

Northern Counties Land Use Coordinating Board
July 8, 2015
Grand Rapids, MN

Minutes

Call to Order: the meeting was called to order at 9:40 a.m. by Chairman Sve.

NCLUCB members present: Garry Gamble, Todd Miller, Buck Nordlof, Wayne Skoe, Don Jensen, Neil Peterson, Brian Napstad, Steve Raukar, Tom Rukavina, Wade Pavleck, Rich Sve, Anne Marcotte.

Other Participants: Joe Vene, Sen. Tom Saxhaug, Greg Nelson, Lori Dowling-Hanson, Terry Snyder, Jack Muhar, Commissioner Tom Landwehr, NCLUCB secretary John Chell.

Administrative Actions:

Agenda approved as written: M-Napstad, S-Gamble

Action on Minutes of April 2 and May 7 M-Pavleck, S-Raukar

Financial Report:

General Fund	\$ 132,714.58
Year to Date Revenue	\$ 17,000.00
Year to Date Expenditures	\$ 4,112.01

Financial Report approved: M-Raukar, S-Jensen

Accounts Payable:

J. Chell (May, June, July)	\$ 563.45
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M-Raukar, S-Marcotte

Chairman Sve welcomed Senator Saxhaug and Commissioner Landwehr.

Sen. Saxhaug noted his recent tour of northern forest management practices with county land commissioners. He has also received some positive comments from large private forest landholders regarding county forest management. There is discussion among the land commissioners about the possibility of updating the Generic EIS on Minnesota Forests that was issued by the EQB in 1994. In addition he commented on the stream and ditch buffer legislation, BWCA school trust land exchange and the 404 study that would delegate greater permit authority from the EPA to the state.

Commissioner Landwehr's opening remarks focused on the 2015 legislative session and highlighted his priority of working cooperatively with local elected officials in implementing statutory changes and management initiatives. Among the examples of

state/local cooperation he noted included: rationalizing the public land base through surplus land sales, strategic acquisition, and a more efficient land exchange processes; creating a more transparent lease process for ferrous and non-ferrous mining leases; and the involvement of affected counties in state development projects such as the Vermillion State Park, Cuyuna County Park and other recreational sites and corridors.

With regard to the 2015 legislative session, Commissioner Landwehr characterized it as "not a big policy session" but generally positive for the Dept. of Natural Resources. He cited an additional \$4.1 million for forestry management, a general fund appropriation increase of \$4.5 million for parks, and a School Trust Land Director position to compliment and work with the DNR School Trust Administrator.

Commissioner Gamble asked how the Trust Land Director was differentiated from the Trust Administrator. Landwehr replied that the Director position is defined in statute and will be taking a more strategic, long term approach to promoting Trust Land management and revenue production.

Director Lori Dowling Hanson noted the legislature extended the beaver trapping season.

Commissioner Rukavina discussed the Polymet project, noting that Polymet, through the re-use of abandoned Erie taconite processing facilities was a state's largest recycling project. But the scale of the project itself was greatly exaggerated and the environmental impacts was greatly distorted.

Landwehr stated that the Polymet project is reviewed in two stages: environmental review and mine permitting. After the EPA rejected the original review in 2009, the DNR revised the environmental review process and provided better definition to the process. We have received 58,000 comments and released a 3200 page preliminary EIS for agency review in late June. The final EIS will be ready in November and will be subject to a 30 day review for a determination of adequacy. The determination will be at the state level with no further public response. But lawsuits are probably inevitable irrespective of the determination.

After the EIS process is finalized, there will be 20 permits required prior to mining covering such issues as operations, emergencies, treatment plant, and financial assurance.

Commissioner Rukavina expressed frustration with the Forest Service delays in the BWCA exchanges. The feds declared the Trout Lake appraisals are out of date and have expired. Commissioner Sve noted that for Cook, Lake and St. Louis Counties, the process of buyout or exchange should be for all state lands within the BWCA. It is apparent that Trust lands must be exchanged, not purchased by the feds.

Landwehr commented that the state is now focused on a target of 35,000 acres, but the feds do not have a timeline for completion. DNR is hoping for a one third exchange and two thirds buy-out.

Rukavina noted that some environmental groups and legislators have reversed their position over the years. Earlier they were saying: "land is more valuable than money". Now they are concerned with these exchanges and our local efforts to promote a resource economy...they don't want more state and county land within the Superior National Forest. So, they are now crying: " money from a buy-out is more important than land." But Tom indicated this is hypocrisy since 90% of Trust revenues comes from public ownership of the land and minerals.

Commissioner Raukar questioned the value of the volume of public responses. In this overly regulated structure, and the ability to obstruct the process through both public expense and private and public lawsuits, there is no end and nothing can get done. Landwehr indicated that the state will be appropriating significant funds for litigation defense.

Commissioner Napstad endorsed Raukar's comments stating that existing public commentary processes can be abused and create huge public expenses and provide delaying tactics without contributing much to the substance of environmental analysis. Napstad then gave his review of the legislative session: Revisions to the Wetland Conservation Act was a big win for state conservation. The ability for DNR and BWSR to collaborate on high priority wetland mitigation projects in areas that need to restore their wetland base is huge. The legislative changes may lead to large impoundment and retention projects where they are really needed.

Landwehr commented that legislation included provisions for the DNR to identify critical areas for potential impoundments. Torkelson and McNamara are focusing on S.W. Minnesota and the potential for flood water retention and identifying sites in the Red River Valley for similar projects.

Commissioner Miller suggested that the issue of public and private land within potential retention sites will be a key factor. There will have to be attractive incentives for private land acquisition within these high priority locations.

Chairman Sve brought up the topic of mandatory buffer legislation. Commissioner Jensen stated that the Soil and Water Conservation Districts could achieve buffer zones without mandatory legislation stating that the state should focus on education not regulation.

Commissioner Miller noted that SWCD staff are concerned with how they will be able to manage the designation and enforcement of these provisions? What are the timelines for mapping? What is the funding level and source for this program? There are lots of questions and farmers are feeling that this law is being rammed down their throats.

Commissioner Skoe agreed with Miller stating that the law focuses on water quality but makes no provision for compensation for lost acreage. There are more Metro water quality problems than in agricultural areas.

Commissioner Pavleck stated that the legislation evolved into law with lightening speed. Counties are concerned about implementation, funding, and enforcement obligations.

Commissioner Sve asked how the buffer legislation related to the BWSR initiative called One Watershed/One Plan? Are the buffers included in this program?

Commissioner Landwehr responded to these questions with an overview of the buffer initiative: "Reports regarding nutrients are dismal." Urban areas are making some progress, but the major nutrient impacts are largely agricultural. Two laws already require buffers: public waters regulations and legal ditches. But implementation and enforcement on ditches is spotty. There is a need to identify, map and evaluate drainage systems within local water plans.

Commissioner Jensen stated that it will be very difficult to identify applicable ditch systems.

Commissioner Napstad discussed the legal ramifications of not aggressively addressing agricultural water quality problems. He cited the possibility of downstream lawsuits requiring the state to act. For example, the city of Des Moines is suing three Iowa watershed districts to force greater agricultural water control measures. If cities and states begin to sue upstream entities in large numbers, it is almost inevitable that the federal government will become involved.

Chairman Sve moved the discussion onto the issue of 404 delegation to the State of Minnesota. He noted the study presently underway to anticipate issues within the potential delegation to the state. He indicated that NCLUCB supports the study process and hoped that the study would identify the financial and administrative burden that would be placed on state and local authorities responsible for assuming 404 authority.

Commissioner Napstad suggested that Minnesota's distributive approach to water regulation would be a challenge in the context of 404 oversight. Funding for the study is jointly allocated to BWSR and PCA.

Commissioner Rukavina referred to Raukar's previous comments regarding the inefficiency of current regulations and the blocking power of environmental organizations. He indicated that the administrative costs of permitting for even simple everyday maintenance projects such as road culverts or unsafe bridge replacements is outrageous. Many of these smaller projects require the EPA, Corps, DNR, BWSR, and SWCD reviews prior to construction. These projects require independent reviews by all these agencies, each agency has their own timeline for review, and any deviation from the process is liable to bring on a lawsuit from some environmental group.

Commissioner Joe Vene asked for an update on the Fond du Lac Class 1 air quality designation. Commissioner Sve indicated that a delegation from affected counties and AMC will be meeting with the tribe to determine the tribe's intent within the designation process. The meeting will be in early August and Sve will report on the results.

Commissioner Napstad reviewed the regulatory inconsistencies for ATV trail development between counties and other local government. In Aitkin County all county roads are open for ATV travel, but working with township roads to develop a route system is challenging. Townships are frequently opposed to incorporating township road segments into trail systems. Sve noted that Lake County roads and township roads are open unless specifically prohibited. Rukavina indicated that St. Louis has no specific policy regarding ATV trails but will be working on it.

Raukar stated he was pleased with the intermediate timber sale process and appreciated the extension of the beaver trapping season as one means for reducing damage to forestland and county roads.

Motion to adjourn M-Raukar, S-Napstad. Adjourned at 11:45