

NORTHERN COUNTIES LAND USE COORDINATING BOARD
Minutes
Monday, October 6, 2011
Dora Lake, Minnesota

Call to Order: The meeting of the Northern Counties Land Use Coordinating Board was called to order at 10:15 a.m. by Chair Commissioner Wade Pavleck with the following in attendance. (All actions of the Board were supported unanimously unless otherwise indicated.) This meeting represented a joint conference of NCLUCB and the Joint Powers Consolidated Conservation Natural Resource Board.

All Member Counties Present:

Commissioner Brian Napstad, Aitkin County
Commissioner Fritz Sobanja, Cook County
Commissioner Brian McBride, Koochiching County
Commissioner Wade Pavleck, Koochiching County
Commissioner Todd Beckel, Lake of the Woods County
Commissioner Don Jensen, Pennington County
Commissioner Chris Dahlberg, St. Louis County
Commissioner Mike Forsman, St. Louis County

Others Present:

Commissioner Mike Hanson, Koochiching County
Commissioner Jerry Dahl, Mahnommen County
Commissioner Russell Walker, Roseau County
Tom Landwehr, Commissioner, Department of Natural Resources
Bob Lessard, Department of Natural Resources
Craig Engwall, Northeast Regional Director Department of Natural Resources
Lori Dowling, Northwest Regional Director Department of Natural Resources
Mike Carroll, Department of Natural Resources
Josh Stromlund, Lake of the Woods
Todd Miller, Roseau River Water District
Dale Olson, Koochiching County Environmental Services Department
Chad Napstad, Aitkin County resident
Carol Pavleck, Koochiching County resident
Douglas Skrief, NCLUCB Staff

Administrative Actions:

1. Approval of Agenda with the following additions:
 - a. State: Land Exchange Leases
m. Napstad s. Beckel

2. Approval of Minutes: September 1, 2011
m. McBride s. Jensen

- 3-4. Financial Report and Bills:

The Director reviewed the income and expenditures sheets reflecting a general account balance of \$103,248.15 and a Land Use Conflict Management balance of \$15,005.28. The total accounts balance, after payment of approved expenses of \$1153.64, was \$118,253.43.

m. Forsman s. Napstad

Bills: Administrative expenses for Douglas Skrief at \$621.62 for one month.
m. Beckel s. McBride

Correspondence: The Director announced no correspondence.

LOCAL

1. Joint Powers Board Background and Meeting schedule: Comm. Hanson noted that the current meeting was a joint meeting of the Northern Counties and the Joint Powers Consolidated Conservation Natural Resource Board. He commended the staff of the Department of Natural Resources for their consistent attendance at meetings of both boards.

Comm. Hanson noted that the next joint meeting of the two Boards will be held at 11 a.m. at the Hyatt Hotel in Minneapolis. He invited Commissioner Landwehr to attend.

2. Forest Fire Danger: Mr. Carroll reviewed the fire situation on state and federal land resulting from extremely dry conditions. Equipment and people are being shifted around to cover fires, including peat-land blazes. Local personnel will be involved. The Red River Basin was discussed: details are available on the basin's website.

STATE

1. Department of Natural Resources: Comm. Landwehr recalled the steep learning curve he's experienced during the first ten months of his tenure. Appointments at the DNR have included those of Mr. Carroll, Ms. Dowling, Mr. Engwall and Bob Lessard, made in part to maintain positive relationships in northern Minnesota. He expressed appreciation for meeting with the Boards outside of a crisis situation.

Topics of discussion with Comm. Landwehr included:

Bovine Tuberculosis: TB-free status in the deer population has just been reached. A smaller zone will be maintained and the harvest will be continued, relying on hunters. Samples will be provided. There is no plan for continued sharp shooting. Half as many deer will be tested.

Beaver control in St. Louis County: Comm. Forsman noted that while beaver-related problems have been reduced this year due to dry conditions, funding for beaver control is important to constituents.

Wolf Status: A reduction in \$400,000 of Federal earmark funding for wolf control measures in Minnesota, Michigan and Wisconsin from the Department of Agriculture occurred earlier this year. Sen. Klobuchar assisted in finding replacement funding through the end of 2011. Delisting could occur after the first of the new year, though there may be legal challenges. The DNR is talking to the federal Minnesota legislative delegation promoting Congressional delisting. If the wolf is not delisted funding for control will return as an issue - at the federal level. If delisting occurs, there is recourse to a ten-year old delisting plan of the State that included a now moot moratorium of five years. The Legislature passed a bill this year to eliminate the moratorium. A hunting and trapping plan would be established through a rule process.

Moose Status: The decline of the moose population is not tied to wolf predation in a preliminary DNR plan, noted Comm. McBride. Comm. Landwehr agreed that the plan neglected to mention wolf predation and that the plan now out for review can accommodate this. At the same time, the decline in the northwest part of the state of the moose population predates the expansion of the wolf population to that area.

Aquatic Invasive Species: Concerns recently voiced over the aggressiveness of the DNR in fighting invasive species was raised by Comm. Napstad; public access to lakes has been at issue. Comm. Landwehr noted how zebra mussel populations have expanded in recent years, mostly through transportation on boats. The mussels are filter feeders without natural predators and their food intake of planktons can create near sterile lakes, though these conditions have not yet been seen in Minnesota. They are presently in 50 Minnesota lakes. The DNR can do what it is given funding for and authority to do. Currently, the department can educate the public and inspect boats and increase penalties for those who are found not to have cleaned their boats. Minnesota has 3,000 public access points, half owned by the State and the others by local units of government and private owners. There are 800,000 registered boats. To monitor all accesses is not possible. Minnehaha Creek Watershed is doing a pilot project in lakes near Minnetonka that will put a gate on the lake and institute a process of decontamination. Many anglers are getting miffed by the current approach; some are threatening to infect a lake as a response to time-consuming or invasive searches. The State must show that measures are reasonable without being strident. Education will be very important. Mr. Carroll encouraged involvement of county and township officials in informing legislators that it is importance to the public interest to adjust some of the traditional ways of going hunting and fishing. Decoys, canoes, large motors and water tanks of wake board boats can all carry invasive species. Comm. Landwehr added that slowing down the spread of invasive species may help until solutions to the problem are discovered, and that dealing with fewer infected lakes rather than more makes abatement efforts worthwhile. A surcharge on registrations was proposed unsuccessfully in the last legislative session to fund enforcement inspections. Asian carp will be the next specie to be addressed.

Ms. Dowling recommended that counties pursue closer relations now with their lake associations as some associations have turned more militant recently. Comm. Hanson urged that the state not initiate programming that will become an unfunded responsibility of local government. Comm. Napstad urged a

quick-training alternative for local volunteers who want to provide enforcement. Comm. Landwehr noted that government entities alone can provide accountability. Volunteers have to have some training and cannot deny access or demand inspection of boats. Vigilante efforts will not be productive. Data show that compliance follows the presence of a Conservation Officer or County Sheriff, added Mr. Carroll. There is a potential for partnerships with Soil and Water Conservation Districts, said Mr. Stromland.

Shoreland Rules: The history of recent proposed changes to Shoreland Rules from a northern perspective, reported Comm. Pavleck, is that several counties of their own volition developed rules that fit their needs and that these were then used as the model to be adopted statewide – without sufficient input from other counties. The Rules have not proceeded. Comm. Landwehr argued for some consistency from one county to the next, but that Rules must have support of the counties that will be enforcing the zoning restrictions. Comm. Napstad recalled being part of the creation of the Statewide Alternative Shoreland Standards together with DNR personnel and that they were only initially put forward as voluntary standards, and that legislators were not aware of existing standards.

2. **Wetlands:** Comm. Pavleck reviewed the situation of northern Minnesota having the highest concentration of wetlands in the lower forty-eight states. While there are needed allowances for factors such as waterfowl migration, bureaucratic restrictions on wetland use have stopped development at the local level. Various agency reviews and the final authority that rests with the Army Corps of Engineers are detrimental to the local decision-making that tends to move things forward. A local hospital project, for example, has been delayed six years due to permitting constraints.

Comm. Landwehr recalled that his last position with the DNR was as Wetland Program Coordinator and that he was involved in the 1991 creation of the Wetland Conservation Act and Rule writing. The State law, he recalled, was developed so that if you abided by the State law then the Army Corps could sign off. To deviate from the current law without bringing the Corps along would be to create two systems that are not complementary. The Comm. said he would like to get to a simpler system that is still acceptable to the Corps. While there may often be ecologically justifiable reasons to mitigate near the site of the wetland impact in many parts of the state, this may not be the case in counties of northern Minnesota in which parts of the little bit of existing highland are taken. The State may have enough experience now in mitigation to be able to set up alternative mitigation systems. While the State may be able to find an alternative, there remains the question of Corps approval. The BWSR Board has raised the issue and seems open to discussion.

Comm. Forsman related a case in St. Louis County in which an employer of 29 people found that wetland mitigation will have to be carried out on land that was a parking lot when the company bought it, putting a strain on the business despite having bought the property in good faith. Comm. Napstad related a case in which a developer has reverted farmland to wetland and has sold off credits while the farming family is no longer resident on the land and the land no longer serves as fully as wildlife habitat - and it is no longer part of the county tax base. He raised the question of public value in regard to such mitigation and noted that a conversation has begun over possible legislative change. The Executive Director of BWSR John Jaschke has approached the Corps. The topic will be taken to the BWSR Executive Committee. Problems include issues with the Corps, wetland bankers who may be opposed to rule change, and the formula itself. The language of the original legislation said no net loss of wetland and was intended to mean acre for acre, Comm. Landwehr recalled; value was brought up together with increased replacement ratios when value was not to be realized. Comm. Becker noted that a baseline was not established and that there has been a gain of wetlands. Mr. Olson related how last year Koochiching County Forestry Department had to replace a culvert; the application had to go through five agencies and seven staff members. The local SWCD, he said, is trying to educate the public; individuals have bought small properties and filled in land; violations create long-term nightmares; a few people are buying up scarce farmland and making money by creating wetlands, people who may later give up the land as useless.

Other issues for further discussion included concern about the Corps and MCEA, concern that agricultural interests be included in the discussion, impoundment and General Permit 5 regulations.

3. **PILT:** Comm. Pavleck introduced the topic by noting that eight counties in northern Minnesota represent most of the PILT-related land in the state, though some urban counties receive payment. Cuts are always imminent. Comm. Landwehr underscored the complexity of the issue due in part to the diverse origins of land ownership over state history. PILT is not now a DNR but rather a Department of Revenue program – which the DNR supports due to understanding the value of publicly held land taken off the tax rolls. The Legislature is unpredictable in its support. The DNR is tasked to do a study between now and the end of next year to analyze PILT and make recommendations. Outside expertise, such as from the

University of Minnesota, will be tapped. Stakeholders – not to include conservation interests as this is a taxing and not a conservation issue – will be drawn together for discussion with tax experts. The Commissioner pointed to a potential dedicated funding source in the 60 percent of proceeds now going to the General Fund from the State Lottery, which was set up to benefit environment and natural resource projects. Mr. Lessard voiced support, recalling the origins of the lottery bill included funding for the Greater Minnesota Corporation and an environmental trust fund.

4. Land Exchange Leases: Comm. Pavleck related a case in which Koochiching and St. Louis Counties are working on a joint sewer project in the Voyageurs Park basin. Three of four parts of the project need state land for locating irrigation systems, tanks and other system support, added Mr. Olson. Exchanges or leases are being pursued, he noted. Comm. Forsman added that St. Louis has a number of properties adjacent to state land that need collective sewage treatment solutions. The cooperation of the DNR is needed to access potential state land solutions. The local DNR has been very supportive, said Comm. McBride, but things get mired at the state level. Comm. Pavleck argued for expedited processes. Comm. Landwehr pointed out the difference between permits and land exchanges or leases. The DNR is developing legislative initiatives to facilitate the taking of easements. He said he wants to know where things are “getting stuck in the middle” between field support and state approval. Mr. Carroll agreed that pinpointing the source of hang-ups in these processes is needed. He suggested that the head of Land and Minerals and staff address the Board.

NCLUCB

1. Future Joint meetings with the Con-Con Board The next joint meeting is scheduled for 11 a.m. December 5 at the AMC Conference in Minneapolis.

Adjournment at 12 p.m.

Next meeting Nov. 3, 2011, 9:30 a.m. Chisholm

Respectfully submitted by Douglas Skrief, Administrator