

**NORTHERN COUNTIES LAND USE COORDINATING BOARD**  
**Minutes**  
**Monday, January 5, 2012**  
**Chisholm, Minnesota**

Call to Order: The meeting of the Northern Counties Land Use Coordinating Board was called to order at 9:35 a.m. by Chair Commissioner Wade Pavleck with the following in attendance. (All actions of the Board were supported unanimously unless otherwise indicated.)

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 Jack Swanson, Roseau County  
Commissioner Chris Dahlberg, St. Louis County  
Commissioner Mike Forsman, St. Louis County  
Commissioner Steve Raukar, St. Louis County

Others Present:

John Ongaro, St. Louis County and Arrowhead Counties Association  
Bob Krepps, St Louis County Land Commissioner  
Craig Engwall, Northeast Regional Director Department of Natural Resources  
Carol Pavleck, Koochiching County resident  
Douglas Skrief, NCLUCB Staff

Administrative Actions:

1. Election of Officers: (All officers elected unanimously, after nomination, by a unanimous Ballot)  
Chairman Nomination for McBride m. Swanson s. Dahlberg Unanimous Ballot m. Dahlberg s. Swanson  
Vice Chairman Nomination for Dahlberg m. Swanson s. Napstad Unanimous Ballot m. Napstad s. Sobanja  
Treasurer Nomination for Raukar m. Dahlberg s. Sobanja Unanimous Ballot m. Swanson s. Dahlberg

2. Approval of Agenda with the following additions:

- a. Local: Gravel Tax (Swanson)
- b. State: Wetland Mitigation Flexibility (Napstad)
- c. State: EQB Executive Order  
m. Sobanja s. Napstad

3. Approval of Minutes: December 5, 2011 with the correction that Sobanja and Pavleck were appointed to the Forests For the Future Advisory Committee.  
m. Pavleck s. Napstad

4-5. Financial Report and Bills:

The income and expenditures sheets reflected a general account balance of \$101,993.37 and a Land Use Conflict Management balance of \$15,005.28. The total accounts balance, after payment of approved expenses of \$633.16, was \$116,998.37. Discussion noted that Lake of the Woods paid \$2,500 in dues in 2011, \$500 more than invoiced; note will be made of same on the 2012 invoice.

m. Raukar s. Pavleck

Bills: Administrative expenses for Douglas Skrief at \$358.04 for two months.

m. Dahlberg s. Pavleck

Discussion reviewed the significant account balance. Consensus determined that increased activity, such as legislative initiatives in 2012, may demand financial reserves and the subject can be revisited later in 2012.

Correspondence: The Director announced no correspondence.

## ISSUES OF DISCUSSION

### LOCAL

1. Beaver control issues – Comm. Swanson reported that Roseau County has supported amendment of the Minnesota Statutes 2010, section 978.667 that when a drainage watercourse is impaired by a beaver dam, and the water damages or threatens to damage a public road or ditch, the road or ditch authority – typically townships, counties and watersheds – may remove the beaver, the impairment, and any lodges within 300 feet of the road or ditch. A bounty may be offered. Comm. Swanson recalled that the local DNR had cited trappers for lack of a permit and that a judge dismissed the citations after the Roseau County Attorney approached the court. The county is interested in local control while trappers do not support shooting of beavers. A DNR roundtable is being scheduled for February or early March.

Comm. Napstad proposed that the issue is not about a different way of harvesting beavers but a means to protect roads and that one avenue would be to give notice and report on actions taken. Comm. Pavleck noted that the issue is larger than roads alone as government timber is lost due to flooding beyond 300 feet; the state's lack of animal control represents a cost shift to counties. Agricultural land is also of concern, added Comm. Swanson. Comm. Forsman agreed the issue is one of protection of infrastructure and that small steps might be taken, beginning with the road issues.

Mr. Krepps recounted recent meetings with the Minnesota Trappers Association last summer. His department has created plans that identify problem areas that are not, subsequently, being utilized by trappers; trappers sometime complain about out-of-season control such as blowing dams. On one location in the spring of 2011 42 animals were taken from one-half mile of stream with an extended-season permit issued a trapper invited to address the problem. There has sometimes not been interest by trappers when contacted. Mr. Engwall suggested that a staff member from the Wildlife division or a conservation officer might address the Board on the matter. Comm. Napstad noted that the current value of a hide is a low \$20 and that trappers now consider expense of gas to reach target areas. A higher hide value, agreed Mr. Krepps, would lead to greater interest among trappers in areas the counties want addressed. Comm. Sobanja encouraged a middle ground in which the DNR would trust road or drainage authorities, which Comm. Forsman supported, adding that the question is one of giving local permits. Comm. Napstad suggested a potential way of gaining insight into trappers' sensibilities over the issue might be outreach at the spring Fur Rendezvous in Cambridge. Mr. Engwall and Mr. Krepps will supply contact names.

2. Intermediate Timber Sales - Comm. Raukar reported that the issue was raised at the Association of Minnesota Counties conference in December. St. Louis County has been examining the issue for some years. Small loggers from time to time have approached Comm. Raukar about the perceived lack of a level playing field. Several counties now carry out intermediate sales. Minnesota statutes do not provide for these sales at the county level. Forested counties might pursue the addition of permissive language to allow for them much as the State does or with even more latitude in the language. He requests that the Director and John Ongaro of St. Louis County request information of forested counties about their practice and how intermediate sales might be beneficial to them. Size of logging operations involved would be of interest as would information on the efficacy of this tool generally. A goal would be to make it legal for those carrying out sales at present and to provide the option to others.

Comm. McBride related that Koochiching County has intermediate auctions for companies of 30 employees; only six permits are allowed at a time, one per auction.

Mr. Krepps reported that in about 1997 the question of intermediate auctions came up on the authority to hold them. A review of the statutes by the county attorney resulted in a recommendation to cease, which St. Louis County did. The question has come back and the opinion has held. Over-counter sales are limited to take care of small patches of timber under \$3,000. Outside of the large lumber companies there are very few operations with more than five employees, raising the question of what is "small". After 2006, when the bottom fell out of the market, timber was taken back with the commitment to put them back out within 90 days. The amount of wood held by the mills versus small operators flipped – from 60 percent held by mills by more than 60 percent held by loggers. Ninety-eight percent of timber is sold with the logging community doing the buying. Half of the timber sells for the appraised value. Intermediate sales in neighboring counties appear to be priced a little lower and are restricted and the Trust is impacted as a result. The value of the land for which the land departments and counties hold fiduciary responsibility must benefit all citizens of the county; the economic benefits of employment are also an important consideration. One neighboring county might see increased values if it put all of its sales into a regular auction.

Mr. Krepps agreed that terminology is a problem, as “interim” or “intermediate” are sometimes used. One county gives decision-making authority to field foresters as to which auction a parcel should be assigned, but this practice seems to lack consistent criteria for the assignment that addresses both field and management concerns. Comm. Forsman suggested that if language were provided to allow intermediate sales a county would still be able to choose whether to use this tool or not. St. Louis County has a system that works presently in the best interest of the public trust. When a parcel is left on the table there is still an opportunity for operations to pick it up after the auction.

Comm. Napstad asked about consistency across county lines as it pertains to loggers’ perspectives. Mr. Krepps responded that small logging operations in St. Louis County tend to remain in the county. There is not a lack of opportunity for small operators to pick up parcels. Comm. Pavleck recounted that Koochiching County went through this process about eighteen years ago. The county’s attorney made a recommendation similar to that of St. Louis County’s. The public trust responsibilities, he noted, are appreciated. In Koochiching a large company with its own loggers controlled prime timber, and, as a result, smaller loggers with two or three employees were at a disadvantage. Little communities were competing to survive. A committee made up of company reps, small loggers and environmentalists sat down and came up with the recommendation to hold intermediate sales, and the county has carried them out without repercussions. The matter may be one of county-level decision-making. He added that there has been a change over time in the size of logging operations, with two or three people now doing the work of 30.

Comm. Raukar gave support to a holistic approach to the matter that encompasses economic considerations. The Floodwood area is experiencing the diminishment of its community; small independent loggers must make large investments to stay competitive. Large mills may not be supportive of the survival of the small operator for a number of reasons. To keep small independents viable helps support whole communities that might not otherwise flourish. He argued that after many years of discussion, it is time for making legal through legislative change the operations of counties now holding intermediate sales while placing a better tool in the bag of other counties that might benefit from having the option, realizing that even to reduce the number of employees in the formula will result in push back in the legislative process.

Comm. Pavleck responded that he would want to confer with his county board as he would have a concern about stirring up a matter best left unaddressed. As the most recent change in the legislation, added Mr. Krepps, was to increase from 25 to 30 the minimum number of employees, as supported by Representative Dill, other push back may be expected. Mr. Ongaro expressed concern that at this point without a uniform voice there might be possibility of losing indirect authority presently exercised by some counties. This might not be the best year in the legislative cycle to pursue the matter; a potential goal might be to establish for counties the same authority now exercised by the State. There exists a risk to stir up the matter in a short session. Other discussion reviewed the background of changes to the legislation. Comm. Pavleck noted that small communities in Koochiching did not flourish as a result of instituting this practice.

Fourteen counties are considered forested. Six are holding intermediate sales under “implied authority.” Comm. Raukar moved to request from member counties information as to whether or not they are carrying out intermediate sales and, if so, under what controls. Also, to ask if individual member counties would be willing to get behind legislation to seek a change in law to legalize intermediate sales at the county level.

m. Raukar                      s. Pavleck

2. Gravel Tax – Comm. Swanson requested feedback on an issue raised at a watershed board meeting at which a consultant engineer and township board officer in Pennington County asked the commissioner why Roseau County does not assess gravel tax. Pennington has instituted in the past year a statutorily required tax set at \$.23 per ton. The township gets 40 percent of the tax. The township realized \$6,500 in a half-year period. Comm. Forsman suggested that the tax is statutorily allowed rather than required. Koochiching does not have townships, noted Comm. Pavleck; Comm. Swanson suggested the whole county might then collect the tax. Mr. Krepps recalled that about a year ago the issue came up and that the matter was considered available to the county to opt in or out.

## STATE

1. “Wetland Mitigation Flexibility” Project – Comm. Napstad related that over the past eight months the Board has addressed the issue of the difficulty of doing wetland mitigation in Northeast Minnesota. Aitkin has seen a full circle instance in which a farm was purchased, wetland credits established and sold and the owner now wanting to sell the land to the DNR or allow it to become a potential tax forfeit property. Another overlay is that there is good money being spent on wetland

mitigation in areas of the state which do not need it while other parts of the state are crying for public dollars to address loss of most or all of their wetlands. The suggestion has come up of placing wetland mitigations in areas that need them rather than in the same or adjacent watershed simply to follow the rule. During last summer's BWSR tour Comm. Napstad brought this to the attention of DNR Commissioner Landwehr who wondered why state agencies are not pursuing the matter. Comm. Napstad brought it to John Jaschke, the Executive Director of BWSR. Since then Comm. Napstad has been meeting with Mr. Jaschke who arranged a Nov. 4 meeting with himself and representatives of the DNR and the Army Corps of Engineers. He asked if there was an interest in changing the rule to allow for more selectivity. A follow-up meeting was planned to formulate policy and rules to make this happen. A meeting was held January 4 with staff from BWSR, the DNR, the Army Corps, Mr. Jaschke and Comm. Napstad. The objective of gaining better understanding of how to pursue the matter was somewhat set off course when the Army Corps presented an example of a potential mitigation site in St. Louis County and inquired why it was not being pursued. The case brought up the fact that even if the Corps were to support the logic of considering other mitigation options, the EPA and U.S. Fish and Wildlife Service would have to be on board with any one project. The lesson for Comm. Napstad was that while it may appear that decision-making is controlled at the state level, other entities have veto authority. What would be needed is a justification for moving a mitigation out of one area and into another. The Corps is primarily concerned with mitigation in the area affected, which was a lack of latitude not appreciated by Mr. Jaschke. A 2008 Corps rule demands sequencing and it is tough to find alternatives. Mr. Jaschke pulled out the Northeast Minnesota Wetland Mitigation Survey that reviewed quantitative and qualitative appraisal of potential mitigation sites that reveals sparse opportunity for mitigation. The Corps had not yet fully considered the matter.

The issue, already complex, is gaining more complexity. Some tentative buy-in by state agencies is a positive. There is a growing appreciation that the benefits of mitigation may be divisible, so that water quality improvement and habitat improvement, for example, might be carried out at different locations. It is clear that this is an agency-level project that will have to involve federal agencies. Each piece of land will soon have to be recognized as having many attributes and overlying functions, for example being both a forested and a recreational site. A follow-on meeting will be held to review staff input.

2. Environmental Quality Board – Comm Napstad reported that the EQB, while not known about by many counties, is charged to coordinate environmental policies among state agencies. It has representatives from BWSR, the MPCA, Departments of Health and Agriculture, the DNR, MNDOT and others. An executive order was issued by the Governor in November stating that by November 15, 2012, the EQB will evaluate and make recommendations regarding how to improve governmental coordination, preparing an environmental report card and by 2013 it shall hold an environmental congress. In short, it is to understand overlaps, redundancies, and merits of the environmental review process. There are four different components to be explored. Stakeholder input will be sought. Comm. Napstad, who sits on the board as Chair of BWSR, recommended input of local units of governments as represented by such entities as AMC, the county engineers' association, zoning administrators' association. If the board has someone in their county who has recently gone through a permitting process and can speak to county-related issues, Comm. Napstad would like to know so as to be able to ask them to give testimony at the input sessions.

#### NATIONAL

1. Wolf Delisting – A news article on delisting was distributed. The Chair noted that in Idaho 20,000 requests were received for 550 permits after delisting; the quota is not filled. He applauded the federal government and the DNR for their efforts. Mr. Engwall reviewed that the State had initially planned for a five-year moratorium on hunting and trapping, time the DNR Commissioner has declared already past. The DNR Roundtable will bring the issue into focus. No immediate developments are expected.

#### NCLUCB

A tentative agenda for 2012 was approved.

m. Forsman            s. Dahlberg

#### Adjournment at 12:00 p.m.

m. Forsman            s. Swanson

**Next meeting February 2, 2012, 9:30 a.m. Northome**  
Minutes by Douglas Skrief