



Date: November 06, 2003

Present: Joe Gargano - Vice President
Joe Olliges - Secretary
Amy Spelde - Treasurer
Fred Stegbauer - Personnel

Absent: Tina O'Malley - President

Guests: Bob Bortman Henry Cachel
Tom Clarey Frank Durkin
Chuck Jolicoeur Karen Kreger
Robert Kreger Lorraine Murray
Ray Murray Dan Nicolini
George Schwamberger Jerry Sellers

Employees: Don Bluemel - Absent
Becky Breckenfelder
Mason Moody - Absent
Mike Schiltz

I. Called To Order: Joe Gargano called the November 06, 2003 Lost Nation New Landing River Conservancy District of Illinois meeting to order at 7:01PM.

II. Pledge of Allegiance

Joe G. asked the guests of the meeting to refrain from speaking until the end of the meeting, when everyone will be afforded the opportunity to speak. He added that there would be some statements made later that may be considered controversial and he doesn't want a lot of debating back and forth as there has been in the past. Joe asked if there were any guests that wished to speak about anything not already on the agenda.

Frank Durkin asked to speak. He explained the details of the 27 years that he and his wife have lived in this community and the different areas that he has served like the Lost Nation POA and the fishing club. He noted the recent highlights and accomplishments of the RCD board. Frank feels that, regardless of any negative comments that the RCD board has received in the past, in the last two years of Tina's administration, the board has accomplished more than any previous administration had in the last ten years. He praised the RCD's development of the Lake Management Committee to address the short and long-term objectives of Lost Lake. Examples of the short-term achievements include: major dredging of both inlet streams, enhancing and designating Schings Park, improving the North Beach with a new concrete boat ramp, adding structure along the North Beach to improve the fishing there (which includes the kid's annual fishing derby), providing permits to lake front property owners to improve their property while the lake was down, donating a portion of RCD property to the township for the EMT building being built there, improving all the signage at the various RCD properties and pursuing an aggressive

annual fish stocking program. While an example of long-term achievements include: initiating outside lake improvement consultants to report for major lakeshore redevelopment (to improve the present shoreline erosion, water clarity and lake plant program). Frank added that at the last fishing club meeting he asked the membership if they wanted to continue the status quo of interfacing with the RCD, working with them on various lake management projects or do they want to consider themselves a social group. 99% wanted to continue the status quo in helping the RCD achieve their short and long-term objectives. He concluded by thanking the RCD for their time and wishing them continued success.

III. Agenda: Joe G. motioned to move Amy's report and the treasurer's report to the end of New Business, after item E and to move the approval of shoreline improvements after the approval of the minutes. He asked all in favor to say aye. Motion passed unanimously. [11-03-01]

IV. Minutes: Fred motioned to accept the September 29th Special Meeting minutes. Joe O. seconded the motion. Motion passed unanimously by roll-call vote. [11-03-02]

Joe O. motioned to accept the minutes from the October 2nd meeting. Fred seconded the motion. Motion passed unanimously by roll-call vote. [11-03-03]

V. Shoreline Improvement Requests

1. Kreger: Joe O. and Joe G. went to the Kreger's property earlier today to look at what they were proposing and both were in favor of approving it. Joe O. motioned to accept the Kreger's shoreline improvement request. Fred seconded the motion. Motion approved unanimously by roll-call vote. [11-03-04]

2. Tim Hurlehy: Ken Oltmanns submitted the request on behalf of Tim Hurlehy. Joe O. motioned to accept Tim Hurlehy's shoreline improvement request. Fred seconded the motion. Motion approved unanimously by roll-call vote. [11-03-05]

3. Richard Freuh: Hasn't turned in application yet, to be approved next month.

VI. Board Member Reports:

1. Tina O'Malley –See New Business –Scheduling of Special meeting for RV/boat Parking

2. Joe Gargano Dredging

To date, the RCD has spent \$149,287.13 on dredging, having completed the removal of the larger of the two islands and the dredging at Schings Park and is currently dredging at the Clear Creek Basin. There are some expenditures that have not been factored in yet, to include the stone for the driveway at lots 12 and 13 and a culvert to be installed there. So, more accurately, they're up to around \$152,000-153,000. At the September 29th meeting, the board approved a \$60,000 increase on the amount to spend on the dredging, that is why they are over the original \$130,000 budgeted amount. Joe figured that the contractors were doing the work for about \$3.65 per cubic yard. The contractors have more than met the requirements specified by the contract, removing more than double what was required (44,000 yards or the equivalent of four football fields, 8 feet deep). Joe G., Mike Schiltz and Joe O. and Joe Domick did the grading and seeding at Schings Park and Henry Cachel's lot themselves with the RCD tractor, Joe O's tractor, a tractor borrow from Benesch and a drag from Tom Clarey.

Joe G. had Bill Nordman come out on the shore in front of the Lake Court Center and lower it approximately 18" in front of the dock to allow boats to get to it.

3. Joe Olliges

Goose Deterrent using a Propane Cannon

The propane cannon was featured in a magazine, "The Missouri Conservationist"; it is used mainly to deter geese in areas where various berry crops are grown. The cannon is run off a 20LB or larger propane tank and has a timer, which you can set. It needs to be moved around frequently and shouldn't be used too often in order to retain its effectiveness. It is used in British Columbia as well, however, there is a group out there that is advocating banning the cannons in certain towns due to the noise. The decibels are between 115 and 130, with a range of 1-5 acres. Joe O. feels that other goose deterrents should be tried along with the cannon. The cost of the cannon, with timer, is under \$500 and Fred said that he has a couple of 20-pound propane tanks to use for it. Joe G. motioned to purchase one cannon for goose control, with the cost not to exceed \$500. Fred seconded the motion. Motion carried unanimously by roll-call vote. [11-03-06]

Jerry and Joe O. removed the deck at the North Beach.

4. Fred Stegbauer – No Report

5. Amy Spelde – No Report

VII. Employees

- 1. Mike Schiltz** – Mike is storing the tractor away in his shed for the winter. Fred asked if he could store the weed whacker over there too and Mike said yes.
- 2. Becky Breckenfelder** – Becky read a thank you note from Margaret Olliges on the get-well card and present that the RCD gave her and a note from the Kaminskis, regarding the RCD's progress with dredging this year.

The number of rentals this year is down to 18 compared to 44 last year, however, they still made more money because of the classes that were held this year.

VIII. Old Business

1. Scheduling of Special Meeting for RV/Boat Parking Area

Tina issued a statement, copies of which were distributed during the meeting, in response to what the RCD considers a serious allegation made at the last meeting by the New Landing POA Liaison, Bob Bortman. He felt that there had been a special agreement made in the past that might have legal concerns in reference to it. Joe G. said that he has done a lot of research on the subject and it is his opinion that there was no secret agreement. He read off a couple of sentences from some of the executive sessions that were in question:

December 11, 2001 Exec. Session: Land Acquisition: Jim Berle drew a map showing the approximate size of the land available.....he drew an area at the back Northern section of the land that would be for possible parking for RVs, campers, boats, etc. Jim stated that this parking would be available for anyone within the taxing district.

Joe G. said that there was a question about the LNPOA representatives being present at the meeting and the reason they were there was because Ron Mangini (of the Lost Nation POA, had started the inquiry about the purchase of the land.

January 8, 2002 Executive Session: Land Acquisition: Steve Clark was aware of it, in fact, he had informed the board that

there was a 4" water line, that goes down one of the roads, that they could possibly tap into if they wanted to construct a building there.

February 12, 2002 Executive Session: Land Acquisition: Jim Berle outlined the property on a picture procured from an aerial photograph. He mentioned that he had gotten information from Don Finch, who was aware of the purchase, indicating that it would be best if they kept the 66' corridor to allow access to the property off of Lost Nation Road; Jim agreed with Don. Darla Clark did the appraisal of the property.

Joe G. said that Bob wanted to see the minutes where the RV/Boat Parking Area was discussed or approved in an open meeting. Joe read the following:

May 14, 2002 Open Meeting: Jim Berle motioned to purchase 23.24 acres at \$2050 an acre, from Dale Bennett. Fred Stegbauer seconded the motion. Motion approved unanimously. John Kaminski had a final comment on the land purchase, which gives even more value to obtaining the property; he reminded the board that part of the idea was to set aside some area for a parking area for recreational vehicles. He wanted to let the board know that they did a survey in their association, and one of the questions was "Would you like a secure area to park your recreational vehicle?" Out of 121 responses, 26 peoples responded yes. John continued that if that represents 26 slots, then that is a lot right there, keeping in mind that not everyone responded to the survey and that if the New Landing side has an equal number of people interested, we would be starting out with a lot of people interested, which does give value having the area over there. Bob Bortman wanted clarification on the status of the Land Acquisition (Bob was present at the meeting when this was discussed, voted on and approved).

Joe G. added that Becky was correct in saying at the last meeting that the open meeting minutes were available on the web-site all the way back from September 2001. The executive session minutes are not posted on the web site because, legally, they don't have to be posted unless the board determines to release the information. Joe G. read off of the open meetings act that there are 13 items that can be discussed during a closed executive session and:

The minutes are available only after a determination by the public body that it is no longer necessary to protect the public interest or the privacy of an individual by keeping them confidential or by court order pursuant to the provisions in that act. The open meetings act provides for both civil and criminal enforcement. The provision authorizes members of the general public to institute enforcement proceedings under the act....A non-compliance of this act should be initiated by the appropriate States Attorney within 50 days after a meeting alleged to be in violation of this act or, if facts concerning the meeting aren't discovered within that period, within 60 days of the discovery of the violation. They can void illegally ordering the public body to make available for public inspection minutes of properly closed meetings, declaring null and void any final actions taken at a closed meeting in violation of the act. Item four is a significant

provision since it may certain actions taken in violation of the act void able. The court, however, is not required to void an action when the voiding of the action is not in the public's interest. The void ability provision relates only to final actions taken in closed meetings held in violation of the act. An action may not be violated because of a technical notice violation, nor may it be voided because it was discussed or matters related to it deliberated in an improperly closed meeting.

Joe G. said that in his interpretation of what he has looked at, there was no final action taken at a closed session. There was deliberation, which according to what Joe called his amateur interpretation, was allowed for in the law. Joe felt compelled to investigate and comment on the issue because the RCD board can be subject to both civil and criminal (allegations). Joe G. read Tina's letter (attached).

Joe sent a letter out to the POA's inquiring of their interest in a possible RV/boat parking area; both POA's expressed an interest in it.

Joe G. told Becky to ask the art class to change their future classes to a different night because the RCD meetings are generating enough interest that they need more room on Thursday's to meet than what the kitchen provides.

Joe O. motioned to schedule the special meeting for RV/Boat Parking area at 7:00PM on Thursday, January 22, 2004. Fred seconded the motion. Motion passed unanimously by roll-call vote. [11-03-07] Joe O. suggested that they send a letter to both POA's, informing them that they have set a meeting date.

The January 1st meeting will be changed to Thursday, January 8th due to the New Year's holiday.

IX. New Business

A. Fishing Club

1. Structure

The fishing club is interested in putting more structure in the lake. Fred said that since the lake was lowered, showing that there wasn't that much structure showing above the waterline, he wasn't opposed to having more put in, however, he would want them to let the RCD know what it is and where it is being put in the lake. Tom Clarey cited a gentleman from Shabbanaugh Lake, who did a presentation for the fishing club on structure and plants that they have put in their lake to create successful spawn beds. One of the structures that the man recommended is made of PVC pipe, which does not degrade and is environmentally safe, then anchored with concrete. He added that they want to make a topographical map of the lake, which would show its various depths. Joe O. said that Christmas trees deteriorate too quickly and Jerry Sellers added that they are also highly acidic unless you burn the needles off first. Instead, they prefer to use hardwood trees, stone, concrete and PVC pipe. Frank added that Shabbanaugh takes video cameras and records the various structures, enabling them to see which ones are most effective. Fred asked Joe O. if he could be present when they put this structure in and Joe agreed. Joe G. said that the board is in favor of adding more structure as long as it is limited right now to no more than two-dozen, easily retrievable and documented on a map.

2. Issuing Keys for the Chain by the Emergency Overflow

Fred proposed that some keys be given to some fishing club members to allow them past the chain by the emergency overflow. He added that it would be quickly revoked if there were abuses to the privilege, like someone leaving trash or cigarette butts lying around. Joe G. was concerned with allowing the fishing

club access to the area, because to be fair you have to offer anyone who asks access to the area.

Joe O. motioned to make the key to the chain at the emergency overflow available to fishing club members for fishing purposes. Fred seconded the motion. Motion passed with Joe G. opposed to it and Amy, Joe O. and Fred for it. [11-03-08]

B. Smaller Island Stabilization

Jerry Sellers e-mailed Tina with concerns that the smaller island wasn't removed or stabilized. Joe G. read Jerry's e-mail and Tina's response. He then read excerpts from the June 30th LMC meeting pertaining to the decision not to remove the island, which was mainly for two reasons: the additional cost and that the contractor plans on working off of the left shoreline. If they took the smaller island out, it would be better to take it out from the right side. At that meeting, the LMC voted 4-1 (with Jerry opposed) to recommend spending up to \$100,000 to clean out the silt basin on Flagg Road, clean out just north of the bridge there, remove the larger of the two islands, and remove sediment from the Schings Park area. Joe G. did some research and found that stabilizing the island with rip-rap, at \$12,000 or more, would be too costly, Vickie Webber estimated a cost of \$4,000-6,000 to use plants at yearend prices (which she didn't have enough to do the job anyway). Although Joe G. had previously been in favor of beautifying the island, he found that the cost of stabilizing and maintaining it are prohibitive, it would be a maintenance issue in the future, and it would provide a continuing nesting area for the geese. Due to the board's approval of additional funding that enables them to fund the removal of the smaller island, Joe G. proposed to remove it. Also, Henry Cachel has recently acquired a lot that would be ideal to access the island and has offered the RCD the use of that lot, which allows them to use the same side to take it out from rather than Lakeside Park. Nordman estimated the cost at around \$17,000-18,000 to remove the island. Joe O. said that when the larger island was being removed, several members of the community had asked him why the smaller island wasn't removed also. Joe O. and Fred were both in favor of removing the island. Amy asked if they had enough money to cover everything and Joe G. replied yes. Joe O. motioned to remove the smaller island, weather permitting. Fred seconded the motion. Motion carried unanimously. [11-03-09]

C. Burn-Pile

The burn-pile needs to be burned down. Joe G. said that Roger Pattersen suggested that when people go to their POA's to obtain their tree-removal permit, there should be a fee (perhaps \$10) involved for those who deposit the trees in the RCD burn-pile. The reason for this was because the volume of trees that will be deposited there due to Oak Wilt this winter, added to the trees that are taken down during home construction, is going to increase significantly. This would help the board to pay for someone to upkeep the burn-pile on a regular basis. Joe G. also suggested that they move the burn-pile to the 23-acre site with perhaps Joe O. monitoring it and the chain at the access road would have to be put up every night to prevent people from illegally dumping items like appliances or such. Amy said that the advantage of the current location of the burn-pile is that it might discourage people from dumping the wrong things in there. Joe G. agreed but said that he was concerned with the current location because of the smoke that the neighboring families are subjected to as well as it being so close to such a heavily wooded area. Fred said that he is against moving the burn-pile to the 23 acres. His understanding was that the burn-pile was for brush only and that whole trees shouldn't be going in there, whether from home construction or Oak Wilt. Joe G. asked how they would monitor the pile to enforce not allowing trees to be deposited there. Fred said that if they did offer a separate area on the 23 acres for people to take their trees then there would need to be a fee

attached. Joe G. said that if they required a fee, it would have to be assessed by the POA's during the permit process and routed to the RCD. The burn-pile is pretty high. Amy said that Tina suggested that they call the fire department to be on hand. Joe O. said that he wouldn't be opposed to having Roger burn the pile once then coming up with a plan, possibly with the POA's, of allowing them to dump their trees at the 23-acre site for a fee, allowing the residents to continue to take their brush to the one by the campground. Joe G. said that if they were going to have the trees put there this winter, they would have to pay Pattersen to prepare the site for the burning of the trees. Joe G. and Joe O. plan to burn it tomorrow. Tabled till next meeting.

D. Attorney General's Opinion

Joe G. read excerpts from the Attorney General's statement:

The sheriff's authority to enforce the laws of the state extends to the property in question, however, it does not derivate the sheriff's discretion in determining how most efficiently to delegate the resources available to him to enforce the laws to maintain order in the entire county. It is clearly within the discretion of the sheriff and his deputies to determine, for example, not to respond to requests to enforce trespassing violations or other offenses to property if to do so might leave other areas of the county unprotected or might hinder the direction or investigation of more serious offenses. Therefore, although the sheriff has the authority to do so, it appears that he is under no obligation to dispatch deputies to respond to requests for the enforcement of the law prohibiting trespassing if he determines that it is more critical to employ the resources of his officers elsewhere. If the homeowner's association seeks to have full-time security services for the community to respond to all trespassing complaints, then it may be appropriate for them to consider the employment of a private security service or in the alternative, to enter into a contract with the county that would ensure the assignment of a deputy or deputies to the community at specific times or periodically as the case may be.

Joe G. read Tina's statement regarding the Attorney General's opinion:

I know that the RCD board members, as well as you members of the have interest in the outcome of the State's Attorney's opinion. The question posed to the Attorney General by Deb Ellis was whether or not the Ogle County Sheriff's Department had a duty to act and whether they could charge people with trespassing. The short of it is that it is up to the sheriff to determine if he has the resources available to come out on such a call and to make the charge. The sheriff's department can enforce state laws on the private roads, therefore, he can charge someone driving on the road out here with trespassing. This opinion is the same opinion that Attorney Nye told the RCD. Fortunately, the issue whether or not the public has a right to access RCD facilities through private roads does not seem to be specifically addressed here. So, the RCD can go by with our (RCD's) attorney's opinion that they, being the general public, can be charged with trespassing if caught on private roads trying to get to the RCD property. However, since the RCD property is public land, the general public cannot be charge with trespassing for being on RCD property. They can only be charged with trespassing on the private roads that they use to get to the public property. People on RCD property can be charged by the

sheriff's department, if the sheriff chooses to do so, with violation of state laws. This does not change that the POA's may not ticket anyone on RCD property with violation of their covenants or bylaws as their covenants and bylaws do not apply to RCD property. Please encourage all guests to get proper passes from the proper authorities. Anyone wishing to have a copy of the Attorney General's full opinion may receive it from Becky at the RCD office.

Joe G. said that the statement reaffirms what the RCD has been saying all along.

X. Treasurer's Report: Joe G. asked if there was a status report on the loan. Amy said that Tina has been handling that. Joe G. asked about the professional services from Nye and why they were so high. Becky said that there was a previous balance paid out besides the work that he did regarding the lakefront property. Joe G. asked if the \$4835.69 was for the purchase of the property. Amy said yes. Joe O. motioned to accept the Treasurer's report. Fred seconded the motion. Motion passed unanimously by roll-call vote. [11-03-10]

XI. Guests:

George Schwamberger:

Attorney General's Opinion-George asked what the opinion of the Attorney General was regarding whether they have to provide a road for people to access the lake and Joe G. said that it wasn't addressed in the opinion. Joe O. said that he didn't think that the State's Attorney asked the right question.

Building Rental Fee-George said that since rentals have dropped by 50%, maybe they should revert back to the \$25 fee. Becky said that they still made more money than last year when you add the classes. He said that the building is for the use of the taxpayers and that it would be more heavily used if it was cut back. Becky replied that the building is actually quite heavily used, its just mostly community events rather than private rentals. In fact, there are 25 reservations for the month of November alone.

Smaller Island Removal-George felt that the guests should have been able to discuss the removal of the smaller island, especially since they, as taxpayers, are paying the bill for it to be done. Joe G. said that they are trying to recapture as much of the original lake as possible and removing both islands will recapture $\frac{3}{4}$ of an acre of surface area to the lake.

Joe complemented George on his sediment measurement chart of the lake – some of their measurements were very close to his chart.

Tom Clarey:

Restoration of Roads-Part of the dredging agreement stated that the contractors would repair any damage done to roads or lots by them during the dredging operation. The shoulder of an area on Woodland between the Moss' and Watson's properties needs to be repaired due to the heavy equipment pulling off of the road there. Joe G. said that he will take a look at it.

Possible Tree Disposal Fee –Tom said that the fee should go to the tree service rather than the homeowner through the permit process because not all of them may use the RCD's burn-pile to discard their trees. Joe responded that maybe some verbiage should be added to the permit telling the homeowner that they are not allowed to deposit full trees at the current burn-pile. Discussion ensued about the tree-removal and burn-pile.

Bob Bortman:

Leaves on Burn-Pile-Bob asked if the RCD was going to write a letter to the POA's about the burn-pile regarding permits. Bob said that he doesn't think that leaves should be put on the burn-pile because they are so smoky and he was wondering if they were considering making the discarding of leaves on the burn-pile a no-no. Joe G. replied that they don't want to restrict

putting leaves on the pile because of the restrictions that are already placed on the homeowners, where they aren't supposed to burn leaves on their property if they bother a neighbor.

Dirt Made Available-Bob asked if some of the silt that has been dredged could be dumped in a pile for residents to use as soil on their property. Joe said that anyone is welcome to go over to the 23-acre property where it is being dumped and take what he or she need. In fact, someone came and took 23 loads of it recently for fill. Joe G. cautioned that there is a lot of gravel in it.

Joe Olliges:

Dan Pierce – Pictures-Joe O. asked Joe G. about the pictures Dan Pierce took. Dan Pierce took several pictures of the volume of material that is entering the lake.

Adjourn: Amy motioned to adjourn the November 6th meeting. Joe O. seconded the motion. Motion approved unanimously. [11-03-11]

Next Meeting: December 4, 2003

November 06th Motion List

Joe G. motioned to move Amy's report and the treasurer's report to the end of New Business, after item E and to move the approval of shoreline improvements after the approval of the minutes. He asked all in favor to say aye. Motion passed unanimously. [11-03-01]

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