

Operating Procedures of the Lessard-Sams Outdoor Heritage Council (“COUNCIL”)

Adopted: December 17, 2008

~~Revisions: May 26, 2010, March 18, 2011, June 21, 2011, August 1, 2012, June 17, 2014, June 23, 2015, October 6, 2015, June 28, 2018, Revised January 29, 2020.~~

Section I. “COUNCIL” Established

A. Powers

The COUNCIL is in the legislative branch of government. The COUNCIL exercises the authorities and powers designated in Minnesota Statutes, section 97A.056 (Exhibit 2). The COUNCIL also exercises powers granted through periodic state laws usually relating to appropriations and the associated programs or issues.

B. Membership and Organization

Membership and terms are defined in Minnesota Statutes, section 97A.056, subd. 2 (a).

A vacancy on the COUNCIL may be filled by the appointing authority for the remainder of the unexpired term. (Minnesota Statutes, section 97A.056, subd. 2 (f)).

Compensation and removal of public members are as provided in Minnesota Statutes, section 15.0575. (Minnesota Statutes, section 97A.056, subd. 2 (f)).

C. Duties

- 1. Recommendations:** The COUNCIL shall recommend an annual legislative bill for appropriations from the outdoor heritage fund established pursuant to Article XI, Section 15, of the Minnesota Constitution and Minnesota Statutes, section 97A.056, subd. 1:

Minnesota Statutes, section 97A.056, Subd. 1. Outdoor heritage fund. An outdoor heritage fund, under article XI, section 15, of the Minnesota Constitution, is established as an account in the state treasury. All money earned by the outdoor heritage fund must be credited to the fund. At least 99 percent of the money appropriated from the fund must be expended to restore, protect, and enhance wetlands, prairies, forests, and habitat for fish, game, and wildlife.

In so doing, the COUNCIL shall consider:

... the outcomes of, including, but not limited to, the Minnesota Conservation and Preservation Plan, that directly relate to the restoration, protection, and enhancement of wetlands, prairies, forests, and habitat for fish, game, and wildlife, and that prevent forest fragmentation, encourage forest consolidation, and expand restored native prairie. (Minnesota Statutes, section 97A.056, subd. 3(a))

The council is directed to establish a conservation partners program, to encourage local conservation efforts, open to local, regional, state, and national organizations. (Minnesota Statutes, section 97A.056, subd. 3(b))

Approval of the recommended legislative bill requires an affirmative vote of nine members of the COUNCIL. (Minnesota Statutes, section 97A.056, subd. 3(e))

2. Periodic Organization: Officers, Make up of Executive committee, Election of officers (how often), Nominations for officers and executive committee.

a. Membership Structure:

An executive committee structure will be made up of the following officers with members serving 2-year terms.

- Chair (1)
- Vice Chair (1)
- Secretary (1)
- Treasurer (1)
- Legislative Member (1)

b. Election of Officers:

- I. Nominations for executive committee position - by written sign-up by member or nomination by another member. Executive committee positions shall be nominated and elected in the following order: chair (1); vice chair (1); secretary (1); treasurer (1); legislative member (1).
- II. Officer's terms are through the first Monday in January of the odd numbered year or until the date of the next election. Elections are to be held in January of the odd numbered year. The chair, vice chair, secretary, and treasurer serve until a successor has been elected.
- III. Distribution of officers among appointing authorities:
 - a. The chair will be elected from among the appointees of all appointing authorities (Governor, House and Senate).
 - b. The vice chair will be elected from among the remaining appointees not appointed by the appointing authority of the chair.
 - c. The secretary will be elected from among the remaining appointees not appointed by the appointing authorities of the chair and the vice chair.
 - d. The treasurer will be elected from among all appointees
 - e. The legislative member will be from either House or the Senate. If prior elections of officers yield an odd number of legislators as officers, then the legislative member's legislative affiliation will balance representation of the legislative bodies.
- IV. Nomination and election of officers will be by the entire COUNCIL membership.
- V. A majority vote of the members present for each position is required.
- VI. Elections will be by written ballot and must indicate.
- VII. Proxy: Members may vote by proxy for election of Executive Committee members only. If a member wishes to vote by proxy, he/she shall provide his/her proxy to the COUNCIL staff and indicate the member he/she wishes to have the signed proxy given to.
- VIII. In order to allow the use of the proxy vote, participating members of the Council must be in the meeting room, not on the phone.
- IX. If a member is participating via phone, the elections will take place via a roll call vote and proxies will not be allowed.
- X. Vacancies in council officer positions due to resignation, removal or death will be filled by election within 4590 days of receipt by the Council of written-notification of the vacancy.
 - a. Until an election is held, the officer vacancy will be temporarily filled by an ascending officer as outlined in Section II, subsections A(1), B(1), C(1), D(1), and E(1).

b. When electing to fill a vacancy, the Council may disregard Section 1, subsection C(2), sub-subsection B(III), "Distribution of Officers among appointing authorities."

D. Operations

1. Duties:

- a. The COUNCIL shall recommend appropriations for expenditures from the outdoor heritage fund.
- b. Additional duties prescribed in law.

2. Reportability:

- a. In addition, and in pursuit of D. 1, above, the COUNCIL reviews and acts upon information provided from the following sources: chair, executive committee, COUNCIL members, subcommittees, staff, Legislature, state, federal and local agencies, citizens and private sector.
- b. The recommendations, findings, and observations of the COUNCIL are forwarded to the appropriate agencies or entities under the signature of the chair or executive director. This includes approving proposed amendments to project accomplishment plans.

3. Quorum requirements

The quorum requirement for the COUNCIL is half of the qualified members plus one. (Minnesota Statutes, section 97A.056, subd. 5 (a)). A majority of the qualified members of any council committee constitutes a quorum. Minnesota Statutes, section 645.09

4. Conflicts of Interest Prohibitions and Procedures

a. Governing conflict of interest:

The COUNCIL is bound by Minnesota Statutes, section 97A.056, subd. 4, "Conflict of Interest" as follows:

- i. A COUNCIL member may not be an advocate for or against a COUNCIL action or vote on any action that may be a conflict of interest. A conflict of interest includes direct or indirect personal financial benefit from a request for funding or funded project. A conflict of interest must be disclosed as soon as it is discovered. The COUNCIL shall follow the policies and requirements related to conflicts of interest developed by the Minnesota Department of Administration Office of Grants Management under Minnesota Statutes, section 16B.98. (See Procedures Regarding Conflict of Interest below)
- ii. For the purposes of this section, a "conflict of interest" exists when a person has an organizational conflict of interest or direct financial interests and those interests present the appearance that it will be difficult for the person to impartially fulfill the person's duty. An "organizational conflict of interest" exists when a person has an affiliation with an organization that is subject to COUNCIL activities, which presents the appearance of a conflict between organizational interests and COUNCIL member duties. An "organizational conflict of interest" does not exist if the person's only affiliation with an organization is being a member of the organization.
- iii. In addition to the above a COUNCIL member may not serve as a project manager for a request for funding pending before the COUNCIL.

b. Conflict of Interest to be Managed Through Procedures:

Members of the COUNCIL have been appointed because of their legislative duties, interest, expertise, or knowledge of the science, policy, or practice of restoring, protecting, and enhancing wetlands, prairies, forests and habitat for fish, game and wildlife. Therefore, certain affiliations may constitute a conflict of interest that must be managed by the COUNCIL, including:

- i. receipt of personal financial benefit from a proposing organization or request for funding being reviewed.
- ii. serving as an employee or governing board member of a proposing organization whose request for funding is being reviewed.
- iii. having a family relationship with someone requesting funds or a staff or board member of a requesting organization.

c. Procedures regarding conflict of interest:

A conflict of interest must be identified before or during the initial request for funding review process. The member must complete the Lessard-Sams Outdoor Heritage Council Conflict of Interest Disclosure Form and file it in the COUNCIL office. If a conflict of interest is recognized during the course of a meeting the member must declare the conflict at the first opportunity. Declaring a conflict of interest means that a member may not advocate for or against the request for funding, or vote on the request for funding. In addition, existing law and institutional policies on conflict of interest cover the COUNCIL members and staff and other legislative staff.

5. Rules of Order

The COUNCIL will use Mason's Manual of Legislative Procedure as the rules of order for the COUNCIL.

6. Open Meetings and Transparency

The COUNCIL will conduct open meetings as described in Minnesota Statutes, section 97A.056, subd. 5, summarized as follows:

- a. Meetings of the COUNCIL and other groups the COUNCIL may establish are subject to Minnesota Statutes, chapter 13D "Open Meeting Law," including provision of public copies of members' materials.
- b. Meetings shall be recorded. Meeting records shall be made available to the public in text or other accessible formats.
- c. Meeting schedules, agendas, and materials shall be made available to the public in advance on-line and via Listserv. The COUNCIL shall establish a Listserv and a web site for the purpose of communicating with the public.
- d. The COUNCIL may make use of video-conferencing to facilitate participation by its members and by those asked to present information to the COUNCIL.

7. Audits

Every two years, the COUNCIL will conduct financial and program audits of the expenditure of appropriations from the Outdoor Heritage Fund and the uses to which they are put to ensure consistency with the Constitutional mission of the Fund, consistent with M.S. 97A.056, Subd. 6:

“The legislative auditor shall audit the outdoor heritage fund expenditures, including administrative and staffing expenditures, every two years to ensure that the money is spent to restore, protect, and enhance wetlands, prairies, forests, and habitat for fish, game, and wildlife.”

8. Land Acquisition Restrictions – Council Process

a. Duties of Land Holders

Holders of an interest in real property must submit a written application to alter land at least 60 days prior to a proposed change occurring. The application will describe the land being altered, the parties involved and any replacement plans.

b. Council Process

- i. Minor conversions or conveyances.** The executive director of the LSOHC is granted the discretion to approve applications for minor conversions or conveyances and report minor approvals to the council and the proposed replacement plans. Council members and the chairs and ranking minority members of the committees with jurisdiction over the Outdoor Heritage Fund must be notified at least 15 business days before issuing such approval.
- ii. Condemnations.** The executive director will notify council members and the chairs and ranking minority members of the committees with jurisdiction over the Outdoor Heritage Fund upon learning of condemnation of Outdoor Heritage Fund property. In the case of condemnation, the condemnation process will proceed without council consideration. Following the completion of the condemnation proceedings, the condemned party will notify the council of the settlement terms and replacement plans. The council may a) accept the replacement plans; or b) instruct the condemned party to deposit the state’s share of the proceeds of condemnation in the Outdoor Heritage Fund.
- iii. All Other Conversions or Alterations.** In the case of major conversions or conveyances, the executive director will forward the application to the council for review and approval and notify the chairs and ranking minority members of the committees with jurisdiction over the Outdoor Heritage Fund that the council will consider the alteration and any replacement plans at the next meeting of the council at least 15 business days from the date of notification.

- c. Replacement Plans and Recordation.** The council must consider and approve the alteration or conveyance and any replacement as a whole. The replacement plan must include an appraisal of the land to be altered or conveyed and if appropriate, an appraisal of the land to be replaced for the altered or conveyed land. The replacement plan must meet the following criteria: (1) the interest is at least equal in fair market value, as certified by the commissioner of natural resources, to the interest being replaced; and (2) the interest is in a reasonably equivalent location and has a reasonably equivalent useful conservation purpose compared to the interest being replaced, taking into consideration all effects from fragmentation of the whole habitat. The applicant must complete the replacement plan and makes notice of funding restriction to the appropriate local government office or repay the Outdoor Heritage Fund within one calendar year of decision.

- d. **Non-Approval.** If the action is not approved, LSOHC will provide applicant an explanation for decision, including, incomplete information, inappropriate exchange, lack of timely notification, and/or improper land use alteration.

Section II. Duties of COUNCIL Officers

A. Chair:

- 1. Presides at Council and Executive Committee meetings
- 2. Serves as primary spokesperson for the Council
- 3. Provides direction to staff
- 4. ~~May appoint a council member to serve as liaison to the administrator of the Conservation Partners Legacy Grant Program (CPL).~~
 - a. ~~The liaison meets on a regular basis with CPL staff and provides the council's perspective on the program.~~
 - b. ~~The liaison reviews funded CPL projects to ensure consistency with the Council's priorities and vision.~~
 - c. ~~The liaison provides the Council with periodic updates on substantive issues regarding the CPL program.~~
 - d. ~~In coordination with LSOHC staff, the liaison requests CPL testimony before the council, as appropriate.~~
 - e. ~~The liaison position is concurrent with the Chair's term of office.~~

5.4. Travel Procedures:

The Lessard-Sams Outdoor Heritage Council supports its members' and staffs' need to acquire additional information regarding habitat issues outside of official council meetings. The Council has developed policies in this regard.

In response to a written request from a Council member, the Council's Chair and the designated legislative member may authorize travel. Requests must contain the date, location, time, estimated expense, purpose and the benefit accruing from travel. Allowable travel includes:

- a. Attendance and fees for meetings, conferences, or workshops on topics directly related to prairies, wetlands, forests, and other habitats for fish, game, and wildlife habitat conservation
- b. Participation at an event that marks the acquisition, restoration, and/enhancement of projects funded with Outdoor Heritage Funds.
- c. Non-LSOHC sponsored tours of habitat sites.
- d. Tour a prospective project site to gain information helpful in the evaluation of a request for funding.

All events to which Council members attend must be, at a minimum, open to a wide variety of legislative branch members and staff who are responsible for Environment and Outdoor Heritage Fund recommendations and appropriations.

Members and staff attending non-LSOHC sponsored events must comply with MS [10A.071](#) CERTAIN GIFTS BY LOBBYISTS AND PRINCIPALS PROHIBITED. Guidance on how to comply is available in the [Advisory Opinions](#) issued by the Minnesota Campaign Finance and Public

Disclosure Board [_at](mailto:disclosure@cfbreport.state.mn.us)

<http://www.cfbreport.state.mn.us/advisory/aoSelect.php?MainList=Gift+Ban>

All travel requests must complete the authorization process 14 days prior to travel date unless exempted by the Chair and the designated legislative member. The member traveling, or a representative of multiple members, will submit a written summary of the learning experience to be shared with council members along with their expense report.

Out-of-State travel requires the concurrence of LCC policies.

Expense reports are to be submitted after authorized travel and will be reimbursed as follows:

- a. Legislative members follow the per diem guidelines of their respective bodies;
- b. Citizen members receive per diem as provided in [Minnesota Statutes 15.0575](#), subd. 3 and expenses as outlined in the most recent approved [Legislative Coordination Commission Legislative Plan for Employee Benefits and Policies-Commission Member Expense Reimbursement & Per Diem Policy and Procedures](#);
- c. Council staff will be reimbursed as outlined in the most recent approved [Legislative Coordination Commission Legislative Plan for Employee Benefits and Policies](#).
- d. Per diem will not be paid to public or legislative commission members that participate in a meeting by phone instead of in person ([LCC Fiscal Services Office Policy, updated September 11, 2015](#)).

B. Vice Chair

1. Performs duties of chair in absence of chair.
2. Member of Executive Committee

C. Secretary

1. Performs the duties of the vice chair in absence of vice chair
2. Member of the Executive Committee

D. Treasurer

1. Performs the duties of the secretary in absence of secretary
2. Member of the Executive Committee
3. Prepares reports on the balance and projected revenue in the Outdoor Heritage Fund in conjunction with staff
4. Tracks the operating budget and reports to the council on the expense throughout the year.
5. Works with staff to develop annual operating budgets.

E. Legislative Member

1. Performs the duties of the secretary in absence of secretary and treasurer
2. Authorizes legislator travel
3. Provides primary communications link with the other legislative bodies
4. Member of the Executive Committee

F. Minutes

Any COUNCIL member, except the chair, may move approval of the minutes. The acting Secretary and chair of the meeting at which minutes were approved will sign the minutes.

Section III. Committees

A. Executive Committee

The Executive Committee:

1. Reviews and acts upon matters brought forth by the chair and Executive Committee members, discussion material provided by executive director.
2. Recommends action to full COUNCIL
3. Reviews and recommends COUNCIL Administrative Budget to the Council.
4. Approves accomplishment plans and periodic payment authorization for conduct of COUNCIL recommended projects and programs. And reports such approvals to the council.
5. Gives policy and program direction to COUNCIL operations.
6. Oversees audits and compliance
7. Recommends statutory changes to the COUNCIL.

B. Personnel Committee

Annually reviews performance of the Executive Director and recommends candidates for the position.

C. Other Committees of the Lessard Council

The Chair may appoint other committees.

Section IV. Staff

A. Executive Director

1. The executive director serves at the pleasure of the Council. The Council selects and recommends the individual who will serve as the COUNCIL's Executive Director to the Legislative Coordinating Commission.
2. Duties of the executive director are to:
 - a. Hire, fire, organize, supervise, and otherwise administer the regular staff, within the budget and staffing limit authorized by the COUNCIL and in collaboration with LCC per [MS97A.056, subd.3.](#)
 - b. Hire temporary staff and interns outside the limits above, subject to budget availability and in collaboration with LCC.
 - c. Administer all COUNCIL affairs.
 - d. Interact with the Minnesota Legislature and legislative staff.
 - e. Bring to attention of Chair and/or COUNCIL, matters relevant to COUNCIL programs.
 - f. Administer the COUNCIL budget. Reviews for approval all non-member expenses.
 - g. Make corrections consistent with an approved accomplishment plan.
 - h. Review current COUNCIL programs.
 - i. Develop new programs at the direction of the chair.
 - j. Maintain communications with the legislature, private sector, non-governmental, federal, state and local government agencies.
 - k. Make preparations required for all COUNCIL meetings.
 - l. Provide staff needed by COUNCIL and COUNCIL subcommittees.
 - m. Serve as exclusive liaison between consultants and Chair, COUNCIL and committees thereof.

- n. Approve accomplishment plans changes, which will help achieve the intended effect of any appropriation. Significant accomplishment plans amendments judged by relative size of the proposed amendment or by the significance of the impact on the intended effect of the program, must be reported to COUNCIL for information.
- o. Manage auditors responsible for auditing the uses of the Fund.
- p. Assign responsibility and delegate authority to other staff as appropriate.
- q. Direct preparation of annual reports on COUNCIL activities and accomplishments.

Section V. Respect in the Workplace/Discrimination and Harassment

A. Jurisdiction of the Legislative Coordinating Commission (LCC)

- 1. [LCC and LSOHC are committed to provide employees and Council members a work environment free from unlawful discrimination and harassment. Current law notwithstanding, nonlegislative Members and staff of the LSOHC are under the jurisdiction of the LCC and should refer to LCC's Policy Against Discrimination And Harassment.](#)
 - a. [To report unlawful discrimination and harassment, members and staff of LSOHC may contact the Chair and/or Executive Director, or refer to the LCC Discrimination and Harassment Reporting Contact List.](#)

Attached Exhibits

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| Exhibit 1 | Minnesota Constitution, Article XI, Section 15 |
| Exhibit 2 | Minnesota Statutes 2009, 97A.056 |
| Exhibit 3 | Expense Reimbursement (excerpt from Commissioner's Plan) Chapter 15, Pg. 64-66 |
| Exhibit 4 | Minnesota Statutes 15.0575 – Administrative Boards and Agencies Compensation |
| Exhibit 5 | Minnesota Statutes, Chapter 13D , Open Meeting Law |
| Exhibit 6 | Minnesota Statutes 3.055 and Minnesota Statutes 13D.06 Enforcement of Open Meeting Law |
| Exhibit 7 | MN Department of Administration, Office of Grants Management Operating Procedures, Policy 08-01 |
| Exhibit 8 | Minnesota Statute 10A.071 Certain Gifts by Lobbyists and Principals Prohibited |
| Exhibit 9 | Legislative Plan for Employee Benefits and Policies |

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| Exhibit 10 | <u>LCC – No Per Diem Payment for Members that Participate in a Meeting by Phone</u> |
| Exhibit 11 | <u>LCC’s Policy Against Discrimination And Harassment.</u> |
| Exhibit 12 | <u>LCC Discrimination and Harassment Reporting Contact List.</u> |
| Exhibit 13 | <u>Minnesota Campaign Finance & Public Disclosure Board – “Advisory Opinions”</u> |