

**NORTHERN COUNTIES LAND USE COORDINATING BOARD**  
**Thursday, February 7, 2013**  
**Northome, Minnesota**

Call to Order: The meeting of the Northern Counties Land Use Coordinating Board was called to order at 9:40 a.m. by Chair Brian McBride with the following in attendance:

NCLUCB Member Counties Present:

Commissioner Brian Napstad, Aitkin County  
Commissioner Garry Gamble, Cook County  
Commissioner Brian McBride, Koochiching County, Chair  
Commissioner Wayne Skoe, Koochiching County  
Commissioner Rich Sve, Lake County  
Commissioner James "Buck" Nordlof, Lake of the Woods County  
Commissioner Oliver "Skip" Swanson, Pennington County  
Commissioner Todd Miller, Roseau County  
Commissioner Steve Raukar, St. Louis County

Others Present:

Craig Engwall, Northeast Regional Director, Department of Natural Resources  
Bob Lessard, Department of Natural Resources  
Bob Tomlinson, Department of Natural Resources Land Asset Manager  
Douglas Skrief, NCLUCB Staff

(All actions of the Board were supported unanimously unless otherwise indicated.)

Administrative Actions

1. Discussion and Approval of the Agenda with the following additions:

- a. Local: Intermediate Timber Sales (Raukar)
- b. State: Permit to Mine (Napstad)
- c. State: PILT (Sve)
  - m. Napstad
  - s. Sve

2. Minutes of the January 3, 2013, Meeting:

- m. Raukar
- s. Swanson

4-5. NCLUCB Financial Report and Bills:

Approval of the financial report and bills: The income and expenditures sheets reflected after expenses of \$793.71, a general account balance of \$110,621.89 and a Land Use Conflict Management balance of \$15,005.28. The total accounts balance of \$125,627.17. Director Skrief noted that since the printing of the financial reports, \$9,000 had been received in dues payment from member counties.

- m. Raukar
- s. Swanson

Approval of bills of administrative duties/expenses for Douglas Skrief for one month \$762.93 and an additional \$55.00 for the present rental of the meeting room and refreshments in Northome.

- m. Napstad
- s. Raukar

6. Correspondence – From David Dill, State Representative, expressing that he does not intend to hear any bills in the Environment and Natural Resources Policy Committee that would give the Department of Natural Resources further authority over shore land regulations. The Chair added that Rep. Fabian had tried to reach him by telephone regarding this issue.

ISSUES OF DISCUSSION

## LOCAL

1. Intermediate Timber Sales (informational) – Comm. Raukar related that HF 374 was to be introduced to amend state statutes 2012.921 to allow counties to adopt legally the intermediate sale of timber to small operations. Customizing sales to the market place would be possible for those counties carrying out sales, currently or in the future. Setting the minimum numbers of employees of small lumbering operations may be flexible.

## STATE

1. Shore Land Rulemaking Authority and the Department of Natural Resources – Comm. Sve reported that he had met with DNR Comm. Landwehr, AMC's Annalee Garletz, Bob Meier, and Barry Nelson, commissioner from Becker County, and others concerning shore land rulemaking authority, voicing the view of AMC that without defining the scope of the authority it would not be supported. The return message was that the process needs to be opened up, at which time the scope will be determined. There was suggestion that legislation would include compensation to counties for implementation of the updated rule.

The AMC will be distributing a survey - described by Comm. Napstad - to county coordinators, asking when a county adopted a shore land policy, on what years the rules were amended, what is the county's block grant to pay for enforcement of rules, and an estimate of cost of implementation. The document is to highlight for legislators that each county has a shore land rule. Many legislators, commented Comm. Napstad, are unaware of the governing authority and the adoption of rules by counties. The questionnaire will point out that counties are already doing shore land regulation and that funding to implement rules is necessary. Comm. Napstad has been through two rounds of shore land rulemaking. He argued that while counties are responsible for adoption and implementation, as well as having to levy, their place at the rulemaking table will be weighted no more heavily than a representative of a lakeshore owners association. He anticipated complaints that counties may be seen as trying to limit the process, but he again referred to the adoption and levying and implementation responsibilities of counties, and that those responsibilities justify greater input into the process. These are minimum standards, pointed out the Chair, and necessarily so to allow for flexibility in implementation in differing landscapes in the state. Counties may already exceed state standards. Some individuals at the table will be looking for the most stringent of rules, which they will not be responsible for implementing. Property rights and current regulations may conflict. And it is up to the county to enforce. Comm. Gamble inquired over encumbering the process when intentions are ill-defined.

Comm. Sve added that the authority could come into play through another legislative committee than Rep. Dill's. Mr. Tomlinson noted that counties appear to have responsibility and accountability without having authority. He pointed out parallels to discussions over best management practices for timber harvesting. Comm. McBride added that having some forewarning of issues without first opening the whole rulemaking authority would be desirable. Comm. Sve would similarly like to avoid conflict as happened in STS rulemaking. Comm. Napstad added that shore landowners are requesting "more protection," which may be a reference to protection from invasive species. Many may agree that funds, if available for shore land rulemaking, should instead be diverted to address a clear and present danger. Mr. Lessard noted that at a recent meeting in Walker the only topic was invasive species. Dir. Engwall noted that 25 percent of his planner's time is devoted to invasive species. Small lake associations wish to limit access, which must be balanced with the public's unlimited access to public waters.

Comm. Napstad summed up that AMC will be asking questions and that NCLUCB has sent letters referring to county interest. Comm. Miller noted that it takes time to deliver messages. Comm. Raukar outlined the current educational benefit of informing legislators about current rules and then bringing focus to highest priorities. Further discussion reviewed predictable conflicts over access. The definition of "adequate funding" was also reviewed, with note that what is adequate varies from county to county. Comm. Napstad added that when rules are opened "tinkerers" who have been waiting to influence the process may unduly influence the projected goals, and counties will be left to deal with the changes.

Comm. Skoe asked about the timing of the initiative. Dir. Engwall recalled that a rule was presented to Gov. Pawlenty who vetoed it, leaving it hanging. Some would like to revisit that proposal. The current effort is not to circumvent counties and what they do. Comm. Napstad asked why a proposed rule is not presented up front. Dir. Engwall responded that the DNR is looking for a balance, involving parties without appearing to dictate. Mr. Lessard noted that there is currently legislative representation from northern Minnesota in key positions and that they may have significant influence; he encouraged talking to

leadership and pointing out priorities. An IRRRB meeting might be an opportunity for discussion, noted Comm. Napstad. Comm. Sve added that he would be talking to Sen. Bakk and Rep. Dill in the coming week.

2. Permitting Issues – Comm. Raukar related that efforts by Comm. Nelson of St. Louis County, who addressed NCLCUB in January on issues surrounding obstacles to permitting, especially by the Army Corps and the EPA, have resulted in NACo holding a meeting on the issue. St. Louis County will provide staff and examples of injustices in the permitting process. The meeting may include legislative staff.

Comm. Napstad added that he had raised the issue with DNR Comm. Landwehr who recommended that Comm. Nelson come to the Environmental Quality Board. Comm. Nelson could bring up the amount of funds expended by permit seekers, for example. Comm. Napstad suggested that support developed on a state level may include the Governor's and that, with that in hand, state commissioners might then voice common concern at a national level.

Examples of obstacles to permitting for a portfolio of negative permitting experiences are still welcome, noted Comm. Raukar.

3. Forest Acreage Caps – Comm. McBride informed the Board that there is no new information regarding forest acreage payment caps from Rep. Dill or Molpus Forest Management. Dir. Engwall related that the state and Molpus have an uneasy peace; next steps may include the counties in discussion about the advisability of creating conservation easements. County assessors have authority to peg tax levels. Public access and forest management issues are difficult for all parties. Settlement of current litigation between Blandin and the State regarding high assessment fee valuations applied before 2010 may influence other related issues, though the Blandin issue predates easement designation.

4. Wetlands and Permit to Mine – Comm. Napstad reviewed a meeting with the DNR Land and Minerals division and its director Jess Richards entitled Permit to Mine - Process Improvements. United States Steel and Cliffs Natural Resources were in attendance as well as the Center for Minnesota Environmental Advocacy and BWSR. The discussion had reviewed earlier discussions about wetland replacements based on value. Wetland mitigations in Aitkin County have been of negative value in terms of the county's tax base. Taking farmland and returning it to wetlands has less value than in other counties with less wetland resources. The county has 1.2 million acres of which 750,000 have wetland function. The county has 7,000 acres in wetland banks and another 16,000 under consideration for replacement. US Steel recently bought a farm and is creating 4,500 acres of credits with it. Following the Wetlands Conservation Act is resulting in destruction of some beneficial habitats. The Act was promulgated by duck hunters who wished to protect and restore habitat. For wetland-rich Koochiching, Aitken and Lake of the Woods Counties, the Act is not improving wildlife habitat or mitigating flooding. The Act was aimed at the western and southern parts of the state, agreed Mr. Lessard.

Comm. Napstad continued that the idea has been floated that there be no wetland bank and that instead the dollars be used in areas that now have minimal wetlands. For example, take the \$5 million that would be spent in St. Louis creating wetlands and spend it instead in a wetland-poor southern county. Ask what is best for the state, wildlife, and flood reduction. Comm. Napstad, in returning to the topic of the Permit to Mine Process meeting, noted that there is a process without environmental review and one with and that the meeting reviewed how any particular replacement fits into the process – with particular emphasis on transparency of public notification about intentions to replace wetlands. The next two meetings will address siting, a topic that attracted energy at the process meeting.

Comm. Miller agreed with the focus on public value, noting that a tremendous amount of funding goes toward flood control projects that are multi-faceted. The Corps of Engineers will have to relax on the one-to-one replacement, Comm. Napstad responded. He will let counties know if support is needed. As the judicial ditch system fails there is no accounting for creation of new wetlands, noted Comm. Raukar. Comm. Skoe suggested education for hunters' organizations to understand how they might benefit from a change from one-to-one replacements. Discussion continued on how perceptions are skewed by the kinds of replacements that take place.

Wetland siting is also an issue in relation to the Governor's recent executive orders, concluded Comm. Napstad. The Governor would like to have results within 30 days. A rough draft will be developed. Comm. Napstad will keep NCLUCB informed.

6. PILT – Comm. Sve distributed draft Minnesota bill language (Minnesota Statutes 2012, sections 477A) relating to local aid payments providing for inflation adjustments to Payments in Lieu of Taxes for certain natural resource lands that take into consideration implicit price deflation and includes language for retroactive payments for 2012. Rep. Dill and Sen. Saxhaug will carry the bill.

#### NCLUCB

1. Meeting Schedule – The board will meet March 7 in Chisholm and then again in St. Paul on March 20 in a joint meeting with the Consolidated Conservation Natural Resources Joint Powers Board.

2. Request for Proposal for Executive Director – Comm. McBride noted that three RFPs were sent out regarding the Executive Directorship combined with a Legislative Monitoring position. A proposal and a request for an extension were received. The Board agreed to extend the deadline to March 1 and to distribute the RFP to another party. The Board will discuss candidates at the March 7 meeting and make a decision by mid-March. Candidates are to be informed of this decision.

3. Merger with Consolidated Conservation Natural Resources Joint Powers Board – Comm. Napstad initiated discussion on the ongoing consideration of merger with the Joint Powers Board. The Joint Powers Board has shown some reluctance to join in part due to geographic disparity, travel distances, and a history of con-con land issues from which it has veered. They are looking at expanding their own organization, asking Itasca, Cass, Crow Wing, and Hubbard to join them. Merger is not likely to gain traction. Comm. Skoe added that concern had been expressed that core ideas being brought to the legislature may be diluted by merging. Having joint quarterly meetings may be the best option.

Comm. McBride added that having one or two issues and a speaker at joint meetings might be most beneficial. Comm. Swanson asked if sharing a lobbyist would be of interest. Positions could be shared and tested before sharing a lobbyist. A suggestion for a percentage of costs was raised.

Topics for the joint meeting on March 20 may be set at the March 7 NCLUCB meeting.

The meeting was adjourned at 11:45

m. Raukar            s. Sve

**Next meeting March 7, 2013, at 9:30 a.m. at Discovery World in Chisholm.**

Submitted by Douglas Skrief