

NORTHERN COUNTIES LAND USE COORDINATING BOARD

Minutes

Thursday, April 7, 2011

Northome, Minnesota

Call to Order: The meeting was called to order at 9:30 a.m. by Treasurer Commissioner Steve Raukar with the following in attendance. (All actions of the Board were supported unanimously unless otherwise indicated.)

All Member Counties Present:

Commissioner Brian Napstad, Aitkin
Commissioner Fritz Sobanja, Cook
Commissioner Brian McBride, Koochiching
Commissioner Rich Sve, Lake
Commissioner Todd Beckel, Lake of the Woods
Commissioner Don Jensen, Pennington
Commissioner Oliver Swanson, Pennington
Commissioner Jack Swanson, Roseau
Commissioner Steve Raukar, St. Louis

Others Present:

Commissioner Roger Falk, Roseau
Commissioner Gary Kiesow, Marshall
Commissioner Mike Hanson, Koochiching
Robert Peterson, Koochiching County Auditor
Craig Engwall, Department of Natural Resources, Grand Rapids
Mike Carroll, Department of Natural Resources
Douglas Skrief, NCLUCB Staff

Administrative Actions:

1. Approval of Agenda with the following additions:

- 1) ATV Ordinance (Comm. Napstad - Local)
- 2) Wetland Ordinance in Aitkin County (Comm. Napstad - Local)
- 3) Land Asset project (Comm. Swanson - local)
- 4) DNR Lake Project (Comm. Swanson - State)
- 5) Con-con Evaluations (Mr. Carroll - Local)
- 6) SSTS Rules (Comm. Swanson - State)
- 7) Flood damage mediation (Mr. Carroll - State)
- 8) PILT (Comm. Beckel - State)
m. Beckel s. Jensen

2. Approval of Minutes: March 3, 2011 Meeting

m. Napstad s. Swanson

With the correction to page 5, item 7, that Comm. Sve had testified at the Environment, Energy and Natural Resources Finance Committee under Chairperson McNamara at the suggestion of the Association of Minnesota Counties.

3-4. Financial Report and Bills:

The Treasurer referred to the income and expenditures sheets prepared by the Director which reflect a general account balance of \$107,459.52 and a Land Use Conflict Management balance of \$15,005.28. The total accounts balance, after payment of approved expenses of \$1,574.90, was \$122,464.80. The Treasurer also noted that information regarding the combination of accounts was being pursued by the St. Louis County Auditor. The Director added that related board papers had been submitted to the auditor.

m. Raukar s. Sobanja

The Executive Director submitted an invoice for \$1013.60 for one month of professional services and expense reimbursement. Added to the bills was a request for payment for hall rental and refreshments for the day's meeting from the KOOTASCA Senior Center for \$55.00.

m. McBride

s. Jensen

Correspondence:

1. The Director reported that an invitation had been sent to nonmember northern Minnesota counties to attend the day's meeting.
2. The Director reported that a letter was sent over the signature of the Chair to Rep. Chip Cravaack to thank him for his support of PILT payments to counties.
3. The Director reported that Itasca County had declined an invitation to membership.

Discussion Issues

LOCAL

1. ATV Ordinance Comm. Napstad reviewed the background to a state grant awarded to Aitkin and Itasca County for the construction of a regional ATV trail. Fifty miles of the so-called "70-mile Trail" - now the Northwoods Regional ATV Trail" - are close to completion with the final 20 miles scheduled for completion in phases. About 65% of Aitkin County is considered wetland or as having wetland hydrology. This means trail creation is challenging. Nearness to other public lands allows for some easements. Certain more populated areas and townships lead to more difficulty in obtaining easements. Some unofficial trails in ditches not engineered as trails and containing wetlands and sensitive areas are currently being used as connector trails. The Aitkin County ATV Alliance has requested that county roads be opened to ATV traffic. Comm. Napstad asked which counties presently allow such traffic. Pennington County specified which roads are open after study by its county engineer. Road use by ATV has been determined a better option than ditch use. Roseau County with some exception has allowed traffic on all gravel roads and virtually all paved roads. Lake of the Woods is starting the process while currently developing a road and ditch inventory. All Cook County gravel roads allow ATVs; the ordinance, set for three years before final enactment, is at its second anniversary and is being revisited; no accidents or complaints have been monitored; the Gunflint Trail north is not open. Hubbard has a road-specific ordinance. Itasca has a limited ordinance and a permit program. Marshall has an ordinance. Lake County has no ordinance but a new section of an ATV trail system is being developed; otherwise use is by designation. Koochiching is in its second year of a 20 mph speed limit on all county roads and county state-aid roads within city limits; drivers must hold a valid driver's license; hours are limited during deer hunting season.

Comm. Napstad related that in Aitkin County ATV drivers and OHV drivers speak of some inconsistencies and drivers are often currently using paved roads rather than ditch trails. A resolution is to be brought to the county's economic development committee to seek support before introducing it to the county board. An old rail grade connects large trail systems. The new trail would connect Moose Lake to Remer. Specific designation remains a possibility. Some residents now complain about use of county roads near them. Busy use of roads is slight by metro standards. Mr. Carroll noted that the DNR encounters enforcement issues as land ownership changes and driver profiles differ; youth safety is paramount. Comm. Hanson related that Koochiching County applied a sunset ordinance of one year to all county roads; based on positive state and sheriff reports, it was easy to extend the ordinance.

Comm. Napstad related that a special appropriation was made without a specific dollar amount; some \$250,000 of state funds have been allocated for the project; since then another \$500,000 has been garnered through bonding, Parks and Trails money and manufacturers. State funds must be matched. Dovetail Partners of the Twin Cities is consultant on the project. Responsible management was a goal. Trail development must be community accepted, economically viable and environmentally sensitive. Some small communities may already be benefiting.

Comm. Sve inquired after resistance from interest groups devoted to resource preservation. Comm. Napstad noted that with fifty miles of trail completed, interest groups can see for themselves the environmentally sensitive trail creation in the Northwoods Trail project.

2. Wetlands Comm. Napstad related that Aitkin County has a wetland ordinance under the Wetland Preservation Act that 80 percent counties have been given the latitude to have their own wetland ordinances. Aitkin has experienced tremendous mitigation within county limits for projects outside its borders, at a 590-to-1 ratio of wetland replacement, because the land is cheap and easy to plug up. The last high and agricultural land available for mitigation is being purchased, chasing out industry and families. The ordinance has been opened to create a methodology of accreditation that puts Aitkin on a fairer playing

field among other counties where the mitigation should rightly be placed. Environmental benefit of dollars spent on mitigation must also be weighed as it affects counties more or less wetland rich. While the DNR and BWSR have been consulted, the Army Corps of Engineers has not been at the table and will not sign off on some options. The current ordinance has been more or less restrictive, but the Corps will not allow such latitude. And the current ordinance has been more restrictive to county residents because they cannot take advantage of de minimus exemptions provided for; the commissioner would like to see a letter from the Corps allowing a lesser mitigation ratio in return for greater restrictions – but before that point pressure will not be placed on residents.

Comm. Beckel noted that it had been determined at a previous time that out of nine member counties of the Board six had a wetland management plan. Corps personnel were not aware of these plans. When provided, the Corps did not respond to the submission. Mr. Carroll added that DNR personnel have made strides in the Red River Basin for streamlining permitting. BWSR staff has been helpful in discussing projects outside the county, added Comm. Napstad. Project specific banking is also at issue, especially where those seeking mitigation do not have clear plans for future need. Economic opportunity is lost when, for example, a whole farm is purchased for a mining company's mitigation needs.

Mr. Carroll urged looking creatively at the issue; for example, flood damage reduction areas might be funded with mining resources that would otherwise go to wetland mitigation. Mining companies will want to keep their ratios down, argued Comm. Beckel, noting some current legislative proposals to assist with same. There are farmers willing to cooperate, Mr. Carroll related.

Comm. Napstad added that the DNR pass through for BWSR had been eliminated in the Governor's and the Senate's budgets. Wetland enforcement will likely fall more on the shoulders of counties with the wetlands. The DNR still has to approve plans, commented Comm. Raukar.

Mr. Engwall recalled that some mitigation approved for St. Louis County-based projects have been contrary to management plans worked up with county land departments for certain areas. The discussion might include a case study from Aitkin County and one from Lake of the Woods County, noted Mr. Carroll. A brief discussion followed reviewing the Northeast Mitigation study by BWSR available through the BWSR website.

3. Land Asset Pilot Project Comm. Swanson reported that the project – a 300-acre exchange with willing state and county partners – is about at the point of going to the Governor's land exchange board. The next piece in the project includes the DNR's goal of establishing a waterfowl habitat enhancement project adjacent to the Roseau River enhancement area. This would include a 2,000-acre acquisition of private land. Roseau County is asking that the DNR replace that land, transferring a similar amount or value of land to the county. The wildlife manager had been informed and responded with a suggestion to do a much bigger project. Comm. Swanson shared a map of counties with significant amount of public land.

Comm. Swanson asked that Northern Counties support the concept that if there is acquisition that cannot be stopped that the state return an equivalent amount in value or land. This may relate to no-net loss which has some legislative legs. Mr. Carroll related that within the DNR a working group will be chartered to address this issue. The new Commissioner is concerned that the department own the right land in the right location, and other land can be discussed in regards to trade or sale. Once the department owns land with federal tails, difficulties related to exchange grow; this will be addressed. Pressures towards no-net gain will lead to better land asset management. Comm. Swanson added that Roseau is supportive of a Roseau River wildlife management concept because it includes flood damage reduction.

Comm. Sobanja related that he had spoken with Rep. Fabian about trading state lands in lieu of PILT payments. Comm. Beckel described a proposal that if PILT is to be reduced that fee-title land of a similar value be transferred to the county; the county could then add the land to its management plan or put it up for sale. Sen. Carlson as well as Rep. Fabian are looking at the issue, with one suggestion being to let state land go tax forfeit which in turn would be county administered tax-forfeit land – for which PILT would still be paid and at a higher level. Mr. Carroll added that the long history of this discussion includes note that the land the state has of high value is productive commercial forest; management and trust fund issues complicate the picture. County representation will be included in the discussion. Northern Counties might play a role. Comm. Beckel called it an opportunity to be involved and be supportive.

Comm. Napstad initiated discussion on different outcomes on production from state and county lands, which vary for a number of reasons, including goals of wildlife management and management initiatives. He asked if all lands of the state might be best managed at a county level; this would bring in other parameters.

4. Con-Con Evaluations Mr. Carroll related that a technical evaluation has been completed of Marshall County to be ready in May or June. There were 40-x-40 evaluations of ditched lands to see if there is a benefit to the state of management and if not how should they be returned to agricultural

production. Roseau County will be studied next. Mr. Engwall will be more engaged in the process. Comm. Napstad inquired that if there is not maintenance, ditches will plug and flood, which might lead to discussion of wetland credits. Mr. Carroll responded that discussion on the issue is continuing. This might be documented and credits shared. One concern is that these areas are protected already, resulting in phantom credits as it relates to the state. The state must ask about options of abandonment, redetermination or trade. The state has not, as a matter of policy, claimed those credits. BWSR board members have uneven appreciation for variations in ditch quality, added Comm. Napstad. Various entities are affected; there is a statewide ditch task force that needs to be consulted, noted Mr. Carroll.

STATE

1. LCCMR Mr. Engwall reported that the House and Senate have taken different views from past legislatures on the funding of projects. They rejected 20 percent of recommendations of LCCMR and reprioritized them. This is a more active involvement than in the past. Citizen representation on the board has been reviewed or changed. Lessard Sams, by contrast, must have citizen representation.

2. DNR Reaction to budget cuts General fund divisions, such as forestry, waters, lands and minerals, and parks, will be affected, commented Mr. Carroll. Additionally, a committee bill recommended, over and above, an additional elimination of 15 percent of staff over four years. One-third of the regional positions are open at present, reported Mr. Engwall. Suggested park closings would occur statewide. The DNR continues to monitor PILT for comparison purposes.

3. House File 401 on IRRRB administration of tax-forfeited lands Moot. This bill did not get a hearing. St. Louis County, according to Comm. Raukar, will continue to work with IRRRB to address land needs in the Giants Ridge-Biwabik area. He thanked the board for its support.

4. SSTS Roseau County has been involved in the process of reviewing Subsoil Treatment Systems rules, reported Comm. Swanson, and is not enthusiastic about an AMC suggestion for a five-year extension. Roseau is concerned that MPCA would wait for a change in control and later revert to a previous standard. The Aitkin County Environmental Services officer has been involved with Stearns and Polk Counties, added Comm. Napstad. A sheet on costs to individuals, even if now compliant, was produced by Aitkin; presently compliant systems will need a \$1400 investment per individual for existing systems, including permits, to upgrade from current to proposed compliance standards. A commercial system might cost \$7,000. This would lead to reactions by individuals at the county level as well as leading to costs of training of county enforcement personnel - \$105,000 for start-up and \$145,000 for annual administration. The law does allow for some local flexibility. Opposition statewide has been expressed at meetings.

5. PILT In response to reductions in PILT, the question arises as to the feasibility of counties asking instead for equivalent amounts of land. Traditional divisions of county and state lands may produce resistance. A proposal should come from the counties, recommended Mr. Carroll. An appetite for land acquisition continues; for example, the U.S. Fish and Wildlife just acquired 160 acres in Beltrami County. Comm. Beckel asked if there were means to curtail spending of public money for public lands in counties where there is already over 50 percent public ownership. There may not be enough productive land available to satisfy counties, responded Mr. Carroll. A large amount of Trust lands presents another level of challenges. In the Northwest land that might be targeted for other desired uses may already be productive forest land that the state may not be interested in divesting itself of. Exchange might be possible with legislative oversight. The question is one of maintaining a tax base to support infrastructure. Comm. Beckel asked how the conversation might be guaranteed, leading to county involvement in decisions.

Comm. Swanson asked if Lessard-Sams requires acquisition. There will be acquisition in some areas to provide habitat protection and recreational opportunities. There are 23 years of acquisition remaining. Restore and enhance is also a mandate, noted Mr. Engwall, which does not involve acquisition. The county and the state, pointed out Mr. Carroll, will need transactional dollars to pull off swaps; the Legislature may mandate land asset discussion and provide funding. Advocacy of the Board on what needs to happen may be important regarding PILT, loss of land, etc., for regulatory agencies to focus on, urged Comms. Beckel and Raukar. Requests for swap and trade are denied all the time, reported Mr. Carroll.

A summary of concern might be formed and a copy sent to Commissioner Landwehr to be sent to legislators. A letter to the Commissioner and specific legislators and state leaders might be formed to identify ways in which PILT and land transactions are affecting counties and that attention be paid to means to mitigate negative affects. This letter is to be drafted for review.

m. Swanson s. Beckel

Comm. Beckel asked if this might be sent to the Governor as a reference point for whenever this issue arises. Mr. Carroll asked for support of a formal land asset review with counties at the table and that there will have to be financial support.

6. Red River Valley Flood Mediation Agreement Mr. Carroll called attention to an interagency group of BWSR, the MPCA, DNR, and Department of Agriculture and Department of Health that has met and supports watershed coalescing to coordinate planning schedules. There will be turf battles. Cost-efficient alignment of staff time can occur better with one comprehensive plan in which agencies can update their unit. Land use information is included in discussions. There will be a communications plan brought to the Board. The Corps of Engineers has now set up through the flood mediation working group pre-engagement with watershed districts. This discussion is now restricted to the Red River Valley.

FEDERAL

NCLUCB

1. Consolidated Conservation Natural Resources Joint Powers Board Comm. Hanson reviewed the background to the Natural Resources board, noting it is about 30 years old and was formed over concern about the DNR and consolidated-conservation issues. Meetings are usually held the last Monday of the month. Issues of concern have included PILT, peat inventory, biological surveys, ditch abandonment, and state land records. Heavy lobbying has been carried out and there has been light involvement in litigation. Dues have ranged from \$500 to \$2,000 annually. There is open preliminary support for discussion about creating a broader base of support from northern Minnesota. There may be some duplication to be avoided. Distances are of consideration as well as conflicting meeting dates. Nothing is concrete to date. Beltrami County would like to invite Northern Counties to Bemidji in late April. Marshall County's Comm. Kiesow remarked that the present meeting's discussions have been somewhat afield from his interests which include ditching, elk issues, con-con and even beaver and that Marshall's interests are more similar to those of Roseau and Pennington Counties.

Comm. Swanson noted that there has been enough duplication that some counties have considered creating one entity, creating a large and louder voice at the state level. Comm. Napstad agreed about commonality of interests; over the past twelve months there have been similar guests as well as common issues at each organization. Time and constraints on county budgets are of current concern. While ditching styles differ and shore land issues are different, there is common ground. Logistics can be resolved. Comm. Swanson suggested each group meeting alternately and, before then, meet together at the end of April. Separate issues could be handled at the same time, suggested Comm. Jensen. Joint quarterly meetings might allow for creating a single voice, Comm. Raukar noted. He asked after a possible governance model. Comm. Sobanja suggested where overlaps occur to create documentation of mutual concern while discussing areas of common interest. The DNR would find efficiencies in addressing one group rather than two, said Mr. Carroll.

Members of Northern Counties are invited to attend the Natural Resources meeting in Bemidji on April 25.

2. Number of member representatives from each county at NCLUCB The joint powers agreement asks for two representatives from each county with each representative having a vote.

3. Next meeting of NCLUCB The next meeting will be held on April 25 in Bemidji. No agenda will be formed. If a quorum is present and business necessary, a meeting will be called to order. No May meeting of NCLUCB will be held.

Adjournment at 12:00 p.m.

m. McBride s. Jensen

Next meeting April 25, 2011, 10 a.m. Beltrami Administrative Building, Bemidji

Respectfully submitted by Douglas Skrief, Administrator