

NORTHERN COUNTIES LAND USE COORDINATING BOARD

Minutes

Thursday, July 1, 2010

IRR Mining Reclamation Classroom

Chisholm, Minnesota

Call to Order: The meeting was called to order at 9:35 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 Charles Lepper, Koochiching
Commissioner Wade Pavleck, Koochiching
Commissioner Todd Beckel, Lake of the Woods
Commissioner Jack Swanson, Roseau
Commissioner Dennis Fink, St. Louis
Commissioner Mike Forsman, St. Louis
Commissioner Steve Raukar, St. Louis

Others Present:

Craig Engwall, Department of Natural Resources
Douglas Skrief, NCLUCB Staff

Administrative Actions

1. Approval of Agenda with the following additions:

- 1) Parks and Trails Meetings (State)
- 2) NACo Resolutions (Federal)
- 3) Regional Rail Authority (Local)
- 4) Palisade Plasma Corporation (Local)
- 5) Association of Minnesota Counties Planning Committee (State)
- 6) Sen. Chaudary's Fish Lake Bill (State)
m. Napstad s. Beckel

2. Approval of Minutes: June 3, 2010 meeting

m. J. Swanson s. Johnson

3-4. Financial Report and Bills:

The Treasurer reported a general account balance of \$97,126.45 and a Land Use Conflict Management balance of \$15,005.28. Total accounts balance, after payment of approved expenses of \$809.91 was \$112,131.73.

The Executive Director submitted an invoice for \$782.72 for one month of professional services and expense reimbursement.

The Chair introduced a pending request for up to \$5,000 for gateway community planning in northeastern Minnesota in expectation of an International Community Congress in 2011, a collaborative planning process relating to Heart of the Continent Partnership and involving communities and government and relating to land use around public land. Comm. Fenwick noted that the next step in the Board's land use conflict process plan was to talk about a gateway project.

Comm. Napstad reflected on the fund balance and that Aitkin County is reviewing its budget obligations. The Chair noted that only half of the budgeted dues amount will be collected this year.

m. Raukar s. Napstad

Correspondence

1) An email note was shared from Leon Heath, Director of the Northwest Division of the Department of Natural Resources, thanking the board for the comprehensive minutes of the Board and how they update him on land use issues.

2) Heart of the Continent Partnership will hold a general meeting July 29-30 in Grand Portage. Cook County, noted Comm. Johnson, had been invited to send a monitor. The July 30 session will include planning for the 2011 International Community Congress. The Chair supplied a power point printout on that congress; this included a slide note on how communities and public lands may thrive together. A discussion in a meeting on June 30, reported the Chair, included discussion on how public lands might be more productive in the creation of jobs. Teams are now being assembled and recommendations for membership sought. Comm. Fenwick recalled meetings in Washington, D.C., with a representative of the Intergovernmental Affairs division of the Department of Interior regarding the Gateway project, at that time aimed more at municipalities. Effort was made to expand the partnership to counties. Discussion ensued regarding the positive shift away from politics and more toward planning, which may lead to more interest in participation and more inclusiveness. A common view from the Board might help to heighten its visibility. The Conflict Management funds were to deal with federal land issues, reiterated Comm. Beckel. The Partnership could again present to the Board in the autumn. Relationships with RDCs and Chambers of Commerce would be of interest. Lisa Potney and Doug Franchot attended a January seminar in West Virginia on the Gateway concept, reported the Chair, and local government and chambers and business leader involvement was a major component of discussions. Also of interest is the size of larger communities like Duluth in relation to smaller communities as well as marketing techniques to improve the economy, which will take time to organize with appropriate partners, making public lands pay for themselves. Comm. Fenwick recalled how the Gateway Community program was designed as a top-down response of the federal government to deal with federal land – rather than seeing small communities in trouble because they are surrounded by large tracts of federal land. An effort driven by the communities seems more persuasive.

3) Clean Water Restoration Act; In response to a resolution from the Board to send a letter to the Governor and other elected and agency officials regarding Rep. Oberstar's proposed Clean Water Restoration legislation, a letter was sent on Board stationery on June 16 signed by the Chair and Vice Chair. The mailing list was distributed by the Chair. Mr. Engwall reported that the Department of Natural Resources has no position at present. Comm. Napstad noted the unwillingness of people to talk about the issue publicly. A majority of the Association of Minnesota Counties voted in opposition, while individual members will not comment.

Discussion Issues

LOCAL

1. Environmental group sues to stop AT&T tower near the Boundary Waters Canoe Area Wilderness: A proposed 400-foot communication tower two miles from the BWCAW has caused concern about visual pollution. Shorter towers without guy wires or lighting exist in the area. Disguising high towers, as in Vermont, may not be feasible due to wind stress. Public safety in this situation is pitted against "natural and scenic beauty". The timeline of the case was not known.

2) Vermillion State Park creation documents signed: The DNR is now owner of the park. Mr. Engwall lauded Erica Rivers as a competent fair-minded project manager. A question of revenue generation remains so that county involvement in the planning process would be important. St. Louis County Land Manager Bob Krepps has been asked to join a park planning committee. The county has had reservations about the project; PILT payments have been doubled but will be divided into three parts, whereas the county typically receives 90%, resulting in a loss of \$75,000 in the PILT distribution. Soudan Park has been included in the PILT, which is a second loss to the county. Comm. Forsman reported that the DNR had a meeting in Tower the previous day and that he was not invited as the commissioner from the district - nor were other local elected officials. He predicted a wilderness without hunting and a simple trail because of lack of funds, recalling that commercial development would have resulted in significant contributions to county coffers. Enhanced PILT, he continued, will be threatened by state budget shortfalls. Comm. Raukar also noted the disparity between budget priorities. The PILT payments were to be roughly \$250,000. This was to be doubled. Towns in the district will get a third, as will school districts and the county. Property tax payments were being made by US Steel which owned the property for 120 years and which recently stood at about \$180,000. At this point it is not known whether the legislation will be significant enough in terms of the PILT payment to make the payment unique and exclusive. The Legislative Auditor's report was to determine the value of PILT to the DNR. PILT is on the table now. Comm. Forsman added that the park

will be the state's 14th largest park. It will cover 4,500 acres of possible park area. Bearhead State Park six miles away is 6,000 acres. The state already has five miles of shoreline on 1500 acres on Lake Vermillion.

Comm. Fenwick inquired whether other counties should be concerned that PILT may now be a negotiable item. Will the state honor the new \$500,000 payment to St. Louis County or another county's PILT share? Other townships and schools may also ask for one-third of local payments. AMC may look at the issue of PILT used as a replacement for property taxes. Since the creation of the PILT laws in the late 1970s, recalled the Chair, there have been two categories – conservation and non-conservation for which there was a statutory fee. To this was added con-con lands at the acquired value and acquired lands. All county-administered land, some six million acres, that was tax forfeited receives almost \$6 million. Everything above the tax-forfeited lands – the con-con and acquired, some 1.4 million acres – receives \$14 million. Comm. Fenwick underscored the point that a payment based on percentages of dollars per acre versus a cash amount to a particular place is without issue as long as 100 percent of PILT is paid. Lessen that amount, and those without a fixed amount due them will lose. Comm. Forsman added that news of a township receiving PILT will cause other townships to inquire about what might be due to them; everyone will get less if all townships get involved. Schools may also challenge their proportionate due.

3) Supplemental Environmental Impact Statement will be prepared for the NorthMet mining project regarding land exchange areas. The Environmental Protection Agency had concerns of a multi-million dollar plan carried out by the Army Corps and the DNR.

4) Duluth Metals exploration raises concerns Exploration for copper in the Ely area north of the Duluth complex has raised concerns among environmentalists. An environmental review should be completed in three years, according to news reports. Commissioner Forsman noted that verbal reports are that exploration is identifying increasingly rich bodies of ores well beyond expectations. Geologists are now carrying out helicopter-borne grid surveys. Comm. Napstad reported that John Engessor at a Lake Association meeting in summarizing the Kennicott mine developments suggested that there need not be grave concerns for shoreline owners about the safety of underground mines. Negative comment about the Polymet development, which is an open mine operation, has influenced opinion about all mining in the area, commented Mr. Engwall.

5) Regional Rail Authority Comm. Swanson requested input on a request by a local snowmobile group to purchase a 22-mile stretch of Minnesota Northern Railroad bed between Roseau and Warroad. The purchase offer was accepted. One Roseau commissioner has recommended that the county acquire the bed and create a regional rail authority and have the county in charge of the bed for future public use. Comm. Raukar noted that St. Louis County has been in the process for 25 years of purchasing rail beds for public use for trails or rail use. It is problematic once these rail beds slip into private ownership. Public funds have been leveraged for development of public use of the corridors. Comm. Forsman reported that the abandoned corridor between Tower and Ely was sold by the City of Ely and it has been difficult to get it back into the public domain. Ownership went back to adjoining owners. It will be very expensive to recover these lands, which will be recovered in a patchwork. Saving the corridor will be worthwhile, perhaps for industry access, for example. Members of the private sector are often reluctant to sell. The snowmobile club might ask the county to acquire the corridor on the behalf of public use, suggested Comm. Raukar. The county will be around longer than any club. Access to public land can be appropriated by private interests that purchase a corridor, added the Chair, as has happened with a contentious cart path in St. Louis County. Mr Engwall cited a case in which the DNR purchased easements that ended up inaccessible when an adjoining landowner claimed part of the land. He urged the county to have their attorney review the many facets of the issue, which can change from forty- to forty-acre parcel. Rail authorities have independent levy authority, noted Comm. Raukar. A couple regional attorneys have expertise in the are, it was noted. Comm. Napstad said that Aitkin County owns three abandoned rail lines. The Soo Line is part of the 70-Mile Trail system. The trials would be difficult to realize without owning the rights. Rights of way are leased out by Aitkin County to cable companies; easement income has probably recouped the initial investment. Access leases are sold. Easements can include seasonal exclusions. Some private contractors want the gravel aggregate that forms the rail beds.

Comm. Swanson noted two areas of contamination on the corridor. These might be mitigated, it was suggested, or they could be unaddressed unless developed. Responsibility to clean up contamination may be incurred, though joint-and-several liability may cover the issue as long as the other party is not defunct. The issue should be examined, it was recommended.

6) Palisade Plasma Corporation Comm. Napstad recalled how in light of a proposed plasma gasification project, Aitkin County had prepared to alter its hazardous waste ordinances, but before a public hearing the applicant withdrew the application in the face of public outcry. Subsequently, the city of Palisade started up a Plasma Gasification Initiative to get gasification jobs into their town. As a

municipality, this Mississippi River town can avoid county ordinances. The group has been contacting Comm. Napstad about flood plains, etc. He is concerned that the local citizens do not understand that they are not immune from regulation and that the ultimate regulating authority for a hundred-million-dollar plant is going to be the MPCA or the DNR or some other higher authority. The group is now saying they are not to handle hazardous materials. They could build it in Aitkin County if that were the case, suggested the commissioner. Any drainage will bring the attention of the EPA, noted the Chair.

Comm. Lepper said they will have to do a feasibility study and suggested they call Koochiching County where it is thought a similar project will create only fifteen jobs; drivers will dump loads and move on.

STATE

1. Lessard-Sams Outdoor Heritage Council update: A report distributed by the council outlines trips taken in May and June by council members to out-state sites and provides a calendar for upcoming meetings. Comm. Beckel distributed a handout from Bill Becker, who attended a Joint Powers Natural Resource Committee meeting, on priorities of the council. He recalled that Sen. Lessard had mentioned funding access points when he visited the Board while funds have gone to preservation and land acquisition.

2) Parks and Trails Legacy Meetings Comm. Johnson expressed concern that at public input sessions on the use of Parks and Trails Legacy Amendment funding, public opinion centered on land acquisition for parks and trails and the public seemed to commingle the three land funds of the amendment – the Lessard-Sams, the Parks and Trails, and the Clean Water Council funds. Reports are that legislators are similarly confused and are now cherry-picking projects for their districts even though the council is independent in its recommendations. Annalee Gartz of the AMC is concerned that the process is becoming politicized. Mr. Engwall noted that only the Lessard-Sams involves a council and that its recommendations have held mostly true through the legislative process, similar to LCCMR funding. He added that a stand-alone access purchase, as brought up by Comm. Beckel, would be unconstitutional under Lessard-Sams which is dedicated to wildlife, wetlands, and habitat improvement rather than direct land acquisition or recreation. The focus can be on the habitat aspect of a project, even though it may also be providing access. Comm. Beckel said he is looking at management. And he is concerned about definitions of enhancement, protection and restoration. The Chair suggested that the legislature backed off from the definition issue, which might suggest a recognition that they were about to step over bounds.

3) AMC Convention Planning Comm. Johnson noted that planning for a December convention may include a breakout or roundtable discussion around Lessard-Sams. He considered bringing Bob Lessard and Bill Becker, executive director of the council, to the table. Sen. Lessard could provide history of the struggle for habitat and how the amendment created a different entity. Structure of the four legs of the legacy funding would be part of the discussion. Comm. Fenwick commented that at the last Future's meeting it was commented that it is a time for action and not management of the status quo. He recommended including not only Mr. Becker and Sen. Lessard but also people like Tony Smith who can bring different conflicting opinions to the discussion, encouraging the exploration of alternatives. A round table would need facilitation, but good things would be brought out, giving AMC something to work with. There is no straight line of policy on this issue. Future meetings would benefit. Give and take would be beneficial. The Chair suggested looking at projects in the northern part of the state. Comm. Beckel noted that the amendment will provide 23 more years of funding.

Comm. Beckel also noted that four seats will be opening on the Lessard-Sams council in the next year. Two to be appointed by the Governor and one by each body of the Legislature. These three groups should communicate on the appointments. The Board might encourage consideration of candidates. Discussion followed on the best means to address the issue: create a list of candidates; be aware that a new Governor will appoint; have legislators bring forward names with later support expressed; provide a press release; express interest to the executive director of the council that the Board is interested in providing names; provide four names; put forward a suggestion to the Executive Director that Northern Counties is very interested in providing names it feels are suitable to represent the region and wait for a response – providing time create a list. The Governor could be ready to make appointments in January and the Speaker and the Majority Leader in February. A letter to Mr. Becker asking him to formalize what he sees as the process would be helpful. Leadership of the Council will change in January as they elect a new chair; one would want as many people in place as possible before that election. Should the Board suggest or respond? It might be better to be consulted as a resource. A letter now might be for involvement, asking for ideas. If names are requested the Board can respond. Legislators from the north did not support the amendment, it was recalled. The decision was to draft a letter and put it on the August agenda.

4) Sen. Chaudary stripped of endorsement by DFL for introducing language in a bill at the last minute had the appearance of influencing walleye regulations on a lake on which he owned property. The Chair recited that he had written a letter to the DNR updating them on what he had heard from a citizen on the issue and the bill was introduced on the same day, about which the Chair had no idea. The regular rules process would involve a timely adjustment to the regulations, it was noted.

FEDERAL

1) NACo Resolutions The NACo conference scheduled for mid-July will not be attended by many Minnesota representatives – 36 rather than a high of 80. The Chair recalled that the Clean Water Restoration Act resolution will be couched in positive terms, requesting that “navigable waters” be retained in the legislation. This will be moved to platform first. Three committees are interested in introducing it.

The introduction of invasive species in the Great Lakes will be addressed by a resolution that encourages expediting the research and implementation of solutions to eradicate non-native aquatic species from the Great Lakes and inland waters. A Chesapeake Bay commissioner agreed that all coastal waters probably need similar consideration. A Michigan representative spoke to specific invasive species in his area. The resolution does not specify what should be done. While Superior has not suffered as badly as other Great Lakes, the introduction of ballast water remains a problem, even though chlorination would solve the problem. Waiting for eight years for a solution to be processed would allow time for further infestation. Co-authors to the resolution are coming forward and passage is expected.

Adjournment by the Chair at 12:07 p.m.

Next meeting: August 5, 2010, 9:30 a.m. KOOTASCA Senior Center, Northome, MN

Respectfully submitted by Douglas Skrief, Administrator