

NORTHERN COUNTIES LAND USE COORDINATING BOARD
Minutes
Monday, September 1, 2011
Chisholm, Minnesota

Call to Order: The meeting of the Northern Counties Land Use Coordinating Board was called to order at 9:40 a.m. by Vice Chair Commissioner Chris Dahlberg 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 Rob Ecklund, Koochiching
Commissioner Rich Sve, Lake
Commissioner Don Jensen, Pennington
Commissioner Jack Swanson, Roseau
Commissioner Chris Dahlberg, St. Louis
Commissioner Steve Raukar, St. Louis

Others Present:

Tim Olson, Office of Rep. Chip Cravaack
Bob Tammen, Soudan resident
Pat Tammen, Soudan resident
Elanne Palcich, Chisholm resident
Bob Lessard
Craig Engwall, Northeast Regional Director Department of Natural Resources
Lori Dowling, Northwest Regional Director Department of Natural Resources
Pat Henderson, Arrowhead Regional Development Commission
Douglas Skrief, NCLUCB Staff

Administrative Actions:

1. Approval of Agenda with the following additions:
 - a. Local: White Cedar Preservation Meeting (Comm. McBride)
 - b. State: Legislative Update (Comm. Sve)
 - c. Federal: Essential Air Service (Comm. Jensen)
m. Swanson s. Jensen

2. Approval of Minutes: July 7, 2011
m. McBride s. Swanson

3-4. Financial Report and Bills:

The Director reviewed the income and expenditures sheets reflecting a general account balance of \$104,401.79 and a Land Use Conflict Management balance of \$15,005.28. The total accounts balance, after payment of approved expenses of \$733.14, was \$119,407.07.

m. Raukar s. Jensen

Bills: Administrative expenses for Douglas Skrief at \$1,153.64 for two months.

m. Raukar s. Napstad

Correspondence: The Director announced that notice of dues had been sent to all counties, with the information that dues would stay the same as those dues charged for 2011 or be reduced.

LOCAL

1. White Cedar Preservation Meeting events: Comm. Ecklund reported that he had attempted to attend a meeting at Voyageurs National Park Headquarters that included representatives of the Army Corps of Engineers, the Fish and Wildlife Service, the Minnesota Department of Natural Resources and the Environmental Protection Agency (by phone). It was requested that he leave the meeting and return at a later time for a county-inclusive meeting. Comm. Beckel of Lake of the Woods County had earlier been denied access. The meeting reportedly was convened to address interagency communication issues.

Later in the day, a delegation was taken to a cedar forest mitigation site in Koochiching County; approval of the credits seems imminent. (Subsequently, a representative of the East Grand Forks office of U.S. Sen. Franken relayed the Senator's concern over delays in project approvals, including gaining permission for wetland crediting of the 80 acres of white cedar.)

Mr. Engwall clarified that the DNR does not carry on business meetings in the manner described and that he supports the projects in question. Discussion covered the disparity between state law and the current ability of federal agencies to overrule it. The 80 acres in question would result in 10 wetland credits valued at \$12,000 an acre.

Consensus was that the Board wait to see if follow-up on the matter of the exclusion from the interagency meeting is to be recommended.

STATE

1. Wetland Mitigation Comm. Napstad reviewed the history of wetland mitigation in Minnesota. The state Wetland Conservation Act became effective in the early 1990s to stop the destruction of wetlands – or mitigate wetland impacts. For example, a mining company in disrupting surface wetlands to reach ore must now mitigate that impact. That impact must be mitigated in a sequential arrangement that falls in Army Corps of Engineer wetland bank service areas. A mitigation project in a wetland-rich service area may mitigate in its own area or an adjacent area. Much of the wetland mitigation impacts occurring in St. Louis County are coming into Aitkin County for mitigation. Involved in such transactions may be a mining company, a state rule guiding it, and a property owner/investor. An investor, for example, may come into Aitkin County and decide to buy an 80-acre farm with the intent of plugging up the drainage ditches and turning it back into wetland to create acres of wetland credit potential. A mining company may come along and purchase the credits and mitigate the impact of their mining – a pretty efficient means towards mitigation. The ecological or environmental advantage is minimal, however, as Aitkin County is 50 percent publicly owned with 102 percent of its pre-settlement wetlands. An example is in the Deer Run Wetland Bank where an investor purchased a 400-acre farm (resulting in the departure of a farm family and the economic impact of the farm as well as wildlife degradation such as that of sharp-tailed grouse which lost open-field habitat). The investor plugged ditches and turned the farm back into wetland. The land was purchased for \$1,000 an acre but is now worth \$12,000 an acre in wetland credits. As years go by, developers may come and buy credits no matter where the impact is. This does not result in a water quality or environmental benefit to the already wetland-rich area where the credits were created. At the point that all the wetland credits are sold off the land and permanent easements are attached, the developer may approach the DNR to say that the agency ought to buy the land that is now otherwise “useless.” The developer may even suggest the land go tax-forfeit. The state would assume the easement responsibilities as the land was adjacent to a Wildlife Management Area. If it goes tax-forfeit, the county can do nothing with the land but allow public access. Aitkin already has 600,000 acres of public land.

The Joint Powers Natural Resource Board and the Northern Counties Board have asked what sense it makes to spend millions of dollars on mitigation outside of an area that might better benefit from mitigation investment. The Red River Valley, for example, is now to benefit from \$50 million in flood mitigation passed during the recent Legislative session. The State might modify the WCA to allow for someone who is going to spend \$10 million in wetland mitigation in Aitkin County, where it will have minimal impact in flood reduction or habitat improvement, instead spend that money where it will do more good. This would allow wetland mitigation to be seen from a public value perspective.

The two Boards have drafted a letter to the Executive Director of the Board of Water and Soil Resources, of which Comm. Napstad is Chair, to modify the WCA to allow developers developing in the northeast part of the state to move those dollars into more effectual areas. At present, a developer is faced with the acre-for-acre nature of the Act and so will look for the cheapest land to mitigate. If the mitigation were instead based on dollar-for-dollar, a developer might go instead to, say, southern Minnesota, or the Prairie Pothole region, outside the 80 percent zone and create wetlands where it will do some good. The joint letter to BWSR has started a conversation. Comm. Napstad has had discussions with DNR Commissioner Tom Landwehr, who appreciated the possibility of adjustments to the Act, and with John

Jaschke, executive director of BWSR, who also saw room for discussion. Mr. Jaschke brought up the issue with an Army Corps of Engineer representative who opened the door for conversation.

Comm. Napstad has also asked Rep. Torkelson if he were willing to carry a new WCA bill to the Legislature; the Representative was non-committal. The assistant executive director and legislative liaison of BWSR, Julie Blackburn, will carry the question to the Governor's office. Bi-partisan support would be helpful, even in the partisan atmosphere in St. Paul. The DNR and The Pollution Control Agency would be involved. Even with all agencies involved, legislation written and bi-partisan support assured, the Army Corps of Engineers could still say that they would not allow any particular project, no matter the argument for public good.

Former State Senator Bob Lessard commented that the original legislation was focused on agricultural lands in southern Minnesota. He applauded Comm. Napstad's review of the Act and that the approach outlined makes sense. He foresaw support without much disagreement from different viewpoints. He pointed out that the Corps of Engineers is also subject to pressure from Congressional delegations. Comm. Swanson underscored environmental as well as economic benefits.

Comm. Napstad reported that he had related to agency heads that the Boards would gladly step aside from leading the effort. Exec. Dir. Jaschke recommended that county representatives from northern Minnesota might well make themselves available to testify on behalf of changes to the Act.

Comm. Jensen commented that while agreeing with much said, some agricultural interests may disagree with changes, arguing that mitigation might be "taking food from people." Mr. Engwall recalled that Sibley County is 99 percent drained and might oppose change, however the mitigation pool might be made as big as possible, thus making it easier to mitigate. In response to a question from Ms. Henderson on why a developer might chose one mitigation over another, Comm. Napstad explained that while there would likely be many fewer acres purchased for mitigation they would be more important acres due to their impact on water quality or flood control, for example. Exceptional Natural Resource Values are already recognized; it would be better to spend funds there rather than simply where land is cheap. Participation in the program has to remain voluntary where landowners independently submit their acreage for consideration. Comm. Raukar underscored support and need for revisiting the WCA and making it more purposeful. Comm. Napstad added that he has indicated counties will be on stand-by to push reconsideration of the Act.

2. Heart of the Continent Partnership meeting at Voyageurs National Park No commissioners were able to attend the most recent, August meeting. Comm. Ecklund will be attending the next HOCP meeting in Thunder Bay, Ontario.

3. PILT Comm. Napstad reported that Payment In Lieu of Taxes was discussed at the last Environment and Natural Resources Policy group meeting of the Association of Minnesota Counties. The state through the PILT program has recognized that it owns property and that it should pay some sort of tax. As a line item in the DNR budget, it was subject to reduction due to the current economic crisis. AMC policy committees assisted in efforts to move the funding from the DNR to the Department of Revenue, making it a \$25 million item in a \$25 billion budget. This year the PILT payment rates were made at 100 percent but were frozen at that level. Those counties with large public land ownership, such as Lake of the Woods, which relies on PILT for 42 percent of its budget, are concerned. AMC discussion asked what to do with PILT. The Legislature is mandated to have three meetings this year on the topic. Discussion will focus on the traditional PILT program versus a new PILT plan in which Lessard-Sams Outdoor Heritage funds would be set aside in an annuity pool of money from which to pay taxes in the future. This division into two categories of PILT was objected to by Comms. Napstad, Beckel and Pavleck. There has been no decision at AMC regarding which option to pursue.

4. Legislative Update Comm. Sve related a discussion at Lake County of land exchanges between the county and the DNR. The question arose as to whether legislation should be sought to streamline the process. Comm. Swanson noted that he would be at the State Land Exchange Board meeting in St. Paul the following week as Roseau County has been involved in a Land Asset pilot project. If approved, the project conclusion would end a two-and-one-half-year-long project. The DNR's intention, he offered, is that the agency and the county would go together before a committee or committees and describe the difficulty of the process and request legislative relief for same. There was adjacent landowner opposition to the exchange, which will likely be addressed. The exchange is value-for-value, exchanging 238 acres for 280 county acres adjacent to a WMA. Mr. Engwall related that he meets with land commissioners about such exchanges, which are a significant issue. The Lake County exchange involves about 3,000 acres for 3,000 acres between public entities to consolidate holdings; the process of costs and appraisals has been on the table. Meaningful consolidation is difficult when lands in the northern counties include significant amounts of non-contiguous Trust Fund lands. Distrust of the DNR to raise the issue of exchange in such cases might

be mitigated by counties and land commissioners taking the lead. Determining evaluation might be made earlier.

FEDERAL

1. Federal Essential Air Service Designation Comm. Jensen called attention to an announcement by Delta Airlines that it was discontinuing service to Thief River Falls, and some 30 other Minnesota airports, if it can find an alternative carrier to take its place. Discussions have been initiated with Colin Peterson and Senators Klobuchar and Franken about the matter. It will demand a collaborative effort across the nation to prevent cuts to essential air service. Thief River Falls needs the passenger service to continue its significant freight shipping by air. He encouraged Tim Olson of Rep Cravaack's office to carry the word back to the Congressman. Negotiations have reduced the potential closures of service, Mr. Olson reported, adding that some airports had charged to essential air funding the cost of extraneous projects. Ms. Henderson added that the ARDC has passed a resolution in support of essential air services in the Arrowhead. Comm. McBride noted that in the face of Delta's lack of support, Federal assistance in the matter is needed.

2. Comments from Tim Olson of U.S. Rep. Chip Cravaack's office Comm. Dahlberg thanked Mr. Olson for his outreach efforts on behalf of and by Rep. Cravaack. Mr. Olson recommended setting up a meeting with the Representative regarding wetlands issues and to ease constraining regulations and agency actions.

Comm. Swanson brought up Homeland Security and the consternation of citizens over the many-fold increase in security forces on the border. New non-full-time border security facilities in and near Roseau each costing millions of dollars have been built. Justification seems in order. Koochiching County has gone from two to seventeen Border Patrol officers, reported Comm. McBride. A proposed increase in jurisdiction to one-hundred miles from the international border of Homeland Security is not appreciated, added Comm. Ecklund. Comm. Sobanja agreed, adding that the investments in infrastructure have been attractive while the range of the Border Patrol has already extended one hundred miles; citizens are concerned, seeing initiatives as being industry-led. Comm. Raukar reiterated concern of Federal tax dollars being spent on policing of citizens.

Comm. Jensen brought up one-stop shopping for road-building permits. Currently the DNR and MPCA and other agencies can be consulted in a more timely fashion, but when the Federal agencies are approached there can be independent delays such as from the Army Corps, throwing construction schedules into future years. County Engineers have suggested if there are no significant changes to road use or construction that a common application be made with a short-term turnaround. Non-response would be read as approval. He encouraged Federal assistance in streamlining the process.

Comm. Jensen brought up a Minnesota proposal for mileage-based user fees to replace the gas tax, in part because of electric car development. He had approached Rep. Colin Peterson to back some Federal guidelines for interstate travel, but was not encouraged to expect them. There will be a need in the future. MNDot District One recently held a focus group on the issue, noted Ms. Henderson. Comm. Napstad argued that the proposal would be crushing to rural counties with long distances between locations; an Internet tax would also present pressures against opportunities for economical rural living.

NCLUCB

1. NCLUCB Budget

m. Swanson s. Jensen

Comm. Swanson asked if expenses would be met with the proposed NCLUCB budget for 2012. The Director responded affirmatively. Comm. Swanson brought up potential reduction of dues. The ability to raise dues in future years would be difficult if they were reduced this year, it was suggested. Consensus was to leave dues at their current level of \$2,000 per county (\$3,000 for St. Louis County).

2. Preliminary Budget Levy Review by County:

Aitkin: 5 percent increase in recognition of state actions, though it will not offset cuts from state

Roseau: 5-6 percent increase related to lost homestead credit

Pennington: 5-6 percent increase to regain loss from state

Koochiching: probably 4-5 percent increase

Cook: 5-6 percent increase

Lake: 5 percent range increase

St. Louis: 2 percent range increase

Pat Henderson added that the ARDC is considering holding the levy at current levels or to raise 3 percent, to be decided in September.

3. Future Agendas for the October 6 joint meeting may include PILT and Wetland Mitigation. Comm. Swanson asked that the November agenda address meeting via ITV. Mr. Engwall extended an invitation to hold the October 6 joint meeting at his residence.

Adjournment at 12 p.m.

m. Sve s. Napstad

Next meeting October 6, 2011, 10 a.m. Engwall residence, Dora Lake, Minnesota

Respectfully submitted by Douglas Skrief, Administrator