

## NORTHERN COUNTIES LAND USE COORDINATING BOARD

### Minutes

Thursday, December 4, 2008

Kootasca Senior Center, Northome, MN

Call to Order: The meeting was called to order at 9:33 a.m. by Chairman Fink with the following in attendance. (All actions of the Board were supported unanimously unless otherwise indicated.)

#### Member Counties Present:

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

#### Not Represented:

Pennington County, Lake County

#### Others Present:

Jean Coleman, CR Planning, Minneapolis  
Ron Harnack, Taylors Falls  
Janaet Harnack, Taylors Falls  
Mike Carroll, Department of Natural Resources, Bemidji  
Richard Lehtinen, Koochiching County Environmental Services Dept.  
Douglas Skrief, NCLUCB Staff

#### Agenda Additions

- 1) Local: Levy limits by county
- 2) Local: ATV Trail update, Aitkin/Itasca Counties
- 3) State: Three issues on conflict resolution and the DNR from Mr. Carroll

#### Introductions

#### Administrative Actions

1. Approval of Minutes: November 13, 2008 meeting  
m. Lepper s. Johnson

Comm. Beckel noted the lack of Internet information about the Board and the need for an updated Board website that would include membership and minutes. The Director is to investigate the status of the Board website. Mr. Carroll offered a link to a Board website at DNR regional websites. Counties can also provide links.

- 2-3. Financial Report and Payment of Bills:

The Treasurer reported a general fund balance of \$74,090.36 and a Land Use Conflict Management balance of \$15,005.28. Expenses of \$1,045.36 were made for professional services and expense reimbursement. Total accounts balance: \$88,050.28.

The Executive Director submitted an invoice for \$974.34 for one month of professional services and expenses. Estimated room rental and coffee expenses for the present meeting were estimated at \$55.

m: Napstad s: Beckel

The Board noted that audits are performed every second year.

#### Correspondence

1) Comments from the Board in opposition to proposed critical habitat designation and economic impact analyses concerning the Canada lynx were submitted by both electronic posting and traditional mail to the United States Fish and Wildlife Service, the Director reported. A request for an extension of the comment period, which was seen as short for so long a document, was also submitted. Comm. Johnson added that Cook County sent a letter. The Chair noted that St. Louis County also sent a letter; adding an

impression that the FWS was not concerned about local impact. The report, for example, erroneously recorded impact on 3,000 acres of private land in Cook County, although the county has 91,000 acres of private land, leading to inaccurate analysis. The report concluded that there would be no significant economic impact in the region. Comments sent to the FWS, as seen on the website, were overwhelmingly in favor of the designation and analysis.

Comm. Napstad added that in the ROPES Study the simple number of comments seemed to be weighted over a single comment from a local unit of government. The Chair suggested that county organizations speaking as a collective begin by pointing out that the organizations voicing a viewpoint represent many people and that their comment should be weighted accordingly; in front of legislative committees, county representatives must begin their message with a reminder of whom they represent and the geographic area represented. Comm. Johnson has created an email list for his district; he creates links on his newsletter to sites accepting comments; a surprising number of constituents add comments. Comm. Raukar noted a growing, parallel phenomenon of government by referendum on various issues rather than government by representation; he encouraged reminding those addressed that elected officials are part of a representative democracy. Mr. Carroll added that to accentuate their authority Board members might also remind others of the difference of northern counties from urban, suburban southern counties who do not understand northern county operations and the large role they play.

2) The Director reported that letters of invitation to join the Board or visit a Board meeting were sent to individual commissioners in eleven northern counties.

3) Comm. Pavleck credited the Chair for his pursuit of PILT issues and the contribution of NACo, beyond the ability of any state organization, in garnering increased PILT funding.

The Chair took the opportunity to announce his interest in support, at the upcoming AMC conference, for his acting as representative on the NACo Board of Directors, providing county membership in NACo continues in the face of budget constraints.

#### Discussion Issues

##### **LOCAL**

1) County Levies: Aitkin: 2.41 percent; Cook: 1.9 percent maximum allowed; Koochiching: 3 percent; Lake of the Woods: 3.9 (.04 after shifts in formulas); Roseau: 5.03 percent; St. Louis: 4.41 percent.

2) Itasca/Aitkin 70-mile ATV/OHV Trail: The “70-Mile Trail” title applied to the system – as codified by the legislature – is now being reconsidered, reported Comm. Napstad. The environmental review is complete. Polaris Industries has supplied a \$5,000 grant; a \$10,000 grant is being applied for from Yamaha with a local dealer/sponsor. These funds will be used for trailhead historical/interpretive markers. Contractors are now being solicited, with the suggestion they attend planning meetings to understand the ambience of the plan and related wetland issues. Some trails were relocated due to wetland issues. There are enforcement and maintenance plans. Both counties will have SWCD and Land Department representation on the construction subcommittee. The DNR has been helpful. Three segments impacting local population areas are being reviewed.

##### **STATE**

1) Northeast Minnesota Wetland Banking Strategy The Chair recalled that in July, 2008, Ron Harnack sent to the Board for consideration a draft strategy to create a Wetland Banking Cooperative. Mr. Harnack proposed a wetland bank as identified in the Northeast Minnesota Wetland Banking Strategy. Capitalization figures were included. To develop a work plan, the Board might contract with Mr. Harnack, taking the presented proposal, or a cut-down version as an attachment, to identify expectations. The Board would have to authorize the contract.

Mr. Harnack underscored that the Northeast MN Wetland Banking Strategy expressed need for a banking cooperative. He noted the lack of available wetland restoration areas, the impact of development on existing wetlands, and the expense of banking on a case-by-case basis. An organization would be established to manage the banking credit system, which communities and counties could access. Two aspects include: 1) Looking at establishing a cooperative as the leading organization or as a participant. It could be a subset of an organization and could operate independently. The private sector could be a partner. With a cooperative in place, the definition of how the bank would operate would be established. The bank would be self-sustaining: as credits are purchased from it, those funds would be set aside to purchase more credits. The credits would be established in advance, with the advantage that permitting processes could be expedited. It currently takes eight to twelve months for the Corps of Engineers to grant permits, which

eliminates a whole construction season; 2) Secondly, to garner seed money to establish some credits, in the range of \$2 million. This is an economic equity issue in the northern part of the state as the rest of the state does not have the same difficulty in identifying potential credits. Mining interests have been approached and have shown interest though they are concerned that, with state budget deficits predicted, finding funds may be difficult.

Mr. Harnack has looked at funding sources for a cooperative. There may be state funds, paralleling those allocated for the wetland banking strategy to be completed in early 2009. The draft needs to be finalized. It does not establish what the organization would look like or its governance. Details would be pursued once funding is in place. The goal would be to have a bank established by the end of 2009. Funding might be seen as part of a stimulus package. The new wetland rules have some shortcomings but they do promote having credits in place to make the process more efficient and to have some sort of banking system in place for areas of the state.

The Chair cited earlier proposals such as an October, 2006, study "Protecting and Restoring Wetlands: Strengthening the Role of Local Governments", that suggest the benefits of cooperating with the Corps and the EPA by establishing mitigation banks. The goal may be to establish funding for a system, rather than a specific cooperative, then whoever is responsible could choose the best mitigation format or structure. It is significant to show the state that someone other than the state could operate such a cooperative bank. From a business standpoint, the Chair continued, there exist positive benefits to being the operating entity; there still exist questions as to whether the Board is the appropriate body. Looking after the interests of the region are important.

Comm. Pavleck noted that there is no hope for passage of a spending proposal in the coming legislative session. The product must be to alleviate obstacles to development at various levels; for example, the ODC in International Falls wished to build in the city's business park but struggled with wetland issues and as a result of delays lost its funding. Mr. Harnack responded that the goal would be for the operator of the bank to set parameters of access and costs. The Chair added that the end result would be a place to accumulate all possible credits; the draft recommends \$1.7-\$2.2 million to capitalize program credits. This direct grant could be added to credits established whenever a conservation easement is created. Northern counties have assets in tax-forfeited lands and DNR lands. There is going to be credit trading on existing resources. The bank could be a place to go to for carbon or wetland credits, perhaps on a statewide basis, the point being for a northern entity to establish an effective program ahead of others. The relation of MCIT, a wholly-owned subsidiary, to AMC might provide a model for the Board and a cooperative. Administrative dollars could come from credits and from interest on a state grant.

Comm. Beckel predicted difficulties when a banking cooperative competes with a private bank. The Chair responded that while at present a developer may not be certain of credits until after completion of a project and Corps evaluation, partnerships with private banks could be generated. There could be private credits, added Mr. Harnack. One could get credits from an easement. As a sales agent, the cooperative could get a percentage. There may even be access to highway funds for credits. Mr. Carroll offered that the DNR wishes to be part of a solution, noting complications around ditching authority.

The end result would be that the northern region would have the banking institution and would be more accessible for counties depending on the issues of 303, 402, etc., noted the Chair. The concept is not bad or foreign. The question is whether the Board has the interest, stamina and wherewithal to move forward with it as a priority. Comm. Napstad noted that the Board would be competing for public funding on a part-time basis with private bankers while trying to create more available, lower cost credits. The local road program exists; it was restricted because there were not enough credits available to open it to wider use because there was not enough funding. Legislators may wish simply to expand an organization already in place. There is still a problem with cost; this proposal could offer lower cost credits. The legislature might cure the problem by allowing preservation credits and let counties where the credits fall administer them. The Chair argued for driving home the point, in any form, that wetland credits are important and that the issue be addressed presently. The Chair noted that the mining industry is supportive in efforts at the legislature. Comm. Pavleck asked for notice of support from legislators.

Mr. Lehtinen argued that the Board is not administratively equipped to handle administrative programs, nor is it identified clearly and closely enough with wetlands, adding that the board incongruously has a resolution to drop WCA demands while offering to administer wetland banking programs. The Board is set up to represent political inputs from more than one county, not to administer programs. It is an advocacy group to voice opinions of northern Minnesota. It might intervene in the wetland arena from a distance. The Chair replied that the proposal on the table is that the Board would be the facilitator of an organization. Comm. Beckel added that it is necessary to educate people on the issues. Comm. Pavleck argued for making legislators accountable, getting them to the table. Comm. Napstad summarized that to

move forward would raise the visibility of the issue but that if a simpler legislative or agency solution presented itself, he would support it. Mr. Harnack suggested adding alternative considerations that might not involve a bank. Comm. Raukar noted that he preferred an economic stimulus, noting that mining companies have not been good partners.

Motion to authorize the Executive Committee to enter into a contract with Ron Harnack to create a work plan for a proposal for a wetland mitigation banking system and lobbying for same, said contract not to exceed \$10,000 with funds to be taken from the Conflict Resolution Fund.

m. Beckel s. Swanson Opposed: Raukar

Discussion included expectation of a vote on the contract at the January 2009 Board meeting. Mr. Harnack is to offer a proposal for a strategy, adding to discussion and providing background. Mr. Swanson noted that in the process counties will be informed on targets for lobbying efforts.

**PRESENTATION: Minnesota Statewide Conservation and Preservation Plan**

Working with the University of Minnesota, Jean Coleman, of CR Planning, Inc., acted as Project Coordinator of the Minnesota Statewide Conservation and Preservation Plan prepared for the Legislative-Citizen Commission on Minnesota Resources (LCCMR). The plan, finalized in June, 2008, is to inform the reconstituted LCCMR on their Requests for Proposals. Ms. Coleman distributed the Executive Summary and Appendix IX, noting the high level of detail of the plan and its 50 recommendations. Further meetings with the Board might be devoted to questions and details. Full versions of the plan are available online and in print. The Forest Resources Council has expressed interest in having input on decisions of the LCCMR and the Board might express a similar interest.

Goals for the project were to understand the status of Minnesota resources and the drivers of change concerning them and, secondly, to identify future trends and how they might be influenced to have better outcomes for resources. Drivers of change, such as soil erosion and habitat fragmentation, were mapped to key issues such as habitat loss and transportation; and strategic areas, such as integrated planning and critical land protection, were identified. Recommendations revolved around how to affect drivers of change. Seven key issues in improving natural resources were identified; three key issues investigated were land and aquatic habitat loss, land use practices, including transportation, and energy production use, particularly with mercury as a toxic contaminant. Over 100 team members include university, PCA and DNR representatives. Teams offered ten to twenty-five recommendations that were integrated into a framework of Strategic Areas. The suite of recommendations was presented as a natural resource values assessment of recommendations, listed in graph form. Threats and resource values are integrated in recommendations, for example in addressing aquatic habitat and environmental stress. Interest in northern forests centered on working forests. Ms. Coleman reviewed Land Protection recommendations, best management practices relating to land use practices, land use trends and recommendations for community land use, transportation and energy. The project goal was to achieve a better future for the state's natural resources. The website is [www.lccmr.leg.mn](http://www.lccmr.leg.mn).

The Lessard Outdoor Heritage Council, according to Ms. Coleman, is to reference the plan, along with other plans, though not all recommendations are directly related to Lessard Council goals. Mr. Lehtinen asked about interest of the LCCMR in northern Minnesota. Ms. Coleman related that the Forest Resources Council similarly noted a lack of interest and funding in northern projects; if the Board is interested in increasing its visibility it might invite the LCCMR director to a meeting and engage with her about what the LCCMR could do specifically with the Board to pursue the mission of the LCCMR. Be prepared with a couple specifics, whether they relate to the plan or not; to relate them to the plan might bolster the relationship. Mr. Lehtinen noted that the LCMR did grant funds to northern Minnesota, while the LCCMR seems to have pre-selected grantees. The LCCMR has put out two RFPs, the August request being more open. The Chair noted the change in philosophy from the LCMR to the LCCMR, Parcelization in St. Louis County is impacted by ownership patterns; if the plan does not note the difference between public and private parcels regarding parcelization, the plan has missed a significant difference. Ms. Coleman noted that the plan is regarded as advice to the LCCMR and will not be formally adopted. The LCCMR is going to consider how recent development in the Lessard Council might affect its protection and acquisition positions; there may be more interest in research, policy, and data collection issues in the future, a point confirmed by Mr. Harnack.

Comm. Napstad noted the full development of agricultural and urban parts of the state and that while the northern part of the state is given further restrictions, few are required of agricultural areas. Ms. Coleman responded that recommendations to agricultural interests were not left out of the plan, which includes drainage and erosion control; similarly urban areas were not left out; wetland recommendations focused on the west and the south. Disparity did not continue at the same level in the plan, said Ms.

Coleman. Comm. Beckel noted that two months previous the BWSR Board granted \$34 million to agricultural counties and northeast counties were not allowed to apply for grants. Ms. Coleman encouraged reading through the plan in detail regarding iniquities; she offered again to answer questions and visit the Board another time. The LCCMR is interested in comments as it makes changes to the plan.

**STATE - continued**

2) Lessard Outdoor Heritage Council Comm. Beckel recommended that the Board express disappointment that 1) the representation chosen to the Lessard Outdoor Heritage Council did not include anyone residing north of Perham, Minn., and that 2) monies available to the council not be spent on land acquisitions north of Perham. The Chair recalled that he had contacted the Association of Minnesota Counties regarding the appointments, as per the November Board meeting, and was told that the appointments had been made and that while one member of the Clean Water Council was to be a rural local government official, AMC was not the appointing factor; also, the appointments must have been made on the assumption that the Clean Water, Land and Legacy Amendment would pass in the November election. Comm. Pavleck recommended Board action that a letter be sent.

m. Pavleck s. Raukar

Comm. Jack Swanson asked for clarification on the funding component. Comm. Beckel clarified that the position would be no net gain in land acquisition. Comm. Napstad urged care in stipulating that this only be in reference to land acquisition and not to communicate that no monies be spent from the Amendment in northern Minnesota. Comm. Pavleck added that the letter might focus on the appointments and on land acquisition.

3) Resolution to Oppose Proposed Wetland Conservation Act Rules Regarding Exemptions and to Rescind Implementation of the Act The BWSR wetland rule committee met two weeks previously, reported Comm. Napstad. An agenda item that incited controversy was a recommendation that encouraged landowners to report taking advantage of any activity covered under an exemption. The goal would be to help BWSR to gain some means of tracking use of exemptions statewide. The question revolved on whether landowners should be “encouraged” to report or whether they “must” report the exempt activities. Most rural residents in northern Minnesota do not regularly file reports in the manner that agricultural landowners file an annual 1024 form. And northern Minnesota landowners do not have as deep a relationship with their Soil and Water Conservation Office. At the committee meeting, Comm. Napstad argued for volunteer reporting, while Dave Weirens of BWSR recommended volunteer reporting on a website. The Committee recommended language stipulating that landowners be “required” to report exempt actions. Comm. Beckel noted that the signing of WCA by northern counties was dependent upon the inclusion of the exemption language and to now require reporting leads to a loss of protection; exemptions are off limits, he argued. Comm. Fink, referring to an October, 2006 preliminary recommendation, recalled that exemption language was suspect at the time of adoption: the argument was that the report documenting the exemptions was inaccurate because the data collection was inappropriate and covered too short a period. The Board argued at that time that the data were suspect.

Comm. Pavleck argued that including required reporting language, for which there is no potential for enforcement, can lead to future requirements. Comm. Beckel again recalled that exemptions were regarded as off limits. Mr. Harnack recalled that exemptions were to be encouraged but not required. Comm. Napstad noted that another meeting was scheduled for December 16 in Grand Rapids to confirm a common stand on the exemptions. The complexity of the wetland rule update may lead to debate and tabling by the full BWSR board, which would not allow meeting the legislative deadline.

Motion to adopt a draft resolution presented by Comm. Beckel in opposition to the rules.

m. Beckel s. Pavleck

Comm. Napstad recommended removal of a monetary amount regarding a projected state budget and to clarify that there is not a mandate to gain approval but only to report the exemption after the fact. Mr. Lehtinen asked about language rescinding WCA and noncompliance by northern counties, cautioning that local jurisdictions depend upon WCA as a counterpoint to the Army Corps of Engineers. Comm. Napstad suggested that the language amounted to a threat and that the Board cannot speak for respective counties. The language not to follow WCA is to be removed.

Approved. Commissioner Napstad is to take the resolution to the Dec. 16 committee meeting.

4) Conflict Resolution Model and DNR Management of Public Land Mr. Carroll asked for advice from the Board on three issues that might cost the DNR staff and court time unless there is an alternative approach to resolution. He emphasized he was seeking suggestions on how to deal with these issues in a positive

manner. 1) Judicial ditch order is being used as a claim for road status. There is a conflict with WMA rules and trustee challenges. 2) Con-con ditch assessment past payments: how to work through options. 3) No-net gain policies in counties; an acquisition budget will be forthcoming from the Lessard Heritage fund. Disparities exist between county interests and private landowners challenging no-net gains. Mr. Carroll and Mr. Engwall would like to work together with parties to reduce conflicting views and to approach the Legislature with suggestions. These issues will be added to the Board's January agenda. The Chair advised reviewing conflict resolution policies and applying them to the issues Mr. Carroll raised.

5) Intermediary on Issues of Predation Comm. Swanson asked, after being approached by Joe Martin of the Department of Agriculture, that the Board in January address the potential for an intermediary body to mediate between the Department of Natural Resources and the U.S. Department of Fish and Wildlife on predation issues such as involving wolves, elk and deer. Roseau County may recommend predation funding for farmers who lose cattle above current depleted fund limits.

Meeting adjourned at 12:55 p.m.

Next Meeting Date and Location: **January 8, 2009, 9:30 a.m. Iron Range Resources Mining Reclamation Classroom Chisholm.**

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