

NORTHERN COUNTIES LAND USE COORDINATING BOARD

Minutes

Thursday, June 3, 2010

IRR Mining Reclamation Classroom

Chisholm, Minnesota

Call to Order: The meeting was called to order at 9:30 a.m. by Chairman Dennis 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 Bob Fenwick, Cook
Commissioner Jim Johnson, Cook
Commissioner Wade Pavleck, Koochiching
Commissioner Rich Sve, Lake
Commissioner Todd Beckel, Lake of the Woods
Commissioner Jack Swanson, Roseau
Commissioner Dennis Fink, St. Louis
Commissioner Steve Raukar, St. Louis

Others Present:

Bill Becker, Lessard-Sams Outdoor Heritage Council
Pat Henderson, Arrowhead Regional Development Commission
Josh Stromlund, Lake of the Woods
Elanne Palcich, citizen
Douglas Skrief, NCLUCB Staff

Administrative Actions

1. Approval of Agenda with the following additions:

- 1) Parks meeting (State)
- 2) WIR Meeting (Federal)
- 3) Clean Water Act (Federal)
- 4) Clean Water Act correspondence draft (Correspondence)
- 4) Elections (Correspondence)
- 5) Jim Mulder Announcement (Correspondence)
m. Napstad s. Johnson

2. Approval of Minutes: May 6, 2010 meeting

m. Beckel s. J. Swanson

3-4. Financial Report and Bills:

The Treasurer reported a general account balance of \$97,936.36 and a Land Use Conflict Management balance of \$15,005.28. Total accounts balance, after payment of approved expenses of \$822.74 was \$112,941.64.

The Executive Director submitted an invoice for \$809.91 for one month of professional services and expense reimbursement that included \$56.00 for a post office box fee.

m. Raukar s. Napstad

Correspondence

1) Commissioners reviewed those filing for commissioner and other positions in member counties and in Duluth.

2) Jim Mulder has been tapped by the Independent Party as their candidate for Lt. Governor. This may, discussion revealed, draw attention to county issues at the state level while detailed policy discussions may suffer in electioneering. County issues will need to be separated from those attributed to Mr. Mulder. Comm. J. Swanson noted a Grand Forks Herald editorial relating to the issue. He added that Joe Vene from Beltrami County was seeking the Vice Presidency of the AMC.

3) A letter has been drafted regarding the Clean Water Act to be sent to state officials asking their position regarding same.

Discussion Issues

LOCAL

1. Koochiching County Gasification Project: Comm. Pavleck reported that claims on intellectual property rights for processes related to the gasification project in Koochiching County have led to some delay in the project. Though public funds are being used, private developers of the process have expressed interest in maintaining rights to the extent possible. Federal representatives agreed to what might the developers might hold as private information while the state took a harder line, asking to retain rights. Comm. Johnson recalled an Attorney General's ruling in which "Duty of Care" for a county commissioner demanded that commissioners not sign away public interest in a project. Comm. Napstad noted development of a breathalyzer with some public funding; patents and trademarks protected the private interests. The line between private development and development with public funds is sometimes blurred, the Chair noted; how far back in the process that the state can claim ownership can be at issue.

STATE

1. Bill Becker, Executive Director of the Lessard-Sams Outdoor Heritage Council: The Chair welcomed Mr. Becker and recalled that the Board has had many discussions on issues related to the Council, including discussions on representation and the authorizing of the amendment that formed the Council. Mr. Becker noted his 33 years in state government, including doing legislative and planning work for the Department of Natural Resources.

In providing background, Mr. Becker recalled the Re-Invest in Minnesota Report of 1984 that called for fish and game habitat investment, leading to a call for new sources of funding. State lottery funds went to the LCMR that was expanded to include citizen members and recast as the LCCMR. The 3/16ths campaign led by Senator Bob Lessard and later tied to a sales tax increase by Senator Sams resulted eventually in the support of 56 percent of Minnesota voters in November 2008 to create a 3/8ths of one percent sales tax increase to be divided among a Clean Water fund, an Outdoor Heritage fund, Cultural Heritage Arts and History fund, and a Parks and Trails fund. The primary reason voters supported the amendment was because of its addressing clean water issues, studies have shown.

The Governor recommends and the legislature acts on all funds except the Outdoor Heritage Fund, in which the Council uniquely recommends funding and the legislature acts, though the Governor can veto the funding. A focus on habitat has been supported by hunters, anglers and conservation groups. The Council is described in the Game and Fish Statutes: MS2009, Section 97A.056. The Council has four legislative and eight citizen members. Geographic representation is to be considered. Mr. Becker hopes that change will occur in this representation; the three appointing bodies did not confer in the first round of appointments, so geographic balance was not provided for. The Council is a legislative council, serving the House and Senate. Four representatives will be replaced in 2011: Darby Nelson, Mike Kilgore, Jim Cox, and Scott Rall.

The amendment specifies that funds *must* be used to "...restore, protect and enhance wetlands, prairies, forests, and habitat for fish, game, and wildlife." Combined with legislative guidelines, this direction makes it hard for research projects to be funded because tangible results must be evident.

The Chair inquired after some legislators' concern over definitions of "protect" and "restore". The Council has adopted some classifications, stepping back from definitions, letting Council members decide whilst taking them as active verbs, demanding evidence of results.

Comm. Napstad inquired after public access. For acquired lands, unless otherwise provided for by law, access must be provided during open seasons; access is not necessary on easement lands. Funds cannot be used for access per se – for example, boat ramps as these do not protect habitat. Comm. Swanson asked whether research projects are rejected out of hand. Statutes allow the Council to send research projects to the LCCMR which is more research focused.

The Chair asked after "access" and its definition; is it limited to a narrow focus, such as roads, or a trail or walking area? A response may be that access be seen as that used by a hunter or angler in open season. In addition, access to segregated parcels for forest management is needed; forests managed to restore and enhance habitat as working forests, and not preserves, may be seen as providing better habitat.

Projects are prioritized on merits of the project, explained Mr. Becker, and adjusted for geographic balance. A numerical scoring system is utilized against priorities. Individual Council members draw out a mock allocation and these are combined and averaged and adjustments made. Recommendations are due January 15 of each year. Open meeting law is followed. Audits are semi-annual.

Funds are available through the Outdoor Heritage Conservation Partners Grant program accessed through the DNR, with a limit of \$400,000, and the Outdoor Heritage Fund is without funding limit. Ms. Henderson asked about a public meeting to be held on Parks and Trails. The Legacy Amendment was divided into four funds, the Outdoor Heritage Fund being one; the others are the Clean Water Fund, Arts and Culture and the Parks and Trail fund which receives 14 percent of the funding. The Council is not involved in other funds. There are not likely to be joint projects; funding processes are out of sync; some staged projects might be developed, dealing with an issue such as clean water before addressing habitat. Sales tax receipts are relatively inelastic, leading to predictability of fund levels.

The Council will meet the constitutional and legal requirements of the amendment while creating a 25-year plan. While improving quality of habitat, projects will provide Minnesotans greater access. Indicators of success will be used, and geographic and regional investments as well as economic impact will be considered. Mr. Becker reviewed past appropriations. For Fiscal Year 2010, 99 proposals were reviewed totaling \$250 million in requests. The Council recommended 18 programs/projects totaling \$65 million and \$4 million was recommended for the Conservation Partners small grant program. Capacity of state agencies to plan and work on projects is limited. The Chair noted that northern counties have RDCs with capabilities to work on similar projects, which Mr. Becker noted as a good idea should they wish to apply. PILT is factored in while some acquisitions may be transferred to federal ownership due to management concerns.

Comm. Napstad asked whether county board support would benefit an applicant's chance of funding in a PILT-generating acquisition; funds would not be used to get around state law. The Chair pointed out that northern counties might be opposed to a purchase of land using state funds that would be turned over to the federal government which does not pay PILT at the same level. Comm. Swanson inquired about ongoing funding. Easement stewardships may be supported in perpetuity with the existence of an actuarially sound trust instrument. Land must be used for the purposes stipulated.

In Fiscal Year 2011 the open competition with a standard application form resulted in 16,471 acres being protected and about 47,000 acres enhanced or protected with 100 miles of shoreline protected. An emphasis is in funding programs rather than "this parcel is better than that one." Applicants are encouraged to think programmatically, as an accumulation of projects, and in a longer-range time frame to ensure making a difference over the 25 years of the amendment. Applications for Round 3 will be available June 1, 2010, and recommendations will be made by January 15, 2011. Statewide priorities were itemized. Applicants would have to demonstrate urgency of parcelization threats.

Ms. Henderson noted public confusion over parks and trails planning. An upcoming meeting will address the 25-year plan for parks and trails to help the Governor prioritize funding. In response to a comment from Ms. Henderson on the potential for RDC staff to complement planning needs, Mr. Becker noted that he would be interested in RDCs as applicants as well.

Mr. Becker reviewed northern forest section priorities, including protection from parcelization and fragmentation and restoring and enhancing habitat on existing protected properties, as well as forest-prairie transition, prairie, urbanizing, and southeast forest section priorities. Upcoming land acquisition issues include concern over management capacity, taking taxable land off tax roles, barriers to PILT payments by the Outdoor Heritage Fund and public access to easement documents. Upcoming plans include work on the 25-year Strategic Plan, review of agricultural issues and discussion of the Auditor's Report on Public Land Management.

In question period, Comm. Johnson asked about Senator Ellen Anderson's appointment of a designee to the Council. Two members can appoint their own representative by statute. These are the chairs of the Committees on Environment and Natural Resources. Jean Wagenius appointed Rich Hanson. Senator Anderson has chosen to appoint a representative due to time constraints on her schedule. The Commissioner also asked how to get a northern representative on the Council. Mr. Becker recommended watching the Secretary of State's website which announces openings. A pool will be created in November. Northern legislators might pressure the Speaker to appoint people from the north. He commented that commissioners could say that the Executive Director came and said it would be good for the Council to have a representative from the northern part of the state.

In response to other questions, Mr. Becker noted that: there is not always consensus on projects due to the diversity of membership on the Council. Council members will be developing their investigative skills in hearing settings to fulfill due diligence. Consensus is created on a motion-by-motion basis. A five percent reserve is being aimed at to work for two years, ensuring a reserve in place until income is known. Multiple layers of oversight are to be in place, from the DNR, to the State Auditor, to tech evaluation panels to the Council itself. Once a program is approved it must follow state rules, including no-net-loss. Counties need to follow accomplishment plans to see what is up for purchase and to determine if there is a

county interest involved; there will be an interactive link on the web site to accomplishment plans. Full allocation of a request is not always made; the Council will not allocate more than the request. The Council uses a mathematical derivative approach, though this may lead to un-advantageous averaging. Management expectations of landowners are spelled out in easements. The Council is defining the line between maintenance and enhancement. Done every year it is considered "maintenance" and if every three to five years it's "enhancement". Each Council will have to determine this, with stability as a goal. Matches are not mandated but are pledges in Council recommendations; Conservation Partners grants will ask for a match.

Mr. Becker recalled his long association with the Board and noted the importance for northern Minnesota to be represented in regards to the bureaucracy in St. Paul and to the fledgling Council. He asked what the Council can do for the Board. One question on the table will be about how to work together to understand one another, responded the Chair. Seven of the eight counties present are more than 50 percent publicly owned. Comm. Napstad noted that one or two representatives from the north would represent two-thirds of the landmass of Minnesota. He asked again if county board support resolutions would help an application; he would like the Council to look at a county board resolution of a particular application with some level of weight in the rating system. The Chair noted that there is in county-level land use planning an opportunity for local governments to comment for or against. Mr. Becker responded that he would look at the application form and see that it says "local government support" and see that the scoring system has that element.

Comm. Johnson encouraged that northern Minnesota be included in the conversation. Mr. Becker said that he will include this meeting and the Board's input in his Director's Report to the Council. Comm. Swanson described his increased comfort with the process after Mr. Becker's presentation. Mr. Stromlund appreciated the visit of the Council to see a project on site. Comm. Beckel encouraged education of the Council on PILT and its affect on the large landmass of northern Minnesota, especially in the current economy. Mr. Becker noted that PILT and maintenance of existing state land ownership must be addressed by the Council. Comm. Sve asked if "local government" would include cities and towns. Mr. Becker added that more than one question might be needed to go beyond "local support". Comm. Pavleck encouraged input up front to the Council.

The Chair commented on two recent press releases from the Council, noting that conservation professionals would be utilized to write the long term Strategic Plan; commissioners are significant players representing many. Mr. Becker noted that they had contacted Annalee Garletz for input. The Chair also noted that framing the plan would depend on last summer's regional meetings; a planning process might instead include the present understanding and move forward with instructions from the legislature. Meetings, he continued, of this meeting group are "open to the public"; this may not, however, invite actual input. Another release referred to the six-week cycle; a longer window might allow for more applicant awareness and time for submission. He concluded that the significant landmass and public ownership in the north does not preclude enhancement projects. Commissioners are involved in agency panels and state organizations that make them well versed in land issues and capable of meaningful input. The AMC may be one channel of communication. Mr. Becker offered to put them on the list and noted that individuals can sign themselves up at the Council's website. General thanks were extended for Mr. Becker's visit.

2) Comm. Beckel reported on a state regional meeting held in Baudette regarding Parks and Trails Legacy planning. One area of interest to the meeting organizers raised for small group discussion referred to the total investments over 25 years and whether it should be spent on large, signature investments, mid-sized or small investments. He reported that he asked about the equal spending of money across the state when land values differ and whether stewardship, presently undefined, was identical in southern and northern areas.

3) The Governor's recent veto of the natural resources bill was seen in some quarters as positive. Comm. Napstad reported that Sen. Saxhaug had attended a BWSR meeting and reported pleasure at the veto. Some BWSR projects were legislatively prescribed. The DNR was unaware of some of the issues. The Chair recalled making comments to Sen. Chaudary to shorten a regulation enactment on Fish Lake; the shortened period was included in the vetoed bill.

FEDERAL

1) WIR Meeting; Comm. Johnson reported on a Committee for Public Lands meeting. PILT was discussed as was need for changes in forest management to revamp firefighting strategies. Randy Phillips of the Forest Service reported to the committee on some 4,000 leased properties on which assessments have

been increased due to increased land values - which may lead to complaints on the county level. Twenty-seven resolutions were prepared for the Reno meeting; one being developed is in opposition to Cap and Trade. A presentation on the Forest Service suggested the agency is broke. Grazing was encouraged on federal lands, especially in wilderness areas, for insect and fire suppression. Biomass was talked about as part of the solution of using forest products. The Chair added that he is preparing two resolutions for a July NACo meeting; one encourages addressing invasive species in the Great Lakes presently. The Clean Water Act resolution will take a positive stance, supporting the retention of “navigable waters” in the legislation.

Adjournment by the Chair at 12:10 p.m.

Next meeting: July 1, 2010, 9:30 a.m. IRR Classroom, Chisholm, MN

Respectfully submitted by Douglas Skrief, Administrator