

Perch Lake Owner's Association (PLOA)
Board Meeting Minutes (Via Conference call)
February 22, 2014 at 10:00 AM EST

Roll Call for quorum: Present: Dave Foster, Bill Pence (OLE), Cliff Janiak, Jim Novitski, Liz Quinn, Carol Hicks-Brown, Tom Haight, Hal Petrimoulx.

Absent: Janet Van Wagner

Adoption of Agenda: motion to adopt agenda was made by Carol after adding information on the MLSA Conference in May to be given by Jim; Information on the Iron County Watershed Coalition

Review & Approve Board Meeting Minutes from October 12, 2013

Motion made to accept minutes as presented by Ole and carried

❖ **New Business:**

➤ PLOA Federal Back Taxes:

- Payment of 2010 –deadline 3/5/14
- Payment of 2011 - deadline is 3/13/15
- Payment of 2012 – deadline is 3/15/16

- A special conference call was needed to decide how to handle the back taxes for the PLOA. The Board was unaware of the need to file Federal taxes as we are exempt in the state of Michigan from filing state taxes. The federal back tax issue became apparent after we had filed for our federal EIN number and the IRS determined that PLOA had not filed any federal tax forms since its inception.
- Our tax exempt status was automatically revoked because we had not filed federal taxes for the previous three years. For the years previous to 2010, there is a statute of limitations and we no longer need to file for those years.
- Hal gave an explanation of the occurrences to this point (see attached “PLOA Back Tax Issue”) and admits the error was probably his, that he checked the wrong box on our SS-4 application (see attached letter dated 11-8-12 signed by the PLOA president).
- Hal proposed to pay the IRS fines and all the present board members unanimously thanked him, but said the PLOA is responsible for all the associated costs.
- Deadlines, forms and payments were discussed
 - Concerned about paying something we don't owe if we receive the 501c3 status
 - Mike Unger, CPA will be talking to the IRS before 3/15/2013 to clear things up with the IRS
- Deal with most immediate needs which is payment of the 2010 back taxes and see where we end up for the other two back tax years.
 - Be sure to file 2013 Federal tax forms by deadline 5/15/2014
 - Also the filing of the Federal back taxes and current (2013) taxes will be based on the recommendations of Mike Unger, CPA.

Liz made a motion, seconded by Ole that we pay and file the 2010 Federal back tax forms and hold off on the other years until we see what happens with the 501c3 status. Motion carried

Who will take care of the tax issue now and in the future? Liz and Hal will take care to see that all forms are filed when needed.

Liz amended her motion to further state we would pay and file according to Mike Unger's recommendations after conferring with the IRS.

- Will we need another conference call if he recommends paying for all years?
- Liz stated the amount in the General Fund is approx. \$1,200.00
- 2013 books are closed and figures for the IRS are readily available and have been e-mailed to Mike Unger, CPA.
- File the Federal 2013 990EZ form for charitable organizations by deadline to avoid penalties.

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- NFS Boat Ramp Education Program for Aquatic Invasive Species (AIS):
 - ✓ Jim talked with Ian Shackelford, National Forest Service (NFS) representative, who recommended we resubmit our application for a grant to include education at Perch Lake as well as Lake St. Kathryn, and Norway Lake because it would give us higher consideration since it is more of a regional approach within the NFS. Dave & Jim did resubmit the application.
 - ✓ Ian has been big help and is very interested in our program.
 - ✓ Discussion on hiring camp host at boat landing, who is liable, work times, salaries. The new contractor for the "host" program is located in Utah and Jim has talked to them. The contract has not been awarded yet but the NFS is confident it will be the Utah contractor. We may need two hosts at Perch Lake – one for the NFS and one for the AIS program. A host is typically paid about \$1,000/month salary. PLOA would need to interview people.
 - ✓ Who will write Ad and man the program?
 - ✓ Bottom Line we can't hire anyone without getting the NFS grant.
 - ✓ Ole noted that without the grant we should put together a volunteer schedule to man the boat landing with Riparian owners and family.
 - ✓ Without NFS funds we need to depend on volunteers.
 - ✓ Jim noted that it will be eye opening for the volunteers to see what a thankless job it is.
 - ✓ We need training - maybe after the May 2014 board meeting we can have a Train the Trainer session. Jim will contact the local representative to provide the training if this is our plan.
 - ✓ Board members won't be able to carry out the plan alone.
 - ✓ Encourage volunteering with a special t shirt or hat?
 - ✓ Wait to see what Ian has to say about the grant which he told Jim is to be finalized by February 24th.
 - ✓ 501c3 application status has created a lot of uncertainty concerning possible funding for our organization to develop an education program this year.
 - ✓ How about University students to help?
 - Discussion noted that it is too late to schedule this summer because the students are already lined up for the 2014 season.
 - We need to have a plan of action developed at our fall board meeting.
 - ✓ Jim will put in his report for newsletter we need volunteers
 - ✓ Jim suggested we submit articles for newsletter to board members for any comments before submitting to the newsletter.

- Michigan Inland Lakes and Streams (MLSA) Convention May 1 – 3 at Boyne Highlands
 - Who is interested in going? Ole – Dave & Jim
 - \$500 limit for reimbursement for attendees
 - Cost is \$85 to attend the convention
 - Jim will forward the e-mail notification of the conference to all the board members.
- ❖ Liz made a motion that because Jim is the official representative of PLOA all of his fees should be paid up to the limit set last year. For anyone else attending the conference the registration fee will be paid, but the rest of the expenses will be up to the participant. Ole seconded – motion carried.

- Iron County Water Resource Alliance (ICWRA)

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- ✓ The Iron County Watershed Coalition (ICWC) that has been working to restore streams and stream banks with funding by the mining industry is out of projects and has approached the ICWRA about taking them over as an organization.
- ✓ ICWC already has 501c3 status
- ✓ ICWC has approximately \$50,000 in remaining unspent funds
- ✓ Would be way to be better recognized by federal and state Organizations

Jim has a meeting with ICWRA on March 3 and will provide an update then.

- Meeting adjourned after 1hr and 26 minutes
- Respectfully submitted Carol Hicks Brown Secretary

ENCL:

1. Meeting agenda
2. PLOA Back Taxes Issue
3. November 8, 2012 letter to IRS

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**Perch Lake Owner's Association
February 22, 2014 Conference Call Board Meeting
10:00 AM (EST) and 9:00 AM (CST)**

Call (760) 569-7171 and enter access code 709049 when prompted

- ❖ Roll call for quorum: Bill Pence, Cliff Janiak, Dave Foster, Jim Novitski, Liz Quinn, Carol, Hicks-Brown, Tom Haight, Hal Petrimoulx and Janet Van Wagner
- ❖ Adoption of Agenda
- ❖ Review & approve Board meeting minutes from OCT 2013
- ❖ New Business
 - PLOA Federal Back Taxes
 - Payment of 2010 – deadline is 3/15/14
 - Payment of 2011 - deadline is 3/15/15
 - Payment of 2012 – deadline is 3/15/16
 - 2013 Federal tax filing
 - NFS Boat Ramp Education Program
 - Revised Application to NFS
 - Program for 2014 season needs manager from PLOA
 - Additional Topics

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November 8, 2012

Department of the Treasury
Internal Revenue Service
Cincinnati, OH 45999-0023

RE: CP 575 A Notice dated 11-01-2012; Form SS-4; EIN 61-1695764; Perch Lake Owners Association

To Whom it May Concern:

On November 5, 2012 I received your letter dated 11-01-2012, see stub enclosed, and I noticed that you have indicated in the 4th paragraph of that letter that you have determined that our Association should file Form 1120 for the years 2006 – 2011. I disagree with this determination and it results from some inaccurate information that I asserted on the SS-4 Application that I prepared and submitted. In Box 9a, I should have indicated that we are an "Other nonprofit organization" – 501(c)(3) application and in Box 10, I should have indicated "Banking purpose" – 501(c)(3) application. All other information submitted on the SS-4 Application is accurate. I regret any inconvenience that I have caused.

Our Association was incorporated in the State of Michigan as a Domestic Nonprofit Non-Stock Corporation on October 4, 2006. We essentially have not had any "financial" transactions that would cause our Association to have any taxable income or any filing requirements using Form 1120. Our Association, up until recently, has been an informal membership of various Perch Lake property owners and we do not generate any type of income nor do we sell any type of services or products. Through the help of our attorney and CPA, we are now just beginning to amend our organizing documents in order to comply with the Form 1023 Application that will ultimately get us to the 501(c)(3) status that we desire – it has just taken us many years to finally get the ball rolling since we incorporated.

As such, please adjust your records according to reflect the fact that we are not required to file Form 1120 for the years 2006 – 2011. In our Form 1023 Application, we will be properly attaching Schedule E – Organizations Not Filing Form 1023 With 27 Months of Formation along with the appropriate explanation as to why we did not file the application within the 27-month period. At a minimum, if we are not granted 501(c)(3) status back to the date of our incorporation, we will then be recognized as a 501(c)(4) tax exemption organization from 2006 through the postmark date of our Form 1023 Application which will be sent before December 31, 2012.

Thanking you in advance for your help and follow-up on eliminating the Form 1120 filing requirements for our Association.

Sincerely,

Harold (Hal) J. Petrimoux, President
Perch Lake Owners Association
Encl: (1)

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PLOA Back Taxes Issue

Background:

I received a notice from the IRS (CP120A) dated Dec 16, 2013 informing the PLOA that our tax exempt status has been revoked effective back to May 15, 2010. Mike Unger, our CPA who has our power of attorney for dealing with the IRS, contacted the IRS to understand the basis for their decision and our response options. Mike informed me that when we filed for an EIN number with the IRS as part of the requirements for the 501c3 application the IRS became aware that we had not filed an annual tax form for the association. This form is apparently required even if you have tax exempt status and no taxable income. (SIDE NOTE: We were not advised of this requirement by our attorney who handled our incorporation application. Nor did anyone on the board have an understanding that such a filing was required.)

What is even more curious about this IRS notification is that they have revoked our tax exempt status which they never actually granted us. As background, when we received our EIN number it came with a notice that indicated we should also file form 1120 for past tax years. I consulted with Mike and learned that I had apparently checked an incorrect box on the EIN application indicating the type of organization the PLOA represented. So we crafted a letter to the IRS to explain that we were a tax exempt organization, that a simple mistake was made on the EIN application and further that a 501c3 application was being filed as well. Thus, the PLOA had no obligation to file a form 1120 as a taxable organization. Neither Mike nor I ever received a response to that letter, but Mike did confirm with the IRS that they had received it.

The present issue:

Mike indicated that no tax forms need to be filed for years 2007-2009 as the statute of limitations has expired on those years. We should give consideration to filing a form 1120 (for non-tax exempt organizations) for 2010-2012. We must also be prepared to file a 990 form for 2013 by May 15, 2014 and note that a 501c3 decision is pending.

Financial impact:

The PLOA had financial losses in 2010 and 2011 and a positive balance in 2012. Our total taxable income during the 3 year period would be approximately \$360. Mike estimated our total tax liability would be about \$55. However, the late filing fee would apply which is 25% of tax owed or a minimum of \$135. So the late fee would be \$405 (3 x \$135). In addition, there would be a modest penalty fee for interest on the taxes that were owed. Mike's fee to file the necessary tax documents would be \$150 per year (\$450 in total). Since this oversight occurred during my tenure as president I will personally pay for all late fees and any interest penalty. Therefore, the cost to the PLOA would be the taxes owed and Mike's fee.

(SIDE NOTE: I would have advocated using a CPA to file these forms for us, so Mike's fee would have been incurred by the PLOA even if we had filed on time.) Thus, the estimated cost to the PLOA to pay and file our past tax obligations should be slightly over \$500 total (\$450 + ~ \$55). Finally, if we are granted 501c3 status we would get all of the money paid to the IRS back according to Mike's discussion with the IRS.

Related considerations:

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I asked Mike about the impact of these events on our pending 501c3 status. In his opinion he did not think this would have any impact pro or con on the IRS decision to grant us 501c3 status. Further, he doubted that it would be beneficial to our case if we were to file tax forms for past years (2010-2012) proactively vs wait for the IRS to notify us that we need to file them.

As for the possible option of waiting for our 501c3 status to be determined before taking any action, Mike learned that the IRS has a large backlog of applications to process due to the number of tax exempt political organizations seeking 501c4 status and due to the recent IRS controversy about selectively targeting certain types of organizations for special review. Currently, the IRS is processing applications for May 2012. The IRS confirmed that they received our form 1023 for 501c3 status on July 29, 2013. Thus, they have 14 months of applications to process before getting to our application. They gave Mike no idea when we might expect a decision. So it is likely that we will be notified by the IRS to file form 1120 for the 2010-2012 tax years before we would receive a positive 501c3 decision to avoid having to file past tax forms.

Possible options to consider:

One option is to wait for the IRS to notify the PLOA that we need to file for 2010-2012 in the hope that we will be granted 501c3 status before having to file for past tax years. This would save the PLOA the fee we would pay to Mike Unger (\$450) to complete and file the necessary tax documents. Further, Mike does not think that waiting to be notified will penalize our 501c3 application decision.

A second option is to be proactive and file for 2010-2012 as a taxable organization without being notified. This option allows us to put this issue behind us. We would get back all penalty related money if we are later granted 501c3 status. But we would bear the cost of preparing 3 years of tax forms (\$405) which could be much lower if we can file the more simplified form 990 as a tax exempt organization. This is because we could complete the 3 required form 990s ourselves and just ask Mike to review them for completeness and accuracy.

A third option would be to wait until we have to file our 2013 tax form by May15, 2014. We would not want to file our 2013 taxes without being current on our back taxes. But we could wait to file our back tax forms until we are required to submit our current year (2013) taxes. Then all the tax forms would be submitted at the same time. By waiting to file our back taxes until the need to file for 2013 it might buy us time to get a favorable 501c3 notice from the IRS and thus reduce our filing requirements and associated costs.

Actions Needed:

Formulate any other possible options that we may want to consider.

Communicate this situation to the PLOA board.

Get input from the board and vote on the preferred course of action.

Inform Mike Unger of our decision and engage him as may be necessary.

Request that Liz begin to prepare the financial statements to file our 2013 tax form by the required date and coordinate with any forms that Mike Unger may be filing on our behalf.