

Lessard - Sams Outdoor Heritage Council
Meeting Summary
August 1, 2013

Members Present:

Bob Anderson	Sen. Bill Ingebrigtsen	Scott Rall
Jim Cox	Jane Kingston	Ron Schara
David Hartwell, Chair	Rep. Denny McNamara(Phone)	Elizabeth Wilkens
Rep. Rick Hansen	Sue Olson	

Members Absent: Sen. Tom Saxhaug

Call to order: Call to order at 8:02 a.m. A quorum was present.

Review and approve agenda: Motion by S. Olson to add an agenda item after #9 – Request for legal opinion and change agenda items #6 and #7 to action items per the request of J. Kingston. Motion adopted.

Members Report any Conflict of Interest on Today's Agenda

The following conflicts were identified on members' Conflict of Interest forms:

Susan Olson - Past president of Mower County Pheasant Forever for approximately 8 years, currently a member. Abstain from voting on PA-02, FA-04, WA-02 project for 12 months.

Ron Schara - Has a cabin in the watershed of the Leech Lake Watershed Request – HA-04 – He will recuse himself on HA-04 discussions.

Jane Kingston - Sister lives on Lake Independence – HRE-09. She will continue to fully participate. Three Rivers Park district is the applicant before LSOHC and 97A.056 requires member to be in a leadership position of the applicant organization.

Jim Cox - Past member of MN Valley National Wildlife Refuge Trust – HA-02. He will fully participate, does not have a conflict as defined in 97A.056.

David Hartwell - On the National Audubon Board and Board of Belwin Conservancy which received CPL grant in past. He will recuse himself on discussion of CPL and the Audubon related requests FRE-02 and CPL-1 and CPL-2.

Review and approve minutes – June 4, 2013 & July 9, 2013

Motion by Rep. Hansen to approve the minutes as presented. Motion adopted.

Executive director's report

Mr. Becker requested the council consider approving an additional staff person. Motion by S. Rall to approve the additional staff person and bring the details of the position such as the position description, classification back to the Council.

Bob Anderson - yes	Sen. Bill Ingebrigtsen - yes	Scott Rall - yes
Jim Cox - yes	Jane Kingston - yes	Ron Schara- yes
David Hartwell -yes	Rep. Denny McNamara - yes	
Rep. Rick Hansen - yes	Sue Olson - yes	

Motion adopted (10 – 0)

(00:15:00) Update: Biennial vs. annual recommendation study - Ralph Brown, MN Mgmt & Budget, Management Analysis and Development presented the study to the Council and answered questions. Motion by Rep. Hansen to authorize staff to contract with MAD for the study not to exceed \$22,625 to meet the Council's obligation in law. Motion adopted.

Bob Anderson - yes	David Hartwell – yes	Sen. Bill Ingebrigtsen - no
Jim Cox - no	Rep. Rick Hansen - yes	Jane Kingston - yes

Rep. Denny McNamara- yes
Sue Olson - yes

Scott Rall - yes
Ron Schara- yes

Elizabeth Wilkens - yes

Motion adopted (9-2)

(01:04:14) Update: LSOHC 25 year framework and Call for Requests check –in - Charlie Peterson, MN Mgmt & Budget, Management Analysis and Development presented the request to the Council and answered questions posed by members. Motion by E. Wilkens to contract with MMB not to exceed \$15,375 for the request.

Bob Anderson - yes
Jim Cox - yes
David Hartwell – yes
Rep. Rick Hansen - yes

Sen. Bill Ingebrigtsen - yes
Jane Kingston - yes
Rep. Denny McNamara- yes
Sue Olson - yes

Scott Rall - yes
Ron Schara- yes
Elizabeth Wilkens - yes

Motion adopted (11-0)

(01:21:05) Discussion: Member evaluation and scoring and Request hearing agenda

Metro parks requests – Members discussed how to handle the group and individual submission. (01:49:00) Motion by S. Rall to adopt Chair Hartwell’s proposal and to hear all components of the Met Council’s request as submitted, asking Carver County, St. Paul, and Three Rivers Park District to submit stand alone requests for consideration. And as further discussed, to not hear the overall bundled Met Council request. It was noted Met Council did not request funds for administration by the Met Council.

Bob Anderson - yes
Jim Cox - yes
David Hartwell – yes
Rep. Rick Hansen - yes

Sen. Bill Ingebrigtsen - yes
Jane Kingston - yes
Rep. Denny McNamara- yes
Sue Olson - yes

Scott Rall - yes
Ron Schara- yes
Elizabeth Wilkens - yes

Motion adopted (11-0)

Time per request hearing – members decided on 20 minutes per hearing

Days and length of hearing days – members decided on two hearing days, date to be determined after staff sends out a poll to find out what days people are available.

Requests to be heard – members discussed how to select requests for hearing. The members agreed to begin with a base motion to hear all requests and remove requests from the list by amending the base motion. Jane Kingston moved to hear all requests.

Motion by J. Kingston to remove HRE-11 from the hearing list. Members discussed the 3-acres city park did not meet constitutional criteria. Given the amount of the request it qualifies for the CPL program, the restoration costs average \$60,000 per acre which is extremely high as well. Council members encouraged the applicant to apply to CPL.

Bob Anderson - yes
Jim Cox - yes
David Hartwell – yes
Rep. Rick Hansen - no

Sen. Bill Ingebrigtsen - yes
Jane Kingston - yes
Rep. Denny McNamara- yes
Sue Olson - no

Scott Rall - yes
Ron Schara- no
Elizabeth Wilkens - no

Motion adopted (7-4)

Motion by to remove HAIS-05 from the hearing list. Members discussed this being strictly a capital expenditure and not programmatic in nature.

Bob Anderson - yes
Jim Cox - yes
David Hartwell – yes
Rep. Rick Hansen - no

Sen. Bill Ingebrigtsen - yes
Jane Kingston - yes
Rep. Denny McNamara- no
Sue Olson - no

Scott Rall - yes
Ron Schara- yes
Elizabeth Wilkens - yes

Motion adopted (8-3)

Motion by E. Wilkens to remove HAIS-01 from the hearing list. Members discussed the creation of an endowment and interest bearing account for another public entity was not programmatic in nature.

Bob Anderson - yes
Jim Cox - yes
David Hartwell – yes
Rep. Rick Hansen - no

Sen. Bill Ingebrigtsen - yes
Jane Kingston - no
Rep. Denny McNamara- no
Sue Olson - yes

Scott Rall - yes
Ron Schara- no
Elizabeth Wilkens - yes

Motion adopted (7-4)

Motion by J. Kingston to hear all requests except HRE-11, HAIS-05 , HAIS-01.

Bob Anderson - yes
Jim Cox - yes
David Hartwell – yes
Rep. Rick Hansen - yes

Sen. Bill Ingebrigtsen - yes
Jane Kingston - yes
Rep. Denny McNamara- yes
Sue Olson - yes

Scott Rall - yes
Ron Schara- yes
Elizabeth Wilkens - yes

Motion adopted (11-0)

Motion by Rep. Hansen to hear CPL-1, CPL-2, X-1 and X-2.

Bob Anderson - yes
Jim Cox - yes
David Hartwell – yes
Rep. Rick Hansen - yes

Sen. Bill Ingebrigtsen - yes
Jane Kingston - yes
Rep. Denny McNamara- yes
Sue Olson - yes

Scott Rall - yes
Ron Schara- yes
Elizabeth Wilkens - yes

Motion adopted (11-0)

Opportunity for public to address the council

Kurt Peterson, representing Minneapolis Parks and Recreation Board
Joe Schneider, representing COLA

Request for legal opinion

Councilor Olson asked if the Council has legal assistance to prepare an opinion or analysis of legal questions in before the Council. She moved to refer three questions about the use of OHF dollars and possible limitations on that use. The questions were:

Q1: One of the main tenets of statutory construction is that the specific override the general.

In the constitution amendment, the 4 funds list specific project types for which funds may be spent.

Request – legal research into legislative* history to determine whether those specifics [project types] result in an exclusivity of said project types to the named funds.

*subsequent note, 8-2-13: "legislative" is probably not the right word –what I mean here is that we need to examine the history of the Amendment as it developed from the original single OHF to an Amendment that included all 4 funds, and whether that history indicates that the funds were intended to remain exclusive from one another.

Q2: In statutes, the use of the work "and" would mean that the items linked with the word "and" are all required in order to comply with the statute. M.S. 97A.056 subd 3(a) first sentence – discusses the requirements that must be met for any appropriations recommended by the Council. The word "and" is used 5 times in that sentence, yielding potentially inconsistent results. The work "or" is not used at all.

Request - legal research into legislative history to determine the correct interpretation of that first sentence of 97A.056, subd 3(a), and specifically to determine whether any of the "and" words should be "or".

Q3: Circling back again to the tenet that the specific overrides the general, brings us to subd 3(c) in M.S. 97A.056. Also there is a tenet that the specific inclusion of one thing necessarily excludes other things that are not mentioned. This subsection (c) allows the Council to work jointly with the Clean Water Council to identify projects consistent with the purpose of both the Outdoor Heritage Fund and the Clean Water Fund. However, nowhere in all of 97A.056, which establishes the parameters under which the LSOHC operates, is there any mention of the other 2 funds. This lack of mention of the other funds seems to indicate that the Outdoor Heritage Funds are not an umbrella fund that can be used by any of the other 3 funds for projects that may be deemed to overlap. The Outdoor Heritage Fund can work with Clean Water Fund on mutually beneficial projects, but the constitutionally specified project types that are eligible under the other 3 funds may not be funded with Outdoor Heritage Funds.

Request – legal research into the legislative history to determine whether the exclusion of other funds from 97A.056 subd 3(c) is meant to indicate that projects which are eligible under the other funds are statutorily excluded from the Outdoor Heritage funding.

Bob Anderson - yes

Sen. Bill Ingebrigtsen - yes

Scott Rall - yes

Jim Cox - yes

Jane Kingston - yes

Ron Schara- yes

David Hartwell – yes

Rep. Denny McNamara- yes

Elizabeth Wilkens - yes

Rep. Rick Hansen - yes

Sue Olson - yes

Motion adopted (11-0)

Members also asked Bob Meier, DNR to stand for questions about the Mississippi River carp barrier status, fish tagging mentioned on a council trip, permits to catch rusty craw fish, and bonding request for AIS.

Meeting adjourn at 10:55 a.m.

APPROVED:

Susan Olson, Secretary

Date