

NORTHERN COUNTIES LAND USE COORDINATING BOARD
Minutes
Thursday, January 8, 2009
Iron Range Resource Center, Chisholm, MN

Call to Order: The meeting was called to order at 9:35 a.m. by Chairman Fink with the following in attendance. (All actions of the Board were supported unanimously unless otherwise indicated.)

All Member Counties Present:

Commissioner Brian Napstad, Aitkin
Commissioner Jim Johnson, Cook
Commissioner Charles Lepper, Koochiching
Commissioner Wade Pavleck, Koochiching
Commissioner Rich Sve, Lake
Commissioner Todd Beckel, Lake of the Woods
Commissioner Skip Swanson, Pennington
Commissioner Jack Swanson, Roseau
Commissioner Dennis Fink, St. Louis
Commissioner Steve Raukar, St. Louis

Others Present:

Craig Engwall, Department of Natural Resources
Robert Krepps, St. Louis County Land Department
Les Lemm, Board of Water and Soil Resources
Douglas Skrief, NCLUCB Staff

Administrative Actions

1. Election of Officers (all on unanimous vote)

Chair: Dennis Fink nominated by Brian Napstad; motion to close nominations and affirm on a unanimous ballot m. Jensen s. J. Swanson

Vice Chair: Brian Napstad nominated by Todd Beckel; motion to close nominations and affirm on a unanimous ballot m. Jensen s. Raukar

Secretary/Treasurer: Steve Raukar nominated by Todd Beckel; motion to close nominations and affirm on a unanimous ballot m. Napstad s. Beckel

2. Approval of Minutes: December 4, 2008 meeting

m. J. Swanson s. Napstad

3-4. Financial Report and Bills:

The outgoing Treasurer reported a general account balance of \$72,015.66 and a Land Use Conflict Management balance of \$15,005.28. Total accounts balance, after payment of expenses: \$87,020.94.

The Executive Director submitted an invoice for \$960.08 for one month of professional services and expenses reimbursement as well as a bill for reimbursement of \$90.47 for a parting gift for Comm. Larson.

m. Napstad s. Beckel

5. Invoicing for Dues for 2009

The Director noted that invoices would be sent in January for counties' 2009 dues, requesting an installment of half the annual dues. The Board asked that counties be thanked for budgeting the full amount and that mention be made that the Board will be able to fulfill its obligations in 2009 after billing only one-half of the annual dues amount.

Correspondence

The Chair reported that a letter regarding the lack of appointments of northern Minnesota residents or elected officials to the Lessard Outdoor Heritage Council was sent to the Chair of the Council in care of Secretary of State Mark Ritchie. A number of parties were copied, including Jim Gelbmann, Deputy Secretary of State. No reply had been received to date. Comm. Beckel reported receiving a response, to his similar letter, from the secretary of the state's appointing committee recommending contacting state legislators to voice local opinion. Comm. Johnson noted that Cook County is sending its own letter and recommended other counties do likewise. Comm. Beckel suggested including a date for an expected reply in such letters. Round table meetings were to be held January 9 and 10 to discuss use of the fund. The Chair reported that RDC representatives would be attending the next Board meeting to report their interest in the funds and to ask for support. Mr. Krepps reported that the Land Commissioners Association would have representation at the current state meetings. Comm. Raukar suggested an opinion piece be distributed from the Board to increase regional awareness of the council's activities, being that the northern part of the state supported the funding of the council. Northwestern Minnesota voted against; there may be a question of whether there will be funds appropriated to those counties. Mr. Engwall explained that the council will act much like LCCMR in that its recommendations will likely be followed by the legislature and the governor, who technically and legally give approval. The Chair recalled that Statewide Conservation Plan Coordinator Jean Coleman told the Board in January that the plan will drive the agenda of the LCCMR in the future and will likely be program, not project, specific based on that plan.

Discussion Issues

LOCAL

1) Secure Rural Schools and Community Self-Determination Act 2000: The Chair noted that Lake, Cook and St. Louis Counties have been most affected by reauthorization of the "Safety Net Bill." The bill originally addressed impacts on forestry income to counties in the Western states upon designation of the Spotted Owl as an endangered species. The counties were offered 25 percent payment based on timber cut; money went to schools and road-and-bridge projects. Whole school districts had been financed by timber sales. When the bill was written, those on the fringe of western lands that continued to have sound timber harvests did not initially have a voice. Added to the bill was language providing a choice to partake of the Safety Net Bill or not. The six-year bill allowed for election of options every two years. If a county took the payments they could 1) take 15-20 percent of money back into the forests or 2) take some of that money for other purposes, such as search and rescue. The bill has just been reauthorized and counties had to make an election by Nov. 14. For the larger counties, one significant issue is a change in formula, which now includes acreage. Cook and St. Louis Counties chose 7 percent in Tier 3 and the rest in Tier 2. PILT payments were subsequently reduced. This is a four-year commitment. The bill includes full PILT. The 25 percent payment was originally intended to indicate that there was activity on the forest; it has said and now says that it does not make any difference if there is activity on the forest; as long as you own federal land, the Treasury will make payment as if there were activity on the forest. The Chair was not in favor of the reauthorization of this legislation: the cutting off a link to forestry activity leads to the shutting down of industry.

Half of the moneys are apportioned to road and bridge projects and half to school districts significantly affected by that federal land. The Saint Louis County School District near Ely will see a \$125,000 increase (\$55,000 to \$270,000). Floodwood will get an extra \$1.11 – to \$238; Lake Superior will see an increase from \$4,000 to \$21,000; Ely from \$5,000 to \$25,000. Overall, this will mean \$369,000 more overall in St. Louis County school districts. Comm. Larson noted that Lake Superior School District was unaware of this. An informational meeting was held.

A related item affecting Cook County was the Boundary Waters Canoe Area Wilderness appraisals, according to Comm. Larson. The federal government is required to appraise the land physically every ten years. Otherwise they make adjustments to the value by percentages. Cook County's appraisal was \$270 million or \$1,418 per acre; Lake County was \$335 million or \$1,337 per acre; St. Louis County was \$215 million or \$1,319 per acre. This composite of non-shore and shoreland value compares favorably to private land. The last appraisal for the nearly one million acres in the BWCAW was about \$210 million and it now stands at \$870 million. These public lands will add value to private land, noted Comm. Beckel.

STATE

1) Shoreland Rules Update. Comm. Napstad reported that the Shoreland External Advisory Committee met two weeks previously. Notable was a lack of attendance, about half, though county commissioners were well represented. The southern part of the state is not participating. Some resort owners spoke of rigorous

rules applying to them while agricultural interests are well insulated from onerous rules. Because most tributary water flowing into the Mississippi River is impaired, questions arise as to whether ditches draining to tributaries and then into rivers should be subject to shoreland rules. The Department of Natural Resources has little appetite to go to the Department of Agriculture to ask for regulation of ditches. Those who speak on the Shoreland Committee are probably in favor of regulating agricultural ditches a little more vigorously, while noting that one set of shoreland rules is now rigidly enforced while other issues are not. Ditches are becoming an issue, added the Chair, at the federal level as they are seen as potentially coming under the jurisdiction of the Clean Water Act, leading to the Corps of Engineers making decisions on farmland, whereas if the ditches were regulated through shoreland or WCA rules, this might eliminate federal oversight. Comm. Napstad suggested that the DNR is not interested in expanding the purview of the shoreland rules.

The final resolution was that the SEA Committee should propose shoreland rules and offer ideas to the state legislature for protecting waters. The legislature will have to look at whether all waters of the state, which flow into lakes, should be handled under these rules or whether the rules would affect shoreland only – the question being one of concern for improving the quality of waters or of simply making it harder to build on lakeshore.

Another issue of discussion was a possible rule to increase frontage from 100 to 150 feet. Consensus at SEA was to suggest alternatively the increasing of minimum square footage, which would create deeper lots and force placement of septic away from the shore. The 150-foot rule was resisted by resort owners. Developers are concerned about lawsuits arising from following the spirit if not the letter of the rules. Comm. Napstad commented that moving beyond the current rules is difficult.

Another question regarded new storm water prevention plan regulations of the Pollution Control Agency that demand a plan when more than 10,000 square feet will be disturbed. Comm. Fenwick predicted a committee representing various levels of government visiting a property to make determinations. The Chair added that it is difficult for landowners to find the correct agency able to address potential violations.

Further discussion addressed the potential inability of state and federal agencies to operate without local input; the influence on agencies from outside interests; the inability of state agencies to sue constantly; the reluctance of local governments to operate without protection of wider enforcement; the weight on local units of government to carry out unfunded mandates.

2) Reservation Lands The Chair reviewed an issue raised at the National Association of Counties concerning reservations that buy land outside their territorial limits, which results in the land being taken off tax roles. The assessing team in St. Louis County was uncertain, it was found, in how to deal with a transfer of ownership to a reservation. Some assessors were taking the land off the tax rolls instantly. In the last six years in St. Louis County, 2,600 acres have been transferred to trust land. Impacts, for example, on local townships result from such transfers and can affect a county's burden of responsibility to a township. In Cook County, added Comm. Fenwick, all purchases have been within reservation boundaries or in treaty areas, to date. The Chair recommended commissioners explore the situation in their counties.

STATE

1) Peatlands Comm. Beckel reported on a meeting dedicated to introducing a conservation and management plan being created for two Peatland Scientific and Natural Areas (SNAs), Norris Camp and Pine Creek, and surrounding Watershed Protection Areas in the Agassiz Lowlands led by Katie Haws of the Department of Natural Resources as per 2007 Minnesota Statutes 84.035 Peatland Protection, which calls for management plans, establishing baseline ecological data, addressing ditch abandonments, compensation for trust fund lands, and acquisition of peatland scientific and natural areas. Protection seems to be a goal for much of the state's 18 SNAs. Mr. Lehtinen noted that little of the state's six million acres of peat is commercially viable for horticultural purposes, and Comm. Pavleck noted that no peat has been disturbed in over 17 years of developing a peatland project in Koochiching County. Mr. Engwall noted interest of Earthprotector.org in the issue and that the selling of carbon credits from peatland may be an option. The Director was instructed to invite Katie Haws to present to the Board.

2) Northeast Minnesota Wetland Banking Strategy The Chair recalled a presentation by Mr. Ron Harnack on a suggested role for the Board to play in creating a wetland bank for northeast Minnesota, urging further discussion by the Board before deciding on whether to fund Mr. Harnack's request for \$5,000 to further a plan. The Chair asked if it is appropriate for the Board to perform as a facilitator or if the Board's role should be expanded. Mr. Lehtinen argued against being burdened with a new level of responsibility. Comm. Lepper asked to see further details from, and to continue a working relationship with, Mr. Harnack. Discussion clarified that funding would come from the state and that the Board would assist counties in using state money and that this would create a meaningful dialogue with the state. Comm. Beckel argued

that the dialogue exists and that if the goal is to obtain wetlands at the least cost, the Board could not do it more cheaply. The Chair suggested seeing BWSR, with funding from the legislature, as an accountant or administrator of the wetland process with credits divided by region with a major issue being one of capitalization and that the Board, as equal, would have access to regional partners. As baseline statistics are being compiled, a plan can be established. The counties' relationship with BWSR must be considered as must the question of assistance to private interests. The lack of county wetland banks is a reality. The Board will vote at the December meeting how to proceed.

3) WCA Rules Comm. Beckel reported that a draft plan will be issued in the following week on proposed rules, following 17 planning meetings. As with the Shoreland Rules, staff will write the plan duly considering advisory input.

FEDERAL

1) Canada Lynx Comm. Johnson reported that the Draft Economic Analysis of Conservation Actions to Protect the Canada Lynx was released. He noted that the credibility of the 315-page October 2, 2008, report issued in the Federal Register on October 20 is marginalized by the wide variation between it, which estimates between \$123 and \$135 million in impacts, and the August 2006 report that estimated \$175-889 million in impacts. The Office of Management and Budget has read the proposed rule and determined it raises novel policy issues and so will review it. Comm. Johnson read a proposed letter expressing the concern of discrepancies of the two reports and noted the short comment period.

Motion to send a letter asking for an extension of the comment period and a letter of concern accompanied by a copy of the Board's August 19 letter of concern.

m. Larson s. Lepper

2) Clean Water Act and Obama Administration The Chair reported that NACo is anticipating that clean water will be a concern for the Obama Administration, as will infrastructure. NACo forecasts the reopening of the Clean Water Act and bringing its contents up to the present or leaving it as is. Over 35 years of policy has been formulated around the act. Funding was the priority of the first chapters of the original act. Three to five years may be needed to redo the act, should that be the option taken. Mr. Oberstar's restoration bill will not address these options.

STATE

Appointment to the LCCMR Committees. Comm. Beckel reported that the 17-member Legislative-Citizen Commission on Minnesota Resources (LCCMR) is seeking two citizen appointments to make funding recommendations to the legislature. Over \$525 million has been appropriated to 1,214 projects prior to 2006. Also the Lessard Heritage council, formed with the passage of the Clean Water, Land and Legacy Amendment, is seeking 8 citizen representatives. (The Clean Water Council created in 2006 as part of the creation of the clean Water Legacy Act, and which has one rural county representative, will recommend on clean water issues.) The Chair will call Scott Simons of the AMC regarding same. Mr. Engwall emphasized that these committees will be acting in an accelerated timeline, with the Lessard Heritage council (four public members appointed by the Governor, two by the Speaker of the House and two by the Senate) being named by December 1 and the first recommendations being issued April 1. The LCCMR process takes one year.

Meeting adjourned at 12:22 p.m.

Next Meeting Date and Location

December meeting: December 4, 2008, 9:30 a.m. Kootasca Senior Center, Northome, MN.

Respectfully submitted by Douglas Skrief, Administrator and Exec. Dir.