

NORTHERN COUNTIES LAND USE COORDINATING BOARD
Minutes
Thursday, June 5, 2008
Kootasca Senior Center, Northome, MN

Call to Order: The meeting was called to order at 9:37 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 Bob Fenwick, Cook
Commissioner Jim Johnson, Cook
Commissioner Wade Pavleck, Koochiching
Commissioner Scott Larson, Lake
Commissioner Todd Beckel, Lake of the Woods
Commissioner Ken Moorman, Lake of the Woods
Commissioner Don Jensen, Pennington
Commissioner Dennis Fink, St. Louis
Commissioner Mike Forsman, St. Louis
Commissioner Steve Raukar, St. Louis

Counties Not Represented:

Roseau County

Others Present:

Craig Engwall, Department of Natural Resources
Mike Carroll, Department of Natural Resources
Richard Lehtinen, Koochiching County Environmental Services Dept.
Bob Tammen (resident, St. Louis County)
Pat Tammen (resident, St. Louis County)
Douglas Skrief, NCLUCB Staff

Agenda Additions

- 1) Mr. Engwall, Geographical Advisory Panels Nominations for Shoreland Rules, under State
- 2) Comm. Fink, Global Climate Change presentation review, under Federal
- 3) Comm. Fink, Invitation to Beltrami County to join NCLUCB, under Correspondence
- 5) Comm. Fink, Invitation for nominations to Forests for the Future, under Correspondence
- 6) Comm. Beckel, Invitation to Roseau County to maintain membership, under Correspondence
- 7) Comm. Beckel, Wetland Conservation Act, under Local
- 8) Comm. Fink, Clean Water Act, under Federal

Introductions

Administrative Actions

1. Approval of Minutes:

May 1, 2008 meeting

m. Raukar s. Beckel

With changes on page 4 under "Other: Bovine Tuberculosis," the White Tail Deer and Elk Management Plan was developed by Roseau County, not the DNR (Comm. Beckel). And "eradication" should read "disease management" (Mr. Carroll).

2. Financial Report:

The Treasurer reported a general fund balance of \$77,760.63. The Land Use Conflict Management balance is \$15,005.28. Expenses of \$5,255.05 were made for state auditing and for professional services. Income from St. Louis County dues payment amounted to \$7,500.00 Total accounts balance: \$92,765.91.

The Chair noted that the Land Use Conflict Management Fund will be combined with the General Fund account.

m. Beckel s. Larson

3. Bills: The Executive Director submitted an invoice for \$1,967.11 for two months of professional services and expenses. The State Auditor submitted a request for \$58.08 in interest payments on an invoice for \$3,872.00 for the audit for 2005-2006. Estimated meeting room expenses for this meeting, \$45.00

m: Napstad s: Raukar

Correspondence

1) An invitation to Beltrami County to join the Board was sent by the Exec. Dir. to Comm. Quentin Fairbanks with a copy to Comm. Joe Vene, both of Beltrami. The Chair reported conversation with Comm. Vene that Beltrami is interested and that a presentation by a representative from a similarly sized county would be welcome. Beltrami was a charter member of the Board, played a significant role in wolf-related matters and has reservoir issues in common with Aitkin County. Itasca County also may be a likely candidate for membership. Mr. Engwall offered to encourage Itasca County membership.

Moved that Todd Beckel visit Beltrami County Board of Commissioners to present benefits of membership to the commissioners.

m. Pavleck s: Larson

2) The Exec. Dir. noted that members were copied on an email sent by Don Parmeter of the American Property Coalition encouraging comment on H.R. 2421, the Clean Water Restoration Act, to Rep. Jim Oberstar by May 14, 2008.

3) Comm. Beckel suggested a letter to Roseau County to encourage payment of Board dues and continued membership.

Discussion Issues

LOCAL

1) Shoreland Standards: Planning Committee

Comm. Napstad and Comm. Pavleck reported, as NCLUCB representatives, on a May 30 meeting of the Shoreland Standards Planning Policy Committee in St. Cloud. Two presenters spoke. The first on concepts and the protective nature of conservation subdivisions in which homes are clustered and share marina/docking facilities. Sales of such developments locally are problematic as private lakeshore is still most desirable. A second presenter related the history of zoning and state and personal property rights and compensation to owners when all rights are eliminated. Like the permanent rules committee on wetlands, the new rules committee will be finding the threshold before property owners object.

An afternoon session, the commissioners reported, reviewed priority areas such as water quality, shore impact, and extension of shoreland protection upstream. A final session worked to establish governing principles by which to compare rules as they are developed, such as preserving economic and environmental value of lake property. Northern lakes were discussed. No specific principles were developed, though the DNR will try to put together a document that will reflect topics discussed. The concerns and documents will be on the Shoreland website. Times of public meetings will be posted on the website. Representatives of the Board and other interests were allowed input.

Mr. Lehtinen underscored that property rights are a bundle of rights and that decisions about private property making at the local level is still discretionary. Comm. Fink noted that location in relation to city limits may be a determining factor. A discussion on zoning may address the restrictions on use of land versus zoning meaning that you can do what you want as long as it does not impact those around you. Comm. Fenwick suggested the option is to allow what you want or tell what to do; attorneys say it is more defensible to tell what to do.

Mr. Fenwick recalled that a discussion at the Northshore Management Board addressed conservation development subdivisions; they are developed at the local level to meet local desires; it cannot be applied statewide. Mr. Lehtinen agreed that it is the job of local government to interpret standards, while zoning districts separate incompatible uses. Mr. Carroll added that some developments are attractive to a new niche market that wants unbroken shoreline, different habitats, etc. Comm. Fink encouraged flexibility so that property owners believe they have flexibility. Comm. Forsman warned against civil enforcement and ordinances that are set down to create revenue for local governments.

Comm. Napstad asked for guidance if the priorities are to 1) protect resources and 2) balance that with private property rights protection. The Board, he said, appeared to support language on conservation subdivisions not as a mandate but with some incentives. Comm. Fenwick noted that the value of a

conservation subdivision is not prescriptive but that property owners and local governments can come together to determine what is best for that particular piece of land. What is prescriptive is that there are so many units allowed per so many acres. Minimum lot size may be included. The state could then be allowed to give assistance to local units of government. Ordinances allow for this already. Mr. Lehtinen suggested that a designation on density and a minimum lot size are all that are needed for conservation subdivisions. Local units make these decisions; the state must be flexible enough to allow for this.

Nominations to the geographically focused advisory committees are open, according to Mr. Engwall, who distributed a nomination form. The state will be divided into regions of significant difference. Anyone may be nominated, but individual commissioners may best represent counties. Comm. Larson will be a Lake County nominee. Comm. Raukar asked if there has been advocacy for financial relief for promoting property conservation. The DNR is advocating 75-foot setbacks that provide immediate property relief. Conservation easements may increase property values because of the value of undeveloped neighboring lands, said Comm. Forsman.

The Chair asked that all members keep the Board advised of all nominations.

Comm. Napstad suggested that a tax policy could be submitted with shoreland rules recommendations. Comm. Beckel warned against complications to tax laws in times of budget deficits. Comm. Fenwick noted that other taxpayers pick up the burden when some get a break. Tax policy consequences must be reviewed.

The Daily Journal of International Falls published a NCLUCB news release sent to regional news outlets and the Duluth New Tribune printed a related article.

2) WCA: Comm. Beckel reviewed how a wetland bank owner may sell off all credits and then sell to a new owner who must accept all the responsibilities tied to that property. Or the owner may let the land go tax forfeit, returning the land to county responsibility. No instrument exists to address this. There is perhaps no private market for the property after credits are sold. In a related issue, proposed legislation this year attempted to address conservation easements in 80 percent counties in which wetlands would be credited back as preservation lands. The language was changed to include only state and county owned lands. A request was voiced that Sen. Saxhaug and BWSR Director Jaschke visit with the Board in the future.

STATE

1) Forests for the Future: Comm. Fink reported receiving an email update from Andy Holdsworth of the DNR regarding the Forests for the Future Program, passed as part of the omnibus game and fish, lands, forestry and natural resources policy bill (S.F. 2651). Mr. Holdsworth noted that the DNR is forming a standing advisory committee for the program and all members of the Forest Legacy Advisory Team are invited to join. Laurie Martinson also emailed to extend the invitation. Mr. Engwall was thanked for helping to ensure NCLUCB membership on the committee.

Motion that the Chair respond to Ms. Martinson that the Board wishes to appoint two members to the standing advisory committee.

m: Forsman s: Napstad

2) Vermilion State Park: Comm. Forsman reviewed the creation of a state park on Lake Vermilion in the last legislative session. Payment in lieu of taxes will be allotted to local governments. One million dollars was estimated as the cost of sewers for an estimated 300,000 annual visitors though sewer in Kabetogama alone may cost \$15 million. There will not be a state of the art park, suggested Comm. Forsman. The LCCMR refused to fund part of the project. Mr. Carroll responded that there is a commitment to a state of the art park as defined by the state. The Chair noted that the DNR may not need county permit approval. Mr. Tammen, from the audience, noted that \$100,000 may be realized annually by the local township for five years, more than the \$30,000 now received in annual taxes. Comm. Beckel noted that townships are responsible for the expenses related to services they will be requested to supply.

FEDERAL

1) Lynx Critical Habitat Designation: The Chair distributed a draft position paper from NCLUCB on the lynx, asking for comment to be directed to the Exec. Dir. and the Chair. The comment period will be reopened and an economic impact comment period will open in July.

2) NACo: WIR held its annual meeting in St. George, Utah, the week of May 18. Comm. Jim Johnson attended, as did Comm. Lenore Johnson of Lake County. Comm. Fink attended regarding the Clean Water Act. Comm. Jim Johnson reported that one meeting addressed the basic philosophy of the platform. While the Endangered Species Act was recognized, it was in a larger position document that the subject received full attention; the white paper will refer to the broader platform. A meeting on PILT recognized that current payments are one-third of the original. There is a movement to move from discretionary to a mandatory formula. Sixty-seven senators agreed. Nevada received a 1,600 percent increase and other states were shorted. The House will not support mandatory payments. Priority is to get mandatory funding and use existing formula before changing the formula. ATV trails were addressed; use of county roads was not seen as a good option; in western states trails are specially constructed.

Comm. Fink reported sitting in on the policy committee. Northern Minnesota – in Cook, Lake and St. Louis Counties – has been instrumental in increasing appropriations for PILT in early 2000s. Cook gets around 7.5 cents an acre; St. Louis gets \$1.29. At full funding, the formula may be reexamined. Minnesota does not qualify as a 25 percent forested state. State interests must be supported.

Related conversation addressed ATV and park use in relation to high gas prices;

Regarding the Clean Water Task Force, Comm. Fink reported that the NACo Task Force will take recommendations to the policy committees. Four committees acted on it. The results will go to the NACo Board of Directors. The Senate held public hearings on April 9. Three states have let the federal government enforce as it wants. Thirteen others have partnered with the federal government. The remaining states have legislation, more or less restrictive than federal rules. Minnesota is more restrictive than the federal government. April 16 hearings held by Rep. Oberstar lasted 10 hours. Rep. Oberstar at end of day said he would look at language that would fix the bill as long as it would not destroy the intent prior to two Supreme Court rulings and he might consider leaving “navigable” in the language. The EPA and the Army Corps of Engineers said they may be unable to accommodate the expansion of responsibility should the language be changed. Eric Coleman, President of NACo, asked for language to impress Oberstar. Comm. Fink argued that no language be given before July policy committee meetings and before then propose a “delete all.” At the WIR, agreement was made to recommend 1) add “state waters” to the CWA as a definition – there is now “navigable” and “waters of U.S.” 2) ensure that the rule-making process must be open and just. Any exemptions should remain in place and legislation should have an open forum process. None of the definitions included ground water. The bill is about jurisdiction, not clean water.

3) Meeting Global Climate Challenge: Comm. Fink reported on a May 29 meeting addressing climate change and distributed a related handout. One presenter encouraged looking not so much at climate change, which occurs regardless over time, as at intended and unintended consequences of mitigating activities such as cap and trade. Mr. Engwall noted benefits of carbon sequestration of timber management. Comm. Forsman noted the benefits of mining and manufacturing in one location.

NCLUCB

Occasional video conferencing possibilities will continue to be discussed.

Meeting adjourned at 12:07 p.m.

Next Meeting Date and Location:

July 3, 2008, 9:30 a.m. Iron Range Resources Classroom, Chisholm, MN.

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