



LOST NATION-NEW LANDING RCD

March 11, 2014 Time: 7:00PM

I. Call to Order – Marty Portner called the meeting to order at 7:03PM

Board Members Present

Marty Portner – Vice President

John Harris – Secretary

Tim Spelde – Member at Large

Board Members Absent

Glenn Baldwin – President

Steve Larry – Member at Large

II. Pledge of Allegiance

III. **Motion to Approve the Agenda** – Tim motioned to approve the agenda and John seconded the motion. The board approved the motion unanimously. [03-14-01]

IV. **Motion to Approve the 1/14/14 and 2/20/2014 Minutes – 1/14/14 Minutes** - John motioned to approve the 1/14/14 minutes and Tim seconded the motion. The board approved the motion unanimously. [03-14-02]
2/20/14 Minutes - Tabled

V. **Motion to Approve the Treasurer's Report** – John motioned to approve the treasurer's report and Tim seconded the motion. The board approved the motion unanimously. [03-14-03] Marty said that there was a lot of activity related to the grant this past month and Becky agreed. Marty asked about any big expenditures and Becky said that that would show up in next month's cycle. He asked about the energy bills for the LCC and Becky said that the gas bill went down tremendously thanks to the plastic that Shawn put on the windows and when he cleaned the furnace and changed the furnace filter. In January and February the gas bills were over \$600 each but in March it went down to over \$200. They paid about \$10,000 to Wendler and about \$1,000 to Rebecca for work related to the grant. The board discussed the work that is being done on Ed Bettner's property and Tim said he wondered how much water was coming off of Hay Rd and whether that was affecting their progress. Marty asked how they were doing on their grant matching and Becky directed Marty to the last two pages of the grant budget report in which it shows that they have matched \$22,018.34 of in-kind and cash match out of the \$120,000 that they have budgeted. Ed Bettner has matched \$11,715 out of their \$120,000 budgeted match. Becky said that she'll be applying for their first EPA reimbursement soon.

VI. Directors Reports

A. **Marty Portner – No Report**

B. **John Harris – No Report**

C. **Tim Spelde** – Tim contacted Sue Hill from the POA about reestablishing security for the spring and summer. Becky confirmed that she spoke with Jack and they are back on the job. John mentioned some e-mails that someone sent to the RCD anonymously in response to the letter that the RCD sent out and he stated that he doesn't respect who is sending those e-mails and he is sure that the POA board wouldn't respect the person sending those either. Marty said that if a comment comes in unsigned, they would just toss it since they don't have any way to respond to it.

VII. New Business – No New Business

VIII. Guests Comments – Don Finn – Don said that speaking personally, it strikes him as the RCD is digging in their heels and that the POA is doing the same thing and that is not good for the community. Don wants the issue resolved and he wants the POA and RCD to cooperate. He said that he knows that the POA is waiting for a response from the RCD and in his mind they are doing a lousy job of how they are handling this whole situation, they should have come back with a counter offer but for some reason that don't know how to do it. They are not in a position where they aren't going to do something; their counter offer is that they don't accept the RCD's initial proposal. They are waiting for a counter offer from the RCD. John asked a counter offer to what and Marty said he didn't understand that. Don agreed that the way they are trying to do it is not the way you negotiate but nevertheless, they said no to the RCD's original offer and are expecting the RCD to make a new offer with something less than the \$10,000 a year. Marty said that the POA never communicated that to the RCD. Don said that the reason he is telling them this is because he feels that they didn't convey that very well. Marty asked why Don thinks that the POA can't communicate with the RCD and Don said that his personal opinion is that Mike has the experience or the business sense to sit down and handle this kind of situation. Marty said that certainly there are people on the POA board who can. Don said that if it had been up to him, he would have locked himself and Glenn Baldwin up in a room together they pounded out an agreement to take back to their perspective boards and it would have been done with. Tim said that the POA may have painted themselves in a corner with the letter that they sent out to the public and now they have gotten their feedback and they have to answer to the constituents in the neighborhood. Don said that it was a terribly written letter that was sent at the spur of the moment – if they were going to send something they should have sent one that asked what people's thoughts were on the POA negotiating with the RCD, instead, the letter that they sent didn't give responders any room for variance in their response – just all or nothing. Tim said that they felt good about their meeting with the POA and thought that they had a productive discussion. Don said that he wasn't at that meeting so he doesn't know what was said – when he asked the POA about it their response was that they were waiting for another offer from the RCD. Marty said that the RCD put in the letter to the community that they were reaching out to the POA once again and want them to engage with the RCD but after they told the RCD no, there is no reason for the RCD to think that they want to do anything. Don said that when the POA said no to the RCD's offer, they weren't saying no to everything. Marty said that he spoke with Mike Robinson before the RCD wrote the letter to make sure that there was no other offer coming back from the POA and Mike said flatly that there is no chance of the POA coming back with an offer to the RCD. Don said that Mike should have told Marty that the POA was waiting for another offer from the RCD. There are people on POA board that are trying to look at the long-term and what is going to happen in 3 or 4 years not just for this year and regardless of what Mike said to him, that is what they are waiting for and Don wanted to pass that along. Marty asked if board if they think that he should call Mike Robinson and take him up on this deal and Don said that he is not associated with the POA board to answer that and Marty said he knew that but he wished that Don was or that a POA board member would step up and say something because then he would have the confidence that would come from someone on the POA board acting in an official capacity. Don said that he is not acting in an official capacity. Marty said that the RCD can't put itself in the position where it is negotiating with itself – they have made an offer and the next sensible thing in a negotiation would be a counter offer. Don said that that might not be the way to solve the problem and that Marty has to look at what the end result is and not lose sight of what his goal is– he can't always go the most common way to go, sometimes he has

to work with what he has. Marty said that he hasn't lost sight of the goal; he's just a little befuddled that this information is coming to the RCD through him rather than from someone on the POA board. Don said that no one on the POA board even knows that he is there talking to the RCD. If the RCD board wants him to sit down with Mike, he'd personally sit down with him.

Dave Shaw – Dave said that he's been to the POA and the last RCD meeting and has done some research on both sides and he's been here since 1997 when the LCC was just a picnic shelter. He has a little history on how it came to be and how they got to where they are. He was at the meeting where Jerry explained how the RCD got the property and at a very low price and the improvements that they are all enjoying were funded by both the community POAs. The POA's joined together and spent over \$90,000 to improve the building and the reason that they deeded to the RCD was because the RCD could buy the materials for the improvement tax free. They pooled their money with the RCD to make the community center what it is now. Dave said that he recalled that there was an agreement when they made the improvements of the building that the community would be allowed to use the building – that is how they got here and how the building came to be. Now the RCD is trying to go back on that agreement. Marty asked if Dave has any evidence of an agreement between the RCD and POAs for that and Dave said no, he was going off of memory. He's been out here a long time and involved with the POA and he pays taxes to the RCD and dues to the POA and considers this facility to be the community's center, not the RCD's piece of property that they built as an income-producing facility. He feels that it is something that they acquired for the lake, for the community, for the betterment of all of us. John said that he doesn't want to see the community center go but the law is that it has to be covered. Dave said that he wanted to address what the statute said that the RCD is referencing. Dave said that he is not an attorney but is somebody that is familiar with law – he was licensed by the federal government to operate a nuclear power plant and have dealt with law. Marty asked if Dave has dealt with the law as an attorney representing a client and Dave said no. Dave quoted the statute that the RCD board is referencing and said that when reading the part those talks about a "revenue producing facility", he feels that although the RCD charges people fees to rent the facility, it's not designed to raise money for the district. Marty said that it may not have been designed that way but that is what it has become – the RCD charge people to rent the building and collect revenue for it. If they charge for the use of the building and collect revenue for it then by definition it is a revenue-producing facility. Dave also wanted to discuss the word "defray" that was in the statute – he said that defray doesn't mean to cover completely all costs and Marty agreed. Dave said that because they were charging fees for private usage they were meeting the letter of the law and Marty said that they were following the law regarding private usage but in terms of POA and public community usage. He added that the RCD has a legal opinion from their attorney that directly contradicts everything that Dave just said and he would rather take the opinion of an attorney who has worked in Ogle County for 60 years and knows case law. Dave asked what would happen if they didn't follow that recommendation and Marty said it's a violation of law and the State's Attorney gets involved and there's an investigation and people get asked questions and they determine if there is a breach in the law and whatever penalties apply – whether having to go to jail or being fined. If the RCD gets fined then that cost would be passed on to the taxpayers and they don't want that. John quoted the statute "If the board determines to operate any such recreational facility, it shall establish for the revenue producing facility rates and charges which at least defray all fixed maintenance and operating expenses." Dave said that it does that right now – it defrays the cost, it doesn't say that it has to cover it – it says

that it has to defray it – you guys (the RCD) are choosing, because your income has gone down from taxes that you need more money to be able to do the work to it that you haven't been doing for the past 10 years. Marty disagreed. Dave said that the RCD's tax revenue has gone down from \$180,000 to \$140,000 and Marty agreed with that statement. Dave said that now the RCD is looking for ways to make money and Marty said that Dave's statement is making a cause and effect relationship that is not true. The reason that they are doing it is because it is an unfair burden on the taxpayers for the taxpayers to fund the maintenance of this building. On the one hand, some people, like private individuals, have to pay to use this building. The POA, on the other hand, for decades, have not paid a penny in rent for any meeting, social event or other activity that they have had in this building and that is not fair. Dave said that on the other side of that if the RCD paid the POA dues on the property that they own – he asked if the RCD pays the POA dues and Becky said that they used to. Marty said that there would be a legal question as to whether government owned land can even be assessed by the POA, a private organization and a private organization cannot assess a value to a public land to charge dues and assessments. Dave said that the RCD is using the land and building for the taxpayers at no cost to them and that is a good thing. Dave thinks that they are following the law already and that even though they could charge more rent for use of the building to defray more costs but he doesn't think that have to but that they are choosing to this. Dave said that at the POA meeting Marty stated that the offer that they made to them was not really an offer, it was just a first negotiation – you told them that and they have the right to refuse the offer and Marty said or counter offer and Dave agreed that they could have counter offered but they chose not to. Marty said that to him that means that the negotiation is over – he even called Mike to make sure that the POA didn't have a counter offer before he sent the letter and Mike said no. Dave said that the POA felt that the presentation that Glenn gave was an ultimatum and then Marty said no, this is the beginning of a negotiation. Looking at what the RCD's rules say, looking at what he's seen at the few meetings that he's been to, and knowing what he knows about the building since he's been here since 1996, he's familiar with how the community got to where they are today – he wishes he had the records, he is sure there are someplace. Marty said that he wishes there was a record of that offer that he is talking about but he thinks it was a nudge and a wink – a hey, let's put one over on the state and we'll do it this way to save money – Marty said that he doesn't know what the terms of that offer were but as far as the board is concerned it is folklore because they have no evidence of it. Dave said he will ask the POA if they have any record of it although back then there were two boards and now there is only one and not all of the paperwork moved to the new office. Marty said that even if they could produce such a document, it's by definition illegal according to the law – it would be conspiracy between the RCD and the POA. Marty said that he's not a lawyer either but it sounds like conspiracy to him. If you look at the RCD board and the POA boards that they had in the late 90's - he thinks that this is a better board, more forward thinking and community orientated, especially after the two POA's combined he feels that they are doing more things for the community but the actions that the RCD is embarking on with the letter that they sent and the word on the street and the impression that he has as a community member is that the RCD is trying to take the Lake Court Center away from the community and that is absolutely the worst thing that you could possibly do to this community. Marty said that people can choose to feel and interpret how they want to but he thinks that that is the part of the way that a person's world view is set up in the first place – if they don't like the RCD to start with, then they are going to interpret it at as a threat. Becky said that there is an actual quote from the attorney that the RCD had in 2005 that the POA should be charged as well. It also said that the RCD doesn't have to charge other governmental entities, (such as the LLUD). At that time the

RCD board chose to try to defray the costs only through increasing private rental costs and not through charging the POA but this current board feels that they were wrong in choosing ignore the rule at that time. In terms of the word “defray”, Becky had a conversation with Jerry Sellers a couple of months ago and she thought that the word defray just meant part of the costs like Dave is saying, but Jerry contended that it could also mean everything. Dave said that if the RCD is going to decide to charge the community for public usage of the building, maybe they should pay the POA back what it paid to get the community center to be how it is and Marty said that Dave doesn’t want to get into that because then the RCD could say that they want the POA to pay them back for all of the taxes that they saved them on, which would be hundreds of thousands of dollars. The RCD doesn’t want to do that tit for tat stuff – they want to settle this going forward. Marty thanked Dave for speaking and said that he appreciated that he put this much thought into it and was willing to come to a public meeting and say something.

Don Finn & Dave Shaw – Don said that the LCC is a selling point for people who want to buy into this community and Marty and Dave agreed. Dave said that it is a viable part of the community. Marty said that the RCD is not going to make any sharp turns to the left any time soon – they still think there is a viable solution to this. Dave said that in attending the POA meeting, he feels that the POA board believes that there are negotiations in progress whether Mike believes it or not. Dave said that he will be attending the POA meeting and telling them to do their job also. Dave said that he would like to see the opinion of the attorney that the RCD has regarding rental fees charged for the building and Marty said that they can get that to him. Dave said that the POA did not have a budgeted line item to pay for the rental of the building; he’s not saying that they don’t have the money; he’s just saying that they didn’t budget for it. Don said that he has some ideas that he’d like to share with Marty later on. Dave said that he would rather that Marty not negotiate with Mike; instead go to the POA meeting to discuss it.

Shawn Parish - Shawn said that he missed Don being on the POA board because he did a good job of keeping people on base. Marty agreed.

Motion to Adjourn – John motioned to adjourn the meeting at 7:54PM and Tim seconded the motion. The board approved the motion unanimously by roll-call vote. [03-14-04]

March 11, 2014 Motion List

1. Tim motioned to approve the agenda and John seconded the motion. The board approved the motion unanimously. [03-14-01]
2. John motioned to approve the 1/14/14 minutes and Tim seconded the motion. The board approved the motion unanimously. [03-14-02]
3. John motioned to approve the treasurer’s report and Tim seconded the motion. The board approved the motion unanimously. [03-14-03]
4. John motioned to adjourn the meeting at 7:54PM and Tim seconded the motion. The board approved the motion unanimously by roll-call vote. [03-14-04]