



# LOST NATION-NEW LANDING RCD

## January 14, 2014 Time: 7:00PM

### I. Call to Order

Board Members Present:             Marty Portner – Vice President             John Harris – Secretary  
                                                                           Tim Spelde – Member at Large             Steve Larry – Member at Large

Board Members Absent:             Glenn Baldwin – President

### II. Pledge of Allegiance

**III. Motion to Approve the Agenda** – Steve motioned to approve the agenda and John seconded the motion. The board approved the motion unanimously by roll-call vote. [01-14-01]

**IV. Motion to Approve the 9/24/13 Executive Minutes**-tabled

**Motion to Approve the 10/08/13 Executive Minutes** - tabled

**Motion to Approve the 11/20/13 Special Minutes** - Steve motioned to approve the 11/20/2013 minutes and John seconded the motion. The motion was approved with Steve, John and Marty for it and Tim abstaining from the motion. [01-14-02]

**Motion to Approve the 12/10/13 Minutes** - tabled

**V. Motion to Approve the Treasurer's Report** – Steve motioned to approve the treasurer's report and Tim seconded the motion. The board approved the motion unanimously by roll-call vote. [01-14-03] Marty asked about the water bill that they pay every two months to the LLUD and Becky said that that is for the Lake Court Center only and that a few years ago the LLUD eliminated the water availability charges for the other RCD properties that they used to incur. Steve asked about the portapotty and Becky said that they only keep a portapotty at the N. Beach year round and that is for the fishermen. Barb Wiese asked whether the RCD had budgeted for Security for next year and Marty said that they haven't planned their budget for next year yet, the current budget is good until April 30, 2014.

### VI. Directors Reports

#### A. Marty Portner

**1. Motion to Approve Amendment # [01-14-07] Modification of Chapt. 2, Sect. H. Voting With Only 3 Members Present** – Marty read off amendment # [01-14-07] (see attachment 1). Steve motioned to approve amendment #[01-14-07] Modification of Chapt. 2, Sect. H. Voting with Only 3 Members Present, and John seconded the motion. The board approved the motion unanimously by roll-call vote. [01-14-07]

**2. Motion to Approve Amendment # [01-14-08] Modifying Ch. 2, Section H. Voting Via Electronic Media** – Marty read off amendment #[01-14-08] (see attachment 2) Sue Hill asked for clarification that being on vacation didn't count toward being absent and Marty and Steve said that the board members could be anywhere. Sue stated that the statute specifies that this only applies if the board member is absent only due to (i) personal illness or disability; (ii) employment purposes or the business of the public body; or (iii) a family or other emergency. Marty said that Sue is right – it would have to be one of those qualifying reasons. Jerry asked if the person on the phone counted as the third person for a quorum and Marty said no – there have to be 3 board members physically present already. Jerry asked if who verifies that a board member meets the criteria and is not just on vacation. Marty said that it would have to be based on the honor system. If it is obvious that they are on vacation, then the board would know that they don't meet the criteria, otherwise, if the member states that they are ill or on business, or have a family emergency, then the board will take their word for it. They would have to make arrangements in advance to

be allowed to vote via electronic means. Dave Shaw asked whether they needed to specify that a board member has to be in attendance by electronic means and Steve said that the amendment covers that by referencing the Open meetings act that outlines that requirement. John motioned to approve amendment #[01-14-08] Modifying Ch. 2, Section H. Voting Via Electronic Media. Steve seconded the motion and the board approved the motion unanimously by roll-call vote. [01-14-08]

**B. John Harris – No Report**

**C. Tim Spelde –Volunteers to take Lake Water and Sediment Depth Readings** - A few years ago, Tim and a few volunteers gathered this data using the same protocol that they paid professionals to do several years ago, which involved using a pole and a GPS reader, and married it up with the last professional report that they got. Steve came to the fishing club and asked them to help again with taking silt level readings from different areas on the lake to use when they are ready to dredge. Members of the fishing club agreed to help with this with Tom Clarey spearheading that. Marty asked if they still had the data that was originally gotten and Tim said that they have both the bathymetric survey that was done and the readings that the volunteers took the last time. Jerry Sellers said that the bathymetric survey that Tim references had 350 points of reference on the lake using a GPS. Jerry is questioning whether the fishing club volunteers will have the time or the expertise to take 350 point readings on the lake as well as put together a report on the data. He does not believe that the fishing club has the resources to do that. Tim said that the focus will be on the two inlets. He agrees with Jerry that it would be a pretty tall order to do the entire lake, which they did by taking readings in the different pools outlined in the report. The data that the volunteers gather would go to the engineering firm so that they can figure out the cubic yards that need to be removed. He'd like to give it a try anyway and if it is not up to the standards that the engineer would need to give them a professional report then they would look into spending the over \$10,000 that it would cost to get the professional survey done. Jerry suggested that they let the engineering firm know that there will be volunteers taking these measurements and ask them how many points they will need to accurately do a dredging program. He doesn't think that they would have to do Schings Park because it is shallow enough there to walk across so they would just do the sediment basin on Flagg Rd. and the inlet coming in on Clear Creek and then the peninsula on up to the dam. Tim said that it's a good challenge – he'll take that back to Tom to make sure they know what they need to go after and how to marry it up with the old bathymetric survey. Steve said that he doesn't think that they need a scientific survey to identify where the major areas of silt are and he doesn't believe that they will be going over by the dam to dredge; however, they will be going after the siltiest areas of the lake and he feels that the fishing club volunteers, under Tom Clarey and Tim's leadership and expertise can get a lot of data over a 3-month period. Steve said that the engineer Dick Baumann is engaged in this plan and so they are already doing what Jerry suggested. Shawn Parish offered his assistance as a volunteer to help in taking the measurements.

**D. Steve Larry –** The Upper Babbling Brook project team is meeting tomorrow to get an update on the progress of phase 1, take a review of the budget to keep everyone on task and under budget, and finalize the plans for phase 2, which will go out to bid around March so that work can start in the summer since that is Ed's down time as a farmer and it'll be the best time to get in there on dry land.

**1. 2016 Dredging Plan –** Steve created an outline of a dredging plan for the RCD to consider once the Upper Babbling Brook BMP is completed. (see attachment 3)

**2. Lake Stabilization: The Final Chapter Project (FCP)** (see attachment 4) The EPA sent a report to Rebecca of all of the projects that they were doing and on the first page dealt with Lake Sara in Effingham that

they were using a shoreline stabilization process that used a barge to lay the rock (possibly RR4) about 10 feet away along shorelines that they couldn't get to by land. Steve will have Rebecca research the possibility of the RCD applying for a grant to use that method of stabilization on Lost Lake, probably around 2015. Jerry said that he looked at that previously and may have some information on it – they had found that that method was cost prohibited because you have to first build a road into the lake that is able to support massive amounts of stone and the rental of that barge to place the stone is astronomical. Marty said that they would look at grants to help assist with that. Steve added that Lake Sara was able to do the work with the assistance of a grant and that there is money to be had to do this type of stabilization that heretofore they didn't believe was available. They are going to look into it so that at the very least they can say that they looked into the opportunity and that they would be remiss if they didn't do that. Tim would like to look at the possibility of using rock to stabilize the peninsula in that manner – they haven't gotten a final report from Rebecca on the effectiveness of the vegetative stabilization that was done there with the coir logs, but just from his personal observations, he doesn't see a lot of plant life that took hold there. Even now, while it's frozen, he thinks that they could easily haul rock there using sleds – he has a deer sled that could use to carry it over the ice. Steve said that there would be nothing wrong with doing that and that if they wanted to and that they wouldn't need Rebecca's expertise to do it. He would put the rock in just inside the log line on the shoreline side. It would just be a matter of the cost of the rock – he'd want to use RR4 sized rock and it would need to be state approved, which is denser than regular rock. Tim asked if they could get rock in the winter and Steve said that he will talk to Ed. Marty said that he talked to Joe Rush and asked him for an assessment of the lake and how it was in terms of water quality and how much better they can expect it to get. Joe responded in an e-mail which Marty will send to the board. Marty is sure that Joe has more ideas for the lake and he'd like to talk to him more in the future on it.

**VII. New Business – Review of Unreleased Executive Sessions** – John motioned to approve the recommendations that Glenn made for the unreleased executive session minutes and Steve seconded the motion. The board approved the motion unanimously. [01-14-04]

**VIII. Guests Comments**

**Dave Stewart** – Dave found a power point on the Lake Sara stabilization and he e-mailed it to John Harris. The used 55 tons of rock on the project – the cost of the grant was \$500,000. Lake Sara is an 800 acre lake. Steve said that they will also be able to get more information on it from the EPA.

**Don Finn** – Don asked if Marty or someone else from the RCD board would be available for the POA meeting on Saturday to answer any questions that they might have and Marty said that he would try to make it – he asked at what portion of the meeting it would be discussed and Barb said that it would probably be before the committee reports. Marty asked if the POA has anything new on what they are going to do in response to the RCD's request for an annual rental fee to use the LCC and Don said that nothing has been discussed among the POA board members. Marty asked if they were waiting to hear feedback on the poll question that they sent out with the dues and assessments bill. Barb Wiese said that she didn't even know they were sending that out until she saw it in the newsletter. She added that due to the timing of the mailing, there wasn't time for them to have a meeting to approve the mailing before it was sent out.

**Jerry Sellers** – Jerry said he would like to see the deed to the LCC to find out how the building came into the RCD's possession and what they paid for it. Jerry does not believe that the POA transferred it to the RCD; rather, it might state that it came directly from a mortgage company such as AMI. Marty said that if there is a deed on file it would be on file with the county office. Becky said that there is a copy of the deed in the RCD office records.

Marty said that he would like to know that information too. Steve said that they can find that out for Jerry; however, he was curious as to the Jerry's purpose of finding it. Jerry said that he wants to know what the RCD paid for the building and added that he has a problem with the RCD charging the POA \$10,000 a year in perpetuity. Jerry doesn't believe that the POA deeded it to the RCD for the purpose of tax exemption. Steve responded that the RCD owns the building and that if a private entity owned the building, they would be paying property taxes on the building and sales tax on the materials to maintain and repair the building. Steve added that whether the building was deeded to the RCD by the POA or not, the RCD owns the building because if they didn't, someone else would be paying taxes on it. Jerry asked if the RCD board can produce that deed. Steve said that they can get that deed information for Jerry but at the end of the day, the RCD owns the building because they don't pay taxes on it. Jerry said that the POA does not pay taxes on their common properties and Sue Hill clarified that they don't pay taxes on their green spaces but they do pay taxes on their office building. Jerry said that the POA may be able to not pay taxes on the LCC too if they owned it and could prove that it is for the use of the community. Don is researching the matter and has determined that the POA formed about the same time that the RCD took ownership of the building and he believes that it was transferred directly from the bank that foreclosed on it to the RCD. Steve said that as owners of the building, the RCD must follow the state statute that says that they must charge fees to defray all fixed and maintenance costs of the building. Don said that they haven't followed the state statute for 25-30 years and Steve said that it doesn't matter because now that they have discovered that there is one, they need to follow it going forward. Jerry said that in 2006, when he was on the board, they used the same argument and the building was packed with 100 people and it was put down under political pressure from the community and so the RCD backed off on that. Steve said that what they tried before is not today and Steve said that "I as a board member am not going to stand before a judge and say I know what the law is but I ignored the law". Becky said that from what she has been able to gather from the RCD records, the Lost Nation POA and the New Landing POA both paid to have things done to this building, such as turning it into a shelter then into a building. From that information, she has inferred that the POAs had ownership of the building or at least a vested interest in it. Becky said that it would be great if the POA could consider the building a tax exempt status, but they would still not get a break from state sales tax on the materials to maintain and repair the building as the RCD does and it is her understanding that that is why the RCD took ownership of the building. John said that if Jerry was on the board at the time that they made the decision not to charge the community for public use of the building, was it documented anywhere? Becky said that in 2006, the RCD board raised the private rental rates from \$50 to \$150. There was a backlash from that of the rental use being cut in half and much more cancellations. When they tried to charge for public community use, Jerry is right in stating that there was such a back lash that they decided to try to recoup the costs through just raising the private rental rate, which unfortunately backfired as they only took in about \$500 more in revenue that year even though the rates were tripled because the rental use went down dramatically from an average of 27 rentals down to 11. Steve said that the statute does allow the RCD to lease the building so the RCD could still maintain ownership of the building for tax exempt purposes but the POA, for example, could lease the building from the RCD. Tom Wendling suggested that at the last POA meeting but there wasn't much response from the POA board. Marty suggested that the RCD and POA should meet together to try to negotiate this – the RCD has made their first offer and is looking to the POA to respond. Marty said that there are people who live outside the POA who also pay taxes to the RCD and so have a right to use lake and RCD facilities. Becky said that the RCD and POA have an

agreement that allows people who live in the district but not in the POA to obtain a free POA road pass to access RCD properties.

Someone asked what the budgeted amount is to maintain the building and Becky said that they budget about \$12,000 on utilities, \$2,000 on repairs, and \$1,000 for supplies.

**Jerry Sellers** asked if they pay for water usage on the building and Becky said that they pay about \$170 a month for water usage. He asked what they have that is revenue producing other than the pop machine and Marty said building and campground rentals and boat rack and boat dock stickers. Jerry asked if the RCD shares the revenue that they receive from the boat docks with the POA and Marty, Steve and Becky collectively said no, Steve added that they use the money that they generate from the boat docks to maintain them. Jerry asked who would have liability if someone were to get injured on the docks or there was damage done and Marty said that the RCD does as the lake is their property and the docks are in the lake. Jerry asked what about if something happens as they are walking across POA property in order to access the docks and racks and Marty said that it depends on where it happened and what level of negligibility is assigned to each entity by the judge. Don Finn said that if it is on POA property and there is negligence proven then it would be the POA's property and if it was on RCD property then it would be the RCD's responsibility.

**Rich** – Stated that he is proposing that the mailer request from the POA asking for their opinion on whether to pay the RCD \$10,000 for annual usage of the building did not have enough information on it to make a qualified vote. Marty and John agreed. Don said that they were asking for people's opinion and he doesn't know if the board is going to assign a value or not in their decision.

**Jerry** – said that looking at his tax bill it is the 2<sup>nd</sup> highest tax that he pays and now the RCD is asking the POA for money. Marty said that he wishes that what they were doing currently followed the statute, but it doesn't. Marty said that if the POA cares enough to continue to allow the community to use the facility free for public events, then the POA should be willing to negotiate. Steve added that they are not expecting the POA to be responsible for the entire portion, instead, they would subtract the costs associated with having an office and RCD meetings.

**Don** - said that the members of the community are just as much RCD constituents as that are POA members, and he thinks that it is incumbent on this community to work together to get a reasonable solution. Don said that the proposal that the RCD made to the POA came across as a threat and people don't work well when they think they are being threatened. Marty said that it wasn't the RCD's intention to come across as an "or else" proposal; however, if that is the way they saw it, then that is the way they saw it and he'd rather that they forget that and move on.

**Rich** – said it is all about the information here on the building and the maintenance costs of this building and who is going to fund it. He feels that there needs to be a study done on it and it can't be done in 20 minutes. Once the study is done, that results in an accurate number, whether it be \$10,000 or not, that would be appropriate over casting out a proposal and blindsiding the POA. There is no history on the building that shows the maintenance costs and. Steve said that the budget is available on the RCD website. Barb and Sue also said that there was an assumed underlying threat to the presentation.

- IX. Motion to Adjourn to Executive Session – LCC** – Steve motioned to adjourn the meeting and John seconded the motion. The board approved the motion unanimously at 8:32PM. [01-14-05]

1. Steve motioned to approve the agenda and John seconded the motion. The board approved the motion unanimously by roll-call vote. [01-14-01]
2. Steve motioned to approve the 11/20/2013 minutes and John seconded the motion. The motion was approved with Steve, John and Marty for it and Tim abstaining from the motion. [01-14-02]
3. Steve motioned to approve the treasurer's report and Tim seconded the motion. The board approved the motion unanimously by roll-call vote. [01-14-03]]
4. Steve motioned to approve amendment # [01-14-07] Modification of Chapt. 2, Sect. H. Voting With Only 3 Members Present, and John seconded the motion. The board approved the motion unanimously by roll-call vote. [01-14-07]
5. John motioned to approve amendment #[01-14-08] Modifying Ch. 2, Section H. Voting Via Electronic Media. Steve seconded the motion and the board approved the motion unanimously by roll-call vote. [01-14-08]
6. John motioned to approve the recommendations that Glenn made for the unreleased executive session minutes and Steve seconded the motion. The board approved the motion unanimously. [01-14-04]
7. Steve motioned to adjourn the meeting and John seconded the motion. The board approved the motion unanimously at 8:32PM. [01-14-05]

## Attachment 1

### Amendment #[01-14-07]

#### Modification of Chapter 2, Section H.

#### Voting With Only 3 Members Present

**Chapter 2, Section H. – Voting:** The yeas and nays shall be taken upon the passage of all ordinances, and upon all propositions to create any liability, or for the expenditures or appropriation of money, and in all cases at the request of any trustee and shall be entered upon the minutes of the proceeding. The act of majority of trustees present at a meeting in which a quorum is present shall be the act of Board **unless there are only 3 members of a 5-member board present at a meeting, then the affirmative vote of 3 members is necessary to adopt any motion, resolution, or ordinance per the Illinois Open Meetings Act # (5 ILCS 120/1.02).**

See Below:

“(5 ILCS 120/1.02) (from Ch. 102, par. 41.02)  
Sec. 1.02.

For the purposes of this Act:

"Meeting" means any gathering, whether in person or by video or audio conference, telephone call, electronic means (such as, without limitation, electronic mail, electronic chat, and instant messaging), or other means of contemporaneous interactive communication, of a majority of a quorum of the members of a public body held for the purpose of discussing public business or, for a 5-member public body, a quorum of the members of a public body held for the purpose of discussing public business.

Accordingly, for a 5-member public body, 3 members of the body constitute a quorum and the affirmative vote of 3 members is necessary to adopt any motion, resolution, or ordinance, unless a greater number is otherwise required."

## Attachment 2

### **Amendment #[01-14-08] Modification of Chapter 2, Section H. Voting Via Electronic Media**

**Chapter 2, Section H. – Voting:** The yeas and nays shall be taken upon the passage of all ordinances, and upon all propositions to create any liability, or for the expenditures or appropriation of money, and in all cases at the request of any trustee and shall be entered upon the minutes of the proceeding. The act of majority of trustees present at a meeting in which a quorum is present shall be the act of Board unless there are only 3 members of a 5-member board present at a meeting, then the affirmative vote of 3 members is necessary to adopt any motion, resolution, or ordinance per the Illinois Open Meetings Act # (5 ILCS 120/1.02).

**Voting Via Electronic Media:** The President may, at his/her discretion, require a vote of the entire 5-member board including those not physically present at a scheduled public meeting. In such cases, the agenda will reflect such a requirement and specifically identify the motion/business item(s) requiring such a vote. Board members unable to attend said meeting will be allowed to cast a yea or nay vote via electronic media as defined in the Illinois Open Meetings Act (5 ILCS 120/7 Sec. 7)

See below:

“(5 ILCS 120/7) Sec. 7. Attendance by a means other than physical presence.

(a) If a quorum of the members of the public body is physically present as required by Section 2.01, a majority of the public body may allow a member of that body to attend the meeting by other means if the member is prevented from physically attending because of: (i) personal illness or disability; (ii) employment purposes or the business of the public body; or (iii) a family or other emergency. "Other means" is by video or audio conference.

(b) If a member wishes to attend a meeting by other means, the member must notify the recording secretary or clerk of the public body before the meeting unless advance notice is impractical.

(c) A majority of the public body may allow a member to attend a meeting by other means only in accordance with and to the extent allowed by rules adopted by the public body. The rules must conform to the requirements and restrictions of this Section, may further limit the extent to which attendance by other means is allowed, and may provide for the giving of additional notice to the public or further facilitate public access to meetings.”



## Attachment 3

### RCD 2016 DREDGING PLAN

#### 2014

##### June-August:

- Update/complete lake depth/silt survey with Fishing Club volunteers
- Identify Lead Volunteer and map out plan to complete survey including compiling data

##### September:

- Submit data to Wendler Engineering to determine areas to be dredged, estimate amount of silt to be removed, explore best methodology, explore estimated costs, etc.

##### October-December:

- Begin to research dredging firms that might be available/interested in bidding on dredging

#### 2015

- Work/negotiate with Nachusa to secure a place to put dredged material for dewatering.
- Create 2016 Action Plan and budget

#### 2016

- Early spring, bid dredging project to begin early fall

## Attachment 4

### **RCD Lake Stabilization, The Final Chapter Project (FCP)**

#### **(Activity Outline 1/8/14)**

1. Survey Shoreline and Identify/Prioritize vulnerable sites.
  - Include photos and exact as possible footage for each site
2. Explore engineered solutions for each site, incorporating Lake Sara type solutions for the most difficult sites to stabilize
  - Include “location” visits to previous 319 Grant recipients like Lake Sara
3. Interview potential contractors for each phase of the work to be done, including the “Lake Sara” barge application contractor.
4. Create a budget based on cost estimates
5. Create/Submit 319 Grant application

#### Timeline

##### **2014**

- Begin preliminary discussions with RCD Board, Rebecca Olson and Wendler Eng.
- Complete Shoreline Survey utilizing volunteers

##### **2015**

- Begin to explore engineering solutions
- Complete site visits utilizing volunteers
- Organize Project Team

##### **2016**

- Interview barge application contractors
- Create overall engineering plan
- Create a preliminary budget

##### **2017**

- Prepare and submit 319 Grant Application

##### **2018**

- Begin Project Implementation based on 319 Grant Approval