

**Lessard-Sams Outdoor Heritage Council Meeting
Meeting Summary
August 3, 2018**

Members Present

Bob Anderson, Chair
David Hartwell
Jane Kingston
Jamie Swenson

Julie Blackburn
Denny McNamara
Ron Schara
Rep. Leon Lillie

Rep. Dan Fabian
Barry Tilley
Sen. Andrew Lang
Sen. David Tomassoni

Members Absent

None

Call to Order: Call to order at 8:08 a.m. A quorum was present.

Review and Approve Agenda

Mr. Tilley requested a brief conversation regarding easements during the agenda item 7. Dakota County Easement Vacation. Motion by Mr. Tilley to approve the agenda for August 3, 2018 as presented. **Motion adopted.**

Review and Approve Minutes – June 28, 2018

Motion by Mr. Tilley to approve the minutes. **Motion adopted.**

Conflicts of Interest:

Member David Hartwell noted a Conflict of Interest with ML 2019 / FY 2020 proposal FRE 01: Floodplain Forest Enhancement – Mississippi River – Phase III. He will recuse himself from any decision on that individual proposal.

(00:04:21) Executive Director’s Report

Executive Director Mark Johnson provided an overview of recent staff appearances including a celebration ceremony of the first completed CREP easement and a half day forest habitat tour hosted by the superior national forest.

During the ML 2018 session the legislature directed program managers who will be acquiring land to provide townships with notification. Mr. Johnson noted that there is not a free comprehensive list of all Minnesota townships, and suggested program managers contact the county office to get township contact information.

Mr. Johnson addressed a MOHA advertisement in the most recent Outdoor News that contained inaccurate information about the Council and use of Outdoor Heritage Funds. Mr. Johnson noted he contacted the editor of Outdoor News and president of MOHA, and they are working to fix the inaccuracies in the ad.

Chair Anderson attended the Eagle Lake enhancement project dedication ceremony hosted by Ducks Unlimited. Chair Anderson provided comments about the ceremony and pointed member’s attention to the signage at the site.

(00:15:28) Information: Enforcement of Outdoor Heritage Fund Requirements

Mr. Johnson introduced and provided historical context for the enforceability of OHF requirements. In 2016 a question was raised regarding enforcement ability of OHF requirements should a Notice of Funding Restriction (NOFR) or accomplishment plan be violated. Since that time, LSOHC staff has conversed with the Attorney

General's office as to OHF enforcement authority and the appropriate procedure for the Council to follow. Staff received the following two recommendations:

1. As a general rule, LSOHC is to work with House and Senate nonpartisan staff whenever legal guidance is needed.
2. For Council recommendations of enforcement activity or legal action on behalf of the Council, the Council should forward its recommendations to the DNR for consideration. The DNR will then assess the situation for appropriate application of actions. If the DNR feels necessary, they may then engage the office of the Attorney General
3. Any Council recommended action involving enforcement activity or legal action may likely have financial requirements. As a result, the Council should consider that forwarding a recommendation for enforcement without providing appropriate financial resources may result in an unfunded mandate. Consequently, the Council should consider a funding process to provide necessary finances in the case enforcement activity or legal action is necessary via DNR or Attorney General.

Council members discussed the ability to enforce OHF requirements, where legal fees should come from, and the appropriate entity responsible for enforcement. Members requested a thorough discussion on OHF enforcement authority and the appropriate procedure at a future meeting with the DNR and nonpartisan House and Senate legal staff.

(00:35:31) Information: Constitutional and Statutory considerations of out-of-state use of OHF

Mr. Johnson provided an overview of situations when OHF money has been spent outside of Minnesota. Mr. Johnson noted that the Minnesota Constitution requires that money appropriated from the OHF be spent “for the benefit of Minnesota... to restore, protect, and enhance wetlands, prairies, forests, and habitat for fish, game, and wildlife.” Mr. Johnson noted that the language provides a limitation on the purpose for which OHF money may be spent, not the geographical location of expenditures. Mr. Johnson noted several other considerations that should be taken into account. Council members discussed.

(00:43:21) Action: Communication Plan Information and Discussion

Sandy Smith provided an overview of the development and historical context of the 2011 Communication Plan approved by the Council. Ms. Smith noted that at the time the Communication Plan was developed there was little to report. Since that time partners have fully completed and reported on 5 years (ML 2009 – ML 2013) of appropriations.

Council members discussed if an intern is the best option for improving communications. Ms. Smith noted the intention is to have the intern overseen by a professional at a marketing firm. Council members questioned the reasons for expanding communication efforts. Council members discussed and noted the focus is on accountable reporting of outcomes and not advocating for programs. Members requested additional information regarding measureable outcomes and the costs, duties, etc. of an intern at a future meeting.

Motion by Ms. Blackburn to direct staff to work with LCC to hire a part-time temporary intern to work within the parameters outlined in the memo to achieve improved and targeted communications on the achievements of the OHF Legacy monies. **Motion adopted.**

(01:08:01) Action: Request for Easement Vacation - ML 2014, 5(c) Habitat Protection/Restoration in Dakota County - Phase V

Assistant Director Joe Pavelko introduced the request for easement vacation. In August 2017 Dakota County purchased a 7.4 acre conservation easement from the Smith Trust with the intent to be reimbursed from their ML 2014, 5(c) appropriation. The OHF Notice of Funding Restriction (NOFR) was placed on the property in January

2018. To date, the County has not requested reimbursement of acquisition expenses from the OHF, and thus, no OHF dollars have been spent on the purchase of the Smith easement.

Using a DNR public waters data layer, the easement boundary was positioned based on a GIS-identified river channel. A subsequent survey of an adjacent property revealed two river channels located within the easement boundary. The conservation easement valuation is based on a few factors including the amount of non-restricted development land. The survey discovery of two river channels reduces the amount of non-restricted development land from 1.3 acres to .5 acres, and thus suggesting that the County overpaid for the purchase of the conservation easement.

Dakota County and the Smith Trust have agreed to extinguish the existing conservation easement (Smith Trust to return 100 percent of the payment from the County for the easement), at which time the Smith Trust will donate in fee 7.4 acres of a slightly reconfigured area which the County will designate as a County Park Conservation Area.

Council members discussed and questioned if the Council has an interest in the property as no OHF dollars have been spent on the easement. Conversation between members and staff regarding when the Council has an interest in a property, staff noted that easements are often donated but there are typically other fees associated with those donations (stewardship costs, etc.). Council members and staff questioned the appropriate procedure for rescinding a Notice of Funding Restriction.

Motion by Mr. McNamara to have the appropriate authority sign a release of the Notice of Funding Restriction to allow Dakota County to proceed with the easement vacation. **Motion adopted.**

(01:54:46) Discussion: Proposal Evaluation and Hearing Selection

Mr. Johnson reviewed the process for selecting proposals for hearings. Council members discussed which proposal to hear and the length of each presentation. Members discussed and agreed to not hear O1: DNR Contracts Management or O2: Restoration Evaluations. Motion by Ms. Kingston to have 20 minute presentations over 2 days. **Motion adopted.**

Members discussed which proposals should be heard. Motion by Ms. Blackburn to hear all proposals that received an average score of 70 or above. **Motion failed.**

Motion by Mr. Hartwell to hear all proposals that received an average score of 65 or above. Motion to amend by Sen. Tomassoni to hear all proposals. **Motion to amend adopted. Motion as amended adopted.**

ML 2019 / FY 2020 proposal hearings will take place September 6 – 7, 2018.

(02:38:10) Opportunity for Public to Address the Council

Rick Heller, unofficial representative of twice exceptional and print disabled, spoke to the accessibility of Council documents.

Meeting adjourned at 11:25 a.m.

APPROVED: September 6, 2018. Signed copy on file with LSOHC staff.

Bob Anderson, Chair

Date:

Ron Schara, Secretary

Date: