

**Northern Counties Land Use Coordinating Board
Intercontinental Hotel, St. Paul, MN
March 10, 2016**

Minutes

(The NCLUCB March meeting was held in conjunction with the Association of Minnesota Counties annual Legislative Conference.)

Call to Order: the meeting was called to order by Chairman Rich Sve at 7:30 a.m.

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

Other Participants: Michelle Mitchell, Minnesota Management and Budget; Commissioner Ken Moorman (L of W Co.); John Ongaro, St. Louis Co.; Commissioner Frank Moe (Cook Co.); Commissioner Joe Vene (Beltrami Co.); Representative Rob Ecklund., John Chell, NCLUCB secretary.

Administrative Actions:

Action on the Minutes of February 4, 2016. M-Peterson, S-Miller. Passed

Financial Report:

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| General Fund Balance (March 1, 2016) | \$124,270. 43 |
| YTD Expenses | \$ 2,291.93 |

Accounts Payable

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|----------------------------|--------------|
| Minnesota Discovery Center | \$ 195.03 |
| Assoc of MN Counties | \$ 223.40 |
| J.Chell Prof Services | \$ 1,294.86* |

M-Raukar, S-Napstad. Passed.

* Subsequent review of this invoice by St. Louis County as NCLUCB fiscal agent indicated an error on the invoice. The amount shown on the invoice as \$1,094.86 should have been \$1,294.86.

Representative Rob Ecklund: Representative Ecklund greeted NCLUCB members and gave his perspective on the 2016 legislative session. Rep. Ecklund noted that the session started with the traditional One Minnesota Conference, a broader view of the state's

economic and demographic trends. The presentation by Tom Friedman was both enlightening and challenging, particularly in this polarized legislative context. Ecklund characterized the start of the 2016 session as contentious, with the extension of unemployment benefits getting the most attention in the first few days of the session.

Commissioner Napstad discussed the concept of omnibus bills in which disparate legislative initiatives are packaged under one statute. Rep. Ecklund agreed with Napstad that this approach was probably unconstitutional and that it would probably take some type of lawsuit to force the legislature to produce "clean" legislation

Payment In Lieu of Taxes (PILT) Report: Michelle Mitchell, Minnesota Management and Budget, John Ongaro, St. Louis County.

Ms. Mitchell led off the presentation by citing a 2015 mandate from the legislature requiring Minnesota Management and Budget (MMB) to consult with DNR, Revenue, AMC, Association of Townships and other stakeholders to study alternative methods to pay PILT for natural resource lands and submit recommendations to the 2016 Legislature. MMB in conjunction with representatives from state agencies and local governments examined four alternatives:

- Using a trust fund approach for new acquisitions and prior acquired lands;
- Using the current approach with language in law guaranteeing annual PILT payments;
- Using revenues generated from state-owned lands to pay PILT combined with a general fund appropriation to supplement the payments; and
- Dedicating a new sales tax or portion of the existing sales tax to pay PILT obligations.

While the group did not reach consensus regarding a single approach to PILT payments, the agreed upon need to ensure the stability of PILT did drive a set of overriding conclusions:

1. The current mechanisms for funding PILT is one of the more stable in state government;
2. The PILT program not unique among state local aid programs; and
3. The alternative funding mechanisms are not sufficiently better in terms of efficiency and projected stability to justify a change at this time.

Therefore, the MMB report recommends to the Legislature that no change is needed, but further study regarding the distribution of PILT at the local level should be considered.

Commissioner Gamble asked John Ongaro where the initial inquiry into PILT originated. Ongaro replied that the Heritage Council wanted this study and several of those members were interested in pursuing a trust fund for acquired land PILT payments. The intent would be to sequester Heritage funds in conjunction with acquisition appropriations to

ensure PILT obligations would be folded into land acquisition cost deliberations. John added that while this study was a fair analysis, at least with regard to acquired lands, other analyses have indicated that Tax Forfeit and School Trust lands have fallen behind and would fare better with an ad valorem formula. Ongaro characterized the study as " a good job in a short timeframe."

Commissioner Napstad suggested that the ad valorem vs. PILT argument is more complex than most people understand. Counties are doing better with the \$5/acre rate for acquired land than an ad valorem approach; but if school districts are included, the picture is not as clear. It appears that two thirds of Minnesota counties would receive less funds under that scenario if the ad valorem formula of 3/4 of 1% is employed.

Commissioner Moe added that a Trust Fund for acquired lands would be a disincentive for uncontrolled land acquisition and would force a true cost analysis for further purchases. Commissioner Jensen commented that there would be a mechanism to move Tax Forfeit land to an Acquired Land classification. Further, Outdoor Heritage acquisitions could threaten PILT payments due to the ongoing costs. Commissioner Rukavina agreed stating that legislators never anticipated the volume of state acquisitions occurring today.

Wetland Amendments Advisory Committee

Commissioners Miller and Napstad gave a brief summary of progress on implementation of the wetland amendments. Miler opened the discussion by stating that the focus is on three main topics: Payment in Lieu of Mitigation, High Priority Area Designation and Mitigation Alternatives. The advisory committee is working monthly on defining procedures for implementation. These three components represent a big step forward in improving the Wetland Conservation Act from an administrative and environmental viewpoint. In response to a question from Commissioner Arneson, Miller noted that the Corps of Engineers is at the table but they are in a position to significantly alter or disable the legislative intent of these amendments. So far, the Corps seems to be cooperating.

Commissioner Napstad stated that it was important to differentiate the wetland rulemaking process from that of the buffer legislation. The wetland amendments are under the aegis of a rule making authorization which is a well defined two year process. The buffer legislation does not, however, authorize rulemaking and must follow a different implementation path. Given the administration's negotiations with legislators prior to the session, there will probably be changes to the buffer program during this session.

Napstad outlined three wetland concepts that the advisory committee is defining: siting criteria for mines in BSA 1, alternative actions eligible for mitigation credits in BSA 1 and 2, and the in-lieu fee structure.

Among the related topics being covered by the committee include the complexity of allocating credits for stream bank restoration, the level of detail for a federally acceptable

in lieu fee program, and, ultimately, the Corps position on these options (since the policy position on various alternatives to tradition mitigation seem to vary among the Corps districts themselves.) Brian indicated that there will be a Wetland Committee Report to the Legislature on their progress during this session. Todd added several other on-going considerations: a prairie pothole corridor plan is developing for mitigation focus, the wetland bankers are very concerned about their ability to provide input and prevent their interests from being threatened, particularly the rule that a private bank is the first option for mitigation, and ensuring that counties participate and provide guidance during all phases of the rulemaking and implementation process.

Buffers

Commissioner Miller noted that there is at least one bill drafted to address rulemaking, jurisdiction, land acquisition and funding options for amending last session's buffer statute. Commissioner Marcotte expressed her concerns regarding the status of the 103 maps for Aitkin County specifically and other agriculture counties in general. Napstad agreed stating that he doubted that anyone could locate on the ground many of the ditches represented on official maps....if you could find the map. Napstad thought it was a waste of effort to assign SWCD personnel to attempt to verify ditch locations, approve maps and spend time in the field defining ditch alignment. It would be more reasonable and cost-effective to exempt non-functioning and/or abandoned ditches from further consideration.

Due to conflicting AMC committee schedules, Chairman Sve brought the meeting to a conclusion at 8:55 a.m.

Next NCLUCB meeting will be in Northome on April 7.