

**LESSARD OUTDOOR HERITAGE COUNCIL (LOHC)**  
**MONDAY, MARCH 23, 2009**  
**ROOM 500 NORTH, STATE OFFICE BUILDING**  
**8:00 A.M. – 11:00 A.M.**

Members Present: Senator Ellen Anderson, Les Bensch, James Cox, Wayne Enger, Representative Bob Gunther, Representative Rick Hansen, David Hartwell, Senator Bill Ingebrigtsen, Michael Kilgore – Chair, Darby Nelson, Scott Rall, Bob Schroeder. Staff: Acting Executive Director – Bill Becker, Greg Knopff, Janelle Taylor.

**1. Call to Order**

Chair Kilgore called the LOHC meeting to order at 8:00 a.m. A quorum was present.

**2. Review and Approve Agenda**

Motion to approve the March 23, 2009 agenda. **Motion prevailed.**

**3. Approve Minutes of March 16, 2009**

Motion made to approve the March 16, 2009 LOHC meeting minutes as drafted. **Motion prevailed.**

The council reviewed the letter from Bill Becker to Ms. Christie Eller, Esq. dated March 18, 2009. The letter requested an Attorney General's opinion on two questions:

- Does the constitution allow Payments in Lieu of Taxes (PILT), for lands acquired with money from the Outdoor Heritage Fund, to come from the fund?
- Is it allowable to use monies from the Outdoor Heritage Fund to establish a trust account from which to pay PILT in perpetuity?

The council reviewed a document entitled, "Outdoor Heritage Fund Projected Cash Position for State Fiscal Year 2010".

Bill Becker provided this information to the Department of Finance and requested that they tell us what impact borrowing would have on our interest receipts. Any month the balance goes negative, you pay interest on the average daily balance at the rate of 1.711%. In the LOHC bill, Subd, 8 Cash Advances – references borrowing dollars from the General Fund.

Scott Rall asked what the timeline is for an organization to receive payment once the project has been completed and payment request submitted. Answer: 3 days.

**4. Legislative Update**

Representative Hansen briefed the council on activity in the bonding bill on the Reinvest in MN. There is an allocation with Reinvest in MN in the LOHC bill.

**5. Discussion and Approval of 2009 Recommendations Bill**

Bill Becker walked through the bill with the council.

Questions/Clarifications:

The provision to require restoration work on land protected by easements or public ownership is not in the bill. The issue will be addressed in the accomplishment plan.

What do the professional services entail? Administration and other items in the project. It was primarily added for the acquisitions.

Cash Advances - Subd. 8 are for FY 10 appropriations only.

Senator Anderson made the motion to change the wording in line 11.16 – 11.17 to read “deficiencies would be corrected within FY 2010...”. **Motion prevailed.**

Project Requirements - Subd. 10 are in the bill and not the accomplishment plan. Bill Becker stated that it was placed in the bill because it reflects our priorities and criteria.

Line 6.32 - “The funds may be advanced in three equal sums...”. Bill Becker stated that the NFWF may be advanced funds.

Line 7.34 “.....grant program management expenses, including *indirect expenses*...” What do indirect expenses include?

#### **Don Waage – National Fish and Wildlife Foundation (NFWF)**

The NFWF is requesting a payment of 6% to cover indirect expenses (administrative costs). A clarification is needed on “indirect expenses”.

Don Waage stated that the NFWF manage grants for other entities with public dollars.

Who makes the decision on what grants will be funded? Don Waage stated that the NFWF would make the decision, but would lean heavily on an advisory committee.

Representative Hansen asked Don Waage if he was comfortable with the boiler plate (listed on page 8) of the bill. Don Waage answered yes.

Representative Hansen asked if a project needed technical assistance, where do those funds come from. Technical expense can be a line item proposal in the grant (up to 3%).

Senator Anderson asked Don Waage if the NFWF would be interested in the program if the administrative percentage was less than the 6%. Don Waage responded as long as their costs are covered.

How was the number on the advisory committee determined? Bill Becker responded that it was the size of the executive committee.

Question asked why the fund isn't being administered in-house. Greg Knopff responded that there are restrictions in the constitution that the same entity (part of the legislative branch and part of the administrative branch) can't operate the program.

Line 14.6 - Bob Schroeder stated for the record “....give “consideration” to contracting with the Minnesota Conservation Corps...” Consideration isn't defined as preference – MCC has an opportunity to bid on projects.

Line item 6.28 and 6.29 Don Waage asked if “organizations” include state and local governments. Wordage could be changed to say including state and local organizations or government entities.

David Hartwell made a motion to adopt the Appropriations Bill that will be forwarded to the House and Senate.

Line 16.9 “.....reasonably equivalent usefulness....” Senator Anderson would like to see “usefulness” changed. Need a more conservation oriented definition.

Line 16.7 – 16.10 - Motion made to add new language as follows, “the interest is in a reasonably equivalent location and has a reasonably equivalent useful conservation purpose compared to the interest being replaced.” **Motion prevailed.**

Line 14.5 – 14.6 – Motion made to add new language as follows, “provide that all restoration and enhancement projects are on land permanently protected by conservation easement or public ownership”. **Motion prevailed.**

Line 7.10 – Motion made to add new language as follows, “must include amount of habitat restored, enhanced or protected”. **Motion prevailed.**

Line 7.27 – Motion made to add new language as follows, “be selected to sit on any advisory panel”. **Motion prevailed.**

Line 12.17 – 12.21 – Motion made to add new language as follows, “plant vegetation or sow seed only of native ecotypes to Minnesota and preferably of the local ecotype using a high diversity of species grown as close to the restoration site as possible; if the planting of vegetation or sowing of seed is a component of the accomplishment plan;” **Motion prevailed.**

Line 17.31 – “interest in the real property; the entity receiving the transfer of property is responsible for”

Line 17.32 – “...this section, must certify to the Lessard Outdoor Heritage Council acceptance of all manner of obligations and responsibilities held by the prior owner”.

Bob Schroeder made a motion to add the new language (17.31 and 17.32). **Motion prevailed.**

Where “Lessard Outdoor Heritage Council” is referenced throughout the bill, replace it with “or successor as provided by law”. Staff will insert where appropriate.

David Hartwell made a motion to add the new language (or successor as provided by law). **Motion prevailed.**

Line 14.9 – 14.11 – This rider is also found in the LCCMR appropriation bill. The language to be used to shield an agreement.

Line 7.34 – Motion made to add the new language as follows, after the word expenses “related to this grant program”. **Motion prevailed.**

Line 10.15 – Motion made to add the new language as follows, after the word management “in FY 10 and FY 11” for duties... **Motion prevailed.**

Line 14.9 - add new language “Legislative Coordinating Commission recommendation by the” Lessard Outdoor Heritage Council. **Motion does not carry.**

Senator Anderson’s staff is recommending splitting this bill in an appropriation and policy bill.

Scott Rall made the motion to split the bill into an Appropriation Bill and Policy Bill (after 17.32). **Motion prevailed.**

Amendments on the bill are finished.

Testimony on the Bill

**Jane Prohaska - Minnesota Land Trust**

Line 7.20 - Ms. Prohaska asked for clarification on the wording “...Wildlife habitat plans”. Plans refers to “projects”.

Motion made to change the wording on line 7.20 to “...Wildlife habitat projects”. **Motion prevailed.**

Motion made to change the wording on line 11.5 – 11.6 “...For acquisition of interests in real property...” **Motion prevailed.**

Motion made to change the wording on line 13.21 to “... (3), including identification of”. **Motion prevailed.**

Motion made to change the wording “perpetual” conservation easements to “permanent” conservation easements where referenced in the bill. **Motion prevailed.**

**Isis Stark – Nature Conservancy**

MN Land Trust and the Nature Conservancy have the same concern on the language used in Line 7.23 – 7.25.

David Hartwell made the motion to change the wording on line 7.23 – 7.24 to read “must be on land permanently protected by conservation easement”. **Motion prevailed.**

Motion made to change the wording on line 13.9 to read “the restoration, including but not limited to site preparation”. **Motion prevailed.**

Motion made to adopt and recommend the Appropriation bill (sections 1 and 2).

**ROLL CALL**

Bill Becker stated that we need a Roll Call vote.

Senator Ellen Anderson – Yes  
Lester Bensch – Yes  
James Cox – Yes  
Wayne Enger – Yes  
Representative Bob Gunther – Yes

Representative Rick Hansen – No  
David Hartwell – Yes  
Senator Bill Ingebrigtsen – Yes  
Darby Nelson – Yes  
Scott Rall – Yes

Bob Schroeder – Yes

Chairman Michael Kilgore – Yes.

**Motion prevailed 11-1.**

Motion made to adopt and recommend the Policy bill (sections 3 and 4).

## **ROLL CALL**

Bill Becker stated that we need a Roll Call vote.

Senator Ellen Anderson – Yes

Lester Bensch – Yes

James Cox – Yes

Wayne Enger – Yes

Representative Bob Gunther – Yes

Representative Rick Hansen – No

David Hartwell – Yes

Senator Bill Ingebrigtsen – Yes

Darby Nelson – Yes

Scott Rall – Yes

Bob Schroeder – Yes

Chairman Michael Kilgore – Yes

**Motion prevailed 11-1.**

Chair Kilgore stated that the LOHC has fulfilled its first official responsibility to meet the deadline in making recommendations to the legislature on the FY 2010 appropriations. He thanked the council for their hard work.

## **6. Discussion of Strategy and Next Steps**

Representative Hansen and Senator Anderson informed the council on how the two bills will go through the legislative process. Representative Hansen is requesting that the entity's requesting funding be present during the committee hearings. He also stressed the importance of having council members in attendance. Council members are also encouraged to talk with legislators just prior to the committee hearing. Senator Anderson stated that letters of support to legislators should be positive.

Chair Kilgore and the legislators on the council may need to make amendments where necessary. Bill Becker will provide council members with the dates of the committee hearings. He will also prepare a LOHC summary that can be distributed to the legislators.

Chair Kilgore will work with Bill Becker, Greg Knopff and Janelle Taylor to get the bill jacketed and a transmittal letter sent to the House and Senate leadership and the Governor this week.

Les Bensch volunteered to coordinate an outstate meeting for the council (possibly Fergus Falls area).

Chair Kilgore recommended that the council start working on the strategic plan. Bill Becker will look at dates to hold council meetings prior to the end of the session. First order of business is to reflect on where the council has come and ways to improve the process.

Scott Rall asked to be sent the audio link for the committee hearings that affect the LOHC.

Bob Schroeder made a couple of suggestions for possible inclusion in the transmittal letter. 1) PILT issue – adopt a proposal to guide the council in decision making in the future; 2) Legislature to consider identifying an approach for projects that don't meet the constitutional amendment criteria but are viable projects. Senator Anderson stated that steps are being taken to enable more public participation and guidance.

## **7. Adjourn**

Motion to adjourn the LOHC meeting at 11:00 a.m. **Motion prevailed.**

**Approved:**

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Mike Kilgore, Chair

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Darby Nelson, Secretary