seeking funding from the Corps of Engineers for projects providing protection from erosion and eventually supervising construction of the projects approved. Jim Halley, an M.I.T. graduate and retired Director of Research at Inland Steel, was an especially able and energetic Town Board President. He died in office, suddenly and unexpectedly, early in 1974. A lot and beach rights on West Road had recently been given to the town by Chuck Wheeler; it was now dedicated as the James Halley Memorial Beach as a tribute to him.

The 1970's were notable not only for beach erosion (and don't forget the alewives and the beavers, still a problem), but also, of course, for the Vietnam War, Watergate, and the Oil Crisis of 1972 which brought us gas shortages and the 55 mile speed limit. Amidst all of this a new crisis arose for Dune Acres.

In August of 1970, NIPSCO applied to the Atomic Energy Commission for a license to build a nuclear powered plant at its Bailly site. This aroused a variety of negative reactions in town for a variety of reasons. There was a certain amount of fear among some residents of radiation from a nuclear plant even when it was working well. There was fear of an accident, although this was before the accidents at Three Mile Island and Chernobyl. The possibility of evacuating Dune Acres in case of an accident was obviously nil, as anyone who waited for a break in Bethlehem Steel traffic at shift time (this was before the traffic light was installed) was aware. An important objection for many people was environmental. The plant was designed to have two cooling towers, each ten stories tall, built on the edge of Cowles Bog. Quite aside from the pollution of the Bog, there was the negative impact of having these towers dominate the skyline at the very edge of the National Lakeshore. Some residents supported the nuclear plant, but when a petition was circulated opposing it, 90 per cent of the residents signed.

How to oppose it was a fairly complicated matter. The decision as to whether the plant could be built lay with the Atomic Energy Commission. The A.E.C.'s procedure was to appoint a 3-person board composed of lawyers and scientists to conduct local hearings. At them the utility would demonstrate in detail how the plant was to be built and operated. If the board was persuaded that all was in order, a license for construction would be granted. Originally, there was no opportunity for the public to participate in the hearings, but by 1970 individuals or groups who could show that they would be affected by the plant were allowed to take part as 'intervenor's' with the right to present witnesses and data and to cross examine witnesses of the utility. It was, in other words, a legal procedure, designed to assess mostly scientific evidence for and against the plant.

Ed Osann, who lived at 92 West Road, had been studying the issue of nuclear power since NIPSCO first showed an interest in it in 1967. He was a graduate engineer and lawyer, a partner in a large patent law firm in Chicago. He had also had some direct experience with the management of an electrical utility company. He and his wife Ruth had been active in the Save the Dunes Council for many years. His study convinced him that nuclear power was hazardous and environmentally threatening, and he determined to seek 'intervenor's' status in the proceedings. But he needed support. A number of Dune Acres residents urged the Town Board to take an active role. The Board believed, however, that it was inappropriate for the Town as such to become involved. They suggested that those opposed should form a citizens' organization to do so. So a group of four residents issued a call for an organizational meeting at the Fire Station in January, 1972. These four were Norman Burns, Professor of Education at the University of Chicago and executive director of the North Central Accrediting Association; Leonard Conklin, a salesman for the R. R. Donnelly printing firm in Chicago; James Creighton, General Superintendent of the Bethlehem Steel works at Burns Harbor, and James Newman, chairman of the history department at Indiana University Northwest. The meeting packed the Fire Station and the group voted to form the Concerned Citizens Against the Bailly Nuclear Site (site, not plant, to bring in those who favored nuclear energy but not at Bailly). Ed Osann and James Newman were elected co-chairmen and fortunately Mildred Warner agreed to serve as Treasurer. Mildred was a highly visible and respected figure in town, and, as head of Dune Acres Real Estate, knew and was known by everyone. No other officers were elected then or ever, but the convenors (Burns, Conklin, Creighton) plus Richard Smith of Smith Motors in Hammond served as an advisory board through the years. Anyone who supported it was a member of the Concerned Citizens, and since almost everyone in town did, the Concerned Citizens was essentially Dune Acres up in arms against the Bailly site.

Ed Osann did the legal work. The task of the Concerned Citizens was to raise funds to support him. Ed was backed up by Herb Read of Furnessville before the A. E. C. and the local chapter of the Isaac Walton League, in which Herb was active joined the opposition. But neither the League nor the Save the Dunes Council (also against the site) had any money at this point, and it was clear from the beginning that Dune Acres through the Concerned Citizens would have to pay the bills.

It was also clear from the beginning that all of this would cost a great deal of money. In the early days, James Newman and Farwell Smith, a weekend and summer resident on West Road, turned for help and advice to a Chicago group (of which Farwell was a Director) which had been involved in several previous licensing procedures -- the Businessmen for the Public Interest (B.P.I.). The experts at the B.P.I. gave them the disheartening news that this affair was not going to be settled quickly, but would typically go on for years and cost at least \$150,000.00. The two Dune Acres men were stunned: how could it be possible to raise \$150,000.00? Undaunted, the Concerned Citizens decided to proceed one step at a time. The initial goal was to raise \$25,000.00. There were 120 houses in Dune Acres. Each supporting family was asked to contribute \$250.00. The first drive in 1972 brought in \$19,000.00. A second drive was held in 1973-74 and raised \$15,000.00 more. Eventually more than \$50,000.00 was raised in Dune Acres.

This was in support of Ed Osann's efforts before the A. E. C. hearing board, paying for transcripts of the lengthy proceedings, for bringing in expert witnesses, for hydraulic testing of Cowles Bog, and eventually for a small hourly fee for Ed, whose firm eventually protested his long involvement on a pro bono (that is, free) basis.

The hearings began in October, 1972, and the Concerned Citizens, the Porter County Chapter of the Isaac Walton League, and Osann, Newman, and Mildred Warner as individuals were admitted to participate as Intervenors (known from then on as the Joint Intervenors). The hearings were heard intermittently from October, 1972 until November, 1973, with 65 days of hearings. The hearings were held four days a week, mostly in Valparaiso, and Ed was present at each. He was also working to keep up his practice in Chicago at the same time. As attorney for the intervenors, he interrogated NIPSCO

witnesses and also called experts to testify against the site from the University of Chicago, Purdue, Valparaiso. In spite of all efforts, the A. E. C. board granted the license on April 5, 1974. The hearing board had been blatantly pro-nuclear and skeptical (although pleasantly so) about evidence presented about safety and environmental problems.

The fight against the Bailly site did not end with the granting of the license. It had, in fact, only begun. The Joint Intervenors appealed to the U. S. Circuit Court of Appeals in Chicago in September, 1974. That Court ruled that the hearings had been deficient in one important respect and canceled the license. This legal victory led to a large celebratory banquet held at the Clubhouse. However, NIPSCO at once appealed to the U. S. Supreme Court, which overturned the decision of the Court of Appeals. NIPSCO now had a clear field to construct a plant and began preparing the site. But the task turned out to be beyond them. At every stage of site preparation, they ran into problems. And at every stage Ed Osann and the Concerned Citizens were in court to make them do it right, requiring them to stop polluting Cowles Bog and from using, for example, pilings that were unsafe. NIPSCO had to keep changing its construction methods and without success. In 1975, the Concerned Citizens were granted a permanent injunction against NIPSCO's latest effort by the federal Court of Appeals -- NIPSCO took this to the U. S. Supreme Court which reversed the circuit court and allowed NIPSCO to proceed in 1976. But even with two assists from the U. S. Supreme Court NIPSCO could not construct an adequate foundation for its reactor. Finally, in 1981, the utility, still trying after 7 years to put in a foundation for the plant, was confronted with still another failure, and gave up the effort. It announced that it was abandoning its effort to go nuclear.

In the long run, the Concerned Citizens, having lost many battles, won the war by attrition. The struggle went on from 1972 until 1981. In all, the intervention did cost, as the B.P.I. had predicted, about \$150,000.00. As time went on, the Save the Dunes Council was able to help as did the state-level Isaac Walton League. In the end, residents of Dune Acres, the Save the Dunes Council, and the League each contributed about \$50,000.00. Throughout the effort, the Business men for the Public Interest provided support services and in the late 70's took over much of the legal work. Indeed, as public opinion turned against nuclear power in the late 70's, the Concerned Citizens were joined in the intervention by the Steel Workers Union, the City of Gary, and the State of Illinois. For the first time, too, an activist group, the Bailly Alliance, was formed and demonstrated in Hammond, Gary and elsewhere. The incident at Three Mile Island in Pennsylvania in 1979 had its effect and when the Chernobyl disaster occurred later on, residents of Dune Acres could feel that the Bailly effort had indeed been justified.

It was a long haul from 1970 to 1981. Through the crucial early years, Dune Acres residents pursued the effort with little more than moral support from outside. Residents raised the money and Ed Osann worked doggedly, risking his career, in opposition to NIPSCO and its large legal staff. Eventually there was much outside help, legal, financial, even demonstrations in the streets. And eventually the long-time, autocratic management at NIPSCO departed, making way for environmentally sensitive leaders with whom Dune Acres has had excellent relations.

Dune Acres was threatened in the '60's and '70's by a marshaling yard and a nuclear plant (not to speak of a rampaging lake). But we won. We can leave town crossing the bog on a still-standing Mineral Springs Road to Highway 12, and we don't have to look at two ten-story cooling towers to the west. Persistence pays.

Dune Acres Historical Commission
Jim Newman, Margaret Doyle

(A more complete record of the Bailly intervention can be found in the publication Steel Shavings, volume 16, issued by the Department of History, Indiana University Northwest.)