

Minutes of the Friends of Lapham Peak Snowmaking Committee  
Delafield Library  
September 25, 2018  
6:00-8:00 PM

**Present:** Anne Riendl, John McCarthy, Joe Stuber, Chris Peske, Will Edwards, Joanne Ziarek, Charlie Ritter, Beattle Adelmeyer, Jim Bostrom

**Next meetings reminder:** October 16, November 6, November 20, and December 18. All meetings at 6:00 PM at Hausmann Nature Center. **Note the change of location** as the Delafield library is not available for these dates. Anne R. would appreciate help setting up if anyone can come early.

**Minutes of August 28, 2018, approved:** Anne R. has notified Mary Ellen B. to distribute and post the minutes to the website.

**Discussion of LUA:** A lengthy and spirited discussion was held regarding several points in the proposed LUA, especially in reference to the use of the term “indemnify” and the wording regarding hazardous waste. Clarification is needed prior to signing the agreement and it was recommended that the committee contact an attorney to clarify liability issues for state-owned land. It was noted that the agreement terminology was changed from MOU, which can only be used between government agencies, to LUA, which is a legally binding land use agreement with the Friends. On Thursday morning, September 27, John M., Joe S., and Anne R. will meet in Madison with Anne Korman and Missy Vanlanduyt to discuss the LUA with a key point being whether construction can proceed without the LUA being signed at this time. **Post Meeting Update: Please see notes at the end of these minutes regarding the meeting with DNR on Thursday, September 27<sup>th</sup> – John McCarthy**

**Changes to the Snowmaking Strategic and Business Plan:** John M. reported that the DNR has identified in the draft LUA additional information to be included in the Snowmaking Strategic and Business Plan. He will work on these to comply with their guidelines in the LUA.

**Into the Woods Fundraising Campaign:** Will E. and Charlie R. presented a sample draft of a letter for discussion and review. They plan to mail it to all donors once we go forward with construction of Phase 3B. They also provided flyers and posters to help spread the word.

**Delafield Tourism Council:** Charlie R. attended their meeting on September 11 and made a request for \$10,000 for snowmaking. He also made some key contacts for possible future donations.

**Ski Rack Near Trail Head:** Charlie R. reported that Theo A. will design and build the racks to have them ready by December 1, 2018, to place at the trail head.

**Fright Hike:** The giant cat entrance arch is nearly ready and the route and map have been set. More skits are welcome.

**Nordic Ski Rental at Lapham:** Matt Geib has notified Anne R. that Wheel and Sprocket is not planning to maintain the ski rental concession for the 2018-2019 season as they are no longer selling skis in their Milwaukee area stores. They may be willing to sell the current rental skis if someone would be willing to take over the concession. Beattle will contact Dan LeBlanc and Matt Geib for more information.

**Lower Lake Michigan ROA Status:** It remains in draft form. The group going to Madison September 27 will ask for clarification on the DNR's action plan.

**Construction Plans for Phase 3B:** John M. reviewed the construction plans with several detailed documents including the ideal schedule timeline if all goes well, staging, site restoration, erosion control, volunteer work assignments, activity time frame schedule, and construction sequence. This could all be completed "ideally" in two weeks.

Beattle then explained the heavy construction equipment needs, various suppliers, costs, and the many discounts that he has negotiated for the project which may keep those costs to under \$2000.

Construction is to start the weekend of Oct 20-21. Staging could begin October 15-19, construction October 22-26 with the backhoe & skid loader on site Oct 22 to start digging and put pipe into the ground, then finishing October 29-November 5, then party time!!

**Respectfully submitted by Joanne Ziarek**

### **Summary of Key Points from September 27<sup>th</sup> Meeting with DNR Regarding the LUA**

- Meeting attendees: FLP - Anne Rendl, Joe Stuber, John McCarthy. DNR - Missy Vanlanduyt, Kathryn Gehrke (Parks and Recreation Specialist), Anne Korman (by phone)
- The DNR/FLP Agreement needs to be executed before or concurrent with the LUA because it contains the insurance requirements for the LUA. A reference in Section 11 of the DNR/FLP Agreement is not required.
- John M provided a paper copy of our comments/edits to the LUA.
- Joe S brought up the Indemnity issue. DNR indicated that the clause needs to be in the LUA. DNR strongly encouraged the FLP to make our insurance carrier aware of the activities associated with snowmaking, specifically construction and snowmaking.
- Joe S questioned whether the FLP would be required to defend the DNR should a skier be injured while skiing on the manmade snow, and sue the DNR. DNR indicated that this would not be the responsibility of the FLP; and that the DNR would invoke "recreational immunity" to defend itself and the FLP against this type of claim. The Indemnity clause in the LUA applies to "Friends Directed" activities, such as the construction and making the snow.
- Joe S asked about the opportunity for the FLP to re-acquire snowmaking assets if the DNR decided to stop the snowmaking operations. DNR indicated that donated items were now theirs to do as they see fit; that the FLP could purchase items at auction if it came to that. They would consider putting a provision in the LUA that called for any income from the sale of snowmaking assets would remain in the park.
- Joe S discussed his concerns with the hazardous waste provision in the LUA. DNR indicated that it would have to remain in the agreement.
- Joe S discussed the issue of "Shared Responsibilities", advocating for changes to several clauses to indicate that the DNR and FLP would share responsibilities for the referenced tasks. DNR said they would consider, but felt that the matter was adequately addressed.
- Anne R requested a change to the provision that a person be named as the party responsible for snowmaking. DNR agreed to make a change to this clause.
- John M asked about Exhibit A, referenced in the LUA as a map of the snowmaking trails. It was decided that John M would provide the exhibit for use by the DNR.

- DNR indicated that they would return the revised draft LUA within a week for review by the FLP. A goal was set to potentially have the FLP and DNR sign the LUA on October 9, at the Southern Unit, when Ben Bergey was there. The DNR/FLP Agreement would also need to be signed.
- The DNR NRB is scheduled to meet on October 24<sup>th</sup> in Madison. The acceptance of the donation of the entire Phase 3 B/C project, and a new snowgun are anticipated to occur at that meeting.
- Installation of the Phase 3B pipe and wire is officially scheduled to begin after the acceptance of the donation by the DNR NRB. Preliminary work prior to that date is anticipated. A press release will be issued after the DNR NRB meeting announcing the start of the construction.

John McCarthy – 10-2-18

Addendum by Joe Stuber 10-21-2018

- Both DNR representatives, Missy Vanlanduyt and Anne Korman assured us that the DNR would never put the Friends in a position where they would have to dissolve because of the indemnification requirements of the LUA. These statements were made by both DNR representatives.