

Northern Counties Land Use Coordinating Board

Northome Senior Center, Northome , MN

Nov. 6, 2014

Minutes

Call to Order: The meeting was called to order by Chairman Rich Sve at 9:30 a.m.

NCLUCB members present: Steve Raukar, Rich Sve, Anne Marcotte, Brian Napstad, Don Jensen, Mike Forsman, Wayne Pavleck, Todd Miller, Skip Swanson, Garry Gamble, Wayne Skoe

Other participants: Greg Nelson, DNR; Lori Dowling-Hanson, DNR; John Chell, NCLUCB secretary.

Administrative Actions:

Additions to the agenda: Skoe (Timberlands), Napstad (partial ditch abandonment)

Action on the Minutes of Oct. 2, 2014: M-Jensen, S-Skoe

Financial Report:

General Fund: \$122,667.43

Accounts Payable:

Minnesota Discovery Center:	\$ 95.16
Northome Senior Center:	\$ 55.00
Association of Minnesota Counties	\$ 217.12
J. Chell Services and Expenses	\$ 678.67

M. Raukar, S. Miller

Note: Secretary Chell reported that Colleen Hoffman, CPA, will submit an audit proposal in the near future.

Election Results: Commissioners reviewed the election results in each of their home counties.

Wetland legislation and BWSR Roundtable Report: Commissioners Napstad and Miller lead a discussion on the status of the BWSR roundtable meetings on draft language for statutory changes to Minnesota's Wetland Conservation Act.

Commissioner Skoe suggested that NCLUCB send a letter of appreciation to Rep. Erickson thanking him for his service on behalf of Northern Minnesota generally and for his work on wetland revisions specifically. All commissioners voiced support for this action and Chairman Sve delegated Secretary Chell to draft this letter.

Commissioner Napstad addressed the wetland roundtable meeting held in Sauk Rapids. He stated that this session was more focused and the state agencies appeared more prepared to support specific changes to the law. BWSR, in particular, is taking ownership of the initiative and outlined the specific changes and language they wished to discuss. Commissioner Miller agreed characterizing BWSR's approach as: "This is what we are doing and here is the language. Give us your feedback." Napstad indicated that among the changes discussed included more preservation sites and increased credit for preservation. Secondly, he felt there was a productive discussion on the need for designation of critical watersheds for wetland restoration and the process for creating wetlands where they are needed. He summarized his view by stating: "With the election loss of Rep. Erickson we are fortunate that BWSR is moving forward with draft statutory language."

404 vs. WCA. Commissioner Napstad also highlighted the concept of Federal Exemptions. For long, linear projects such as pipelines, powerlines, and highways, where WCA reviews would be handled by each county through which the project passes, the federal 404 process will exempt the applicant from WCA oversight. Without the federal 404 oversight, project developers, both public and private, might have 10 or 11 county reviews and permit processes prior to authorization. The 404 oversight rule should reduce costs and time for these linear projects.

Commissioner Jensen noted that MNDOT employees are working in the Corps office to expedite road project environmental reviews. Commissioner Miller cited the Permit to Mine process also by-passes county review. Commissioner Gamble suggested that the Waters of the U.S. issue may seriously complicate these efforts to expedite permit processes. Miller indicated that at a recent meeting with Rep. Colin Peterson, Peterson stated that the Waters of the U.S. proposed regulations is effectively blocked by Congress.

Napstad noted that a new challenge for NCLUCB will be to find authors for WCA revisions. Commissioner Pavleck suggested a discussion with Erickson's successor. Commissioner Skoe thought that Rep. Cornish might be a good candidate.

Commissioner Jensen stated that the 1991 legislation was passed with the understanding that "if something doesn't work, we can change it." Napstad agreed stating: "we are living with unintended consequences." Commissioner Raukar viewed this process as a "long battle" and suggested that it is critical to broaden the audience. We need to develop some education pieces for legislators and the public. Skoe thought that there is a role for Bob Lessard in advocating changes with conservation groups.

NCLUCB commissioners noted concerns regarding the use of conservation easements in the context of wetland preservation for purposes of mitigation credits. How would conservation easements impact forestry. Wetland preservation easements that include buffer zones could prevent forest harvest.

Commissioner Skoe cited vernal and autumnal pools or wetlands that could be widely distributed in an area of forest harvest. Could these pools prevent harvest?

Waters of the U.S.

The draft letter to Congressman Nolan regarding his opposition to H.R. 5078 (*“Waters of the United States Regulatory Overreach Protection Act of 2014”*) was discussed. Commissioner Raukar expressed his relief that the letter was not issued prior to the election. Raukar would prefer a less aggressive tone with the main focus on soliciting Nolan’s reasons for voting against this legislation while most of the Minnesota Congressional delegation supported it. He would prefer to give Nolan or a staff member the opportunity to explain their analysis of H.R. 5078 to us before we criticize his actions.

Commissioner Napstad stated that the new Congress will have this legislation front and center. We are just giving Nolan our opinion prior to reconsideration of this bill. Commissioner Miller noted that we have a right to address our concerns to the Congressman and he needs to hear from us. Commissioner Skoe said this is not a campaign issue so it’s good that we waited but as constituents we must move forward with the letter.

Commissioner Swanson questioned why the EPA was pushing the draft regulations so far and thought there has to be a middle ground. Napstad replied that this is not about water quality protection but the assertion of federal jurisdiction. Commissioner Forsberg agreed and stated that the core of the draft regulations was about land use control as well as water jurisdiction and would allow the EPA and the Corps of Engineers to regulate any waters they chose. Commissioner Gamble suggested that the Supreme Court attempted to interpret existing law and the agencies used that decision to expand their authority and power.

Commissioner Marcotte endorsed the letter as drafted and expressed the hope that Congressman Nolan would respond. Chairman Sve reflected on his impressions of the draft letter indicating an early concern that it was too confrontational. But with additional reading, he felt the letter was well written and allows NCLUCB to stand with most of the nation’s counties in opposing the draft regulations and in support of H.R. 5078.

Commissioner Pavleck stated he was outraged that the Congressman has not met with northern commissioners on an issue that affects us greatly. Pavleck is glad Commissioner Gamble drafted this letter and hopes that it will prompt Nolan to meet with us.

Napstad stated that Commissioner Gamble has done his job and it is now time for us to vote approval as written. Commissioner Miller seconded the motion. Motion passed with two in opposition.

Timberlands

Commissioner Skoe voiced concern regarding the reduction in state forest land open for timber sales. A recent Minnesota Forest Industries presentation . This significant drop in access to state land, particularly School Trust lands appears to be the result of various management designations that do not allow timber harvest. Members suggested that this issue should be thoroughly examined at a future meeting of NCLUCB.

Ditch Abandonment

Commissioner Napstad two issues: (1) PILT appropriations and (2) requested ditch abandonment in Aitkin County. At the AMC District 1 meeting, the question of appropriating additional funds for PILT due to the increasing land values of rural land. Napstad pointed out that the PILT account was an open and standing appropriation and that the .75 of 1% rate does not need indexing. PILT revenues to the counties should be safe.

On the ditch abandonment issue, Napstad stated that U.S. Steel has proposed a 4400 acre mitigation site in the county. While DNR is the LGU for the project, Aitkin County is the ditch authority. The USS mitigation proposal required the plugging of several ditches within the mitigation area. Aitkin County required a standing water analysis which led to some modifications to the project and, ultimately, approval by the county. Napstad suggested that member counties keep in mind that we can use county drainage authority to prevent or reduce backwater damage to roads, timber and private lands.

Meeting adjourned at 12:10 p.m.