

## NORTHERN COUNTIES LAND USE COORDINATING BOARD

### Minutes

Thursday, July 3, 2008

Iron Range Resources Classroom, Chisholm, 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 Charles Lepper, Koochiching  
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 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  
Douglas Skrief, NCLUCB Staff

#### Agenda Additions

- 1) NCLUCB General: Electronic meetings
- 2) Federal: NACo meeting upcoming  
m. Beckel s. Jensen

#### Introductions

#### Administrative Actions

1. Approval of Minutes: June 5, 2008 meeting  
With change on page 4 under "Federal; 2) NACo," PILT recognized that current payments are two-thirds (not one-third) of the original. (Comm. Johnson).  
m. Johnson s. Lepper

2. Financial Report and Bills:

The Treasurer reported a general fund balance of \$75,680.44 and a Land Use Conflict Management balance of \$15,005.28. Expenses of \$2,080.19 were made for interest on state auditing services, professional services and Northome room rental. Total accounts balance: \$90,685.72.

The Executive Director submitted an invoice for \$663.32 for one month of professional services and expenses. The Chair noted that the Land Use Conflict Management Fund will be combined with the General Fund account when the new audit is done and until then will be reported separately.

m: Napstad s: Raukar

#### Correspondence

- 1) A request was made from Linda Ronbeck and Don Parmeter of the American Property Coalition to address a future meeting of the board.
- 2) The Exec. Dir. reported email correspondence from BWSR Land and Water Section Manager Dave Weirens in regards to an invitation to address the Board made to Sen. Tom Saxhaug and BWSR Exec. Dir. John Jaschke who are trying to arrange a mutual visit in August or September. The Chair asked that Tom Tri, now of Barr Engineering, doing an inventory of wetland sites that were part of past BWSR programs, also be invited. This inventory would help determine how BWSR might consider lands not in immediate threat; may be ready for the next legislative session.

Comm. Napstad added that Mr. Tri is also working on the Northeast Wetland Mitigation Strategy that will have a kick off meeting July 10 in Grand Rapids. Comm. Beckel encouraged commissioner attendance. An overview of the wetland process was distributed.

Comm. Napstad will attend on July 10 and address the kick-off meeting, with a goal of indicating how wetland mitigation affects county government. He invited particular concrete examples from members as to how public service, safety and economic development have been affected by mitigation.

Comm. Leper inquired after Army Corps involvement. Mr. Tri is trying to coordinate Corps and state rules, said Comm. Fink. Comm. Napstad noted that individual Corps representatives sometimes override the State General Permit (available for viewing at BWSR web site) affecting parcels under three acres and take over jurisdiction. Under the Clean Water Act the Corps may also overlook states' authority.

Comms. Larson, Beckel, Napstad and the Exec. Dir. will attend the kick-off.

3) Forests for the Future had extended invitations for continued membership on the Advisory Committee. Comm. Fink informed Laurie Martinson that the Board would like to make an appointment. Ms. Martinson noted that she would get back with dates and that it would be important that there be "northern county" involvement. Comm. Fink encouraged NCLUCB representation as an organization.

Mr. Engwall noted that getting two representatives from the Board on any panel may be problematic. Comm. Napstad encouraged panel and advisory board members from NCLUCB to note at meetings how much of Minnesota Board members represent.

## Discussion Issues

### LOCAL

1) Shoreland Standards: Planning Committee: Comm. Pavleck reported, as NCLUCB representatives, that he and Comm. Napstad have attended all meetings of the Shoreland Standards Planning Policy Committee. As counties vary so considerably, issues are broad ranging. There is a push to expand shoreline protection zones of natural vegetation. ISTS changes are to come about.

The shoreland committee has not met since the last NCLUCB meeting, reported Comm. Napstad. Email correspondence has addressed guiding principles. As Comm. Napstad recalled, NCLUCB had voiced concern for: 1) balance between resource protection and private property rights; 2) alternative uses in regards to conservation subdivisions: some areas utilize them more successfully than others; NCLUCB suggested their use on as as-needed basis, allowing them as an alternative. There will need to be language addressing density increases and restrictions; 3) use carrots instead of sticks: for example, providing reasonable alternatives such as conservation easements on unused lots.

Comm. Pavleck reported on an open house in International Falls; a consensus meeting done informally, avoiding controversy with limited ability to gauge public views. No Duluth area meeting was held. Comment period is still open on the Waters website. Nominations closed July 1.

Comm. Fenwick suggested less complicated rules that would designate a maximum number of units per acre and a minimum lot size together with a community vision for an area. Acreage rather than shoreline would be determinant. Shoreline could be commonly owned, if this were applicable in northern Minnesota. Comm. Fink added that public access may be seen as a parallel. Carrying load of lake is affected. "Density bonus" can be a helpful add-on to a well-designed quality development. Fear of diminishment of tax rates should not be of concern, suggested Comm. Pavleck, because these tend to be higher value projects. Developers have seen value in such projects.

2) Precious mineral mining has generated much environmental community correspondence, reported Comm. Larson. An informational meeting will be held July 19 at Vermilion Community College in Ely. Two commissioners are attending. Core samples have minimal sulfur, reported Comm. Fink, leading to interest in low-cost development. Mr. Engwall suggested inviting John Engessor to address Board; interest by the board was expressed. Comm. Larson suggested Joe Cipierin from Calumet.

Comm. Fink reported on excellent job of sampling, protecting and restoring a test site by Franconia Minerals. Comm. Napstad reported Kennecott Minerals did a progressive search, starting with a fly over, in Aitkin County, leading to public suspicion of what was a staged process. When the company asked for a conditional use permit, the public voiced concern over affect on a lake, the permit was denied for exploration. The mining company appealed in district court in Duluth and the judge overruled the denial stipulating it was for exploration not mining. The company realized a significant mineral intercept. They have purchased rights for precious minerals and are open about process now they have gained rights. A Wisconsin mine of the company is now reclaimed.

Comm. Larson reported that conservation interests are concerned over a land exchange by Polymet that has been taking place over several years. Misinformation has been spread.

## **STATE**

1) Forests for the Future: Correspondence above covered this topic.

2) Wetland Conservation Act Rule Making: Comm. Beckel reported that the advisory committee has made its way through the rulebook once with discussion. Two commissioners, himself and Comm. Pavleck, attended; no AMC representatives attended. A debated question is on the replacement table. One option is to dispense with the table and go with 1.25:1 in greater than 80% counties. To get one-to-one replacement is difficult, including for staff. There would be three statewide levels: greater than 50%; 50-80%; and less than 50%. The 1.25:1 ratio would put costs up front.

The Northeast Mitigation Strategy is part of the discussion. Representation by Barr Engineering, the Red River Valley and a builders association was noted. Comm. Napstad asked about interest of agricultural counties in the process. Comms. Fenwick and Fink expressed concern over drier counties' interest. Drier counties do have tillable land issues. Buffer zones are also being considered.

3) Bovine TB: Comm. Jack Swanson reported that Roseau County has appointed a county coordinator and that interagency cooperation has been strong. Of fifty-six herds in the buyout zone, 40 producers will take payment; sixteen are adding extensive fencing. An added 300 herds which will be in a "split state zone" are facing paper work and significant impact. Buyout zone farmers will come out well at \$1,200 per animal annually till the state status changes. A related issue concerns land values when deer numbers are reduced; with 1,400 deer killed there is perception of no deer remaining in private land bought for recreation. Deer hunters say eradication efforts don't work while cattle producers say they do. A tenth of one percent of deer was infected.

4) Re-determination of Wetlands: Comm. Beckel reported that Roseau County has informed Lake of the Woods County of a re-determination of wetlands in eastern Roseau County. BWSR is picking up the costs. It will divide Roseau into two portions; one-half will be a less than 50% county and the other a greater than 80% county. A property owner adjacent to lakeshore asked for the re-designation. Questions were raised as to ramifications of having a county so divided and who would be a designated Local Governmental Unit in a county with two designations. Comm. J. Swanson asked for other opinions.

5) Wisconsin County Forests Association: Comm. Fink reported that while attending a meeting of the Wisconsin County Forests Association he noted their similarity to NCLUCB. The 29 counties contain 2.3 million acres of public land. They had some interest in participating with NCLUCB and sending a representative occasionally to Board meetings. They asked if St. Louis County would become an ex officio member.

## **FEDERAL**

1) Lynx Critical Habitat Designation: No reopening of the comment period on the Canada Lynx has been announced nor has an economic impact report been issued, according to Exec. Dir. Skrief. The Chair asked that comments on the draft statement already distributed be forwarded in a timely manner.

Comm. Larson noted that in the economic analysis comment period, the cost of lawsuits regarding each issue brought up by the designation should be raised. Comm. Fink asked if this would be in the form of an amicus brief on behalf of the Fish and Wildlife Service. Comm. Larson noted interest in the cost to agencies. Comm. Fink noted a discussion in the late 1990s of changing tort law to create some form of a liability to those bringing frivolous suits or not meeting a standard; the suits and their number without a vested interest were of concern. Mr. Engwall said it was a matter of "standing" in regards to demonstrating an interest, and the definition is loose. He also noted that funds used for litigation come out of timber management dollars – that bringing suits is strategic to reduce available funds. St. Louis County once set up a defense fund. Koochiching has a line-item budget entry for litigation.

Comm. Johnson added that the lynx is not an endangered species, that the critical habitat designation is a product of the courts and that anecdotally the Fish and Wildlife Service, already understaffed, has indicated that it does not want to pursue this designation. Development of land or trails is affected by delays and additional level of regulation and costs.

Comm. Johnson asked if the lynx habitat designation should be brought up at NACo. Comm. Fink had encouraged him to talk to the staffers and the Chair of the Public Lands Committee to forward a resolution. It may be that the Board could supply a resolution and ask for NACo support.

Comm. Lepper voiced concern over lack of action by the Board. Comm. Fink noted Ms. Martinson's letter of invitation to the Board for representation on a Forests for the Future panel as an example of progress being made by the Board. Responsibility also rests on individuals representing the Board on committees.

2) NACo Conference: A NACo conference will be attended by Comms. Fink and Johnson in Kansas in early July. There are majority and minority positions on the Clean Water Act. Seven resolutions will be considered by several committees. The first resolution supports the position that the Clean Water Act is important to protecting the habitat of streams but that changing "navigable" to "waters of the United States" is a bad idea and NACo opposes that.

A second resolution of the task force was to add "state waters" to the definition in the Clean Waters Act and clearly identify federal and state waters, leaving contested waters between a limited source of conflict. In addition, current exemptions should remain; administration should come from partnership of all levels of government; the permitting process should be improved, for example by giving states incentive to oversee parts of the act; agency rule making process and guidance should be done in an open process with public comment.

Another similar resolution from Michigan will respond to the president of NACo and will include a resolution supporting single permitting of manmade ditches and continued maintenance done without federal intervention. Another resolution from Brett Halsey of Wisconsin and Sarah Adams of Marin Co., Calif., asks for NACo to support protecting drinking water, requiring clean water discharge permits into waters which will be a large point of discussion. Floor fights are expected.

3) Road Management Plan: Mr. Engwall reported that a federal Road Management Plan is being prepared. There are roads that may be closed to ATVs and motor vehicles that are presently used for state maintenance. If roads are decommissioned, and the DNR is dependent on them, the DNR will have to get a permit to access those roads. Comm. Fink noted HR2477 that allows local units of government to take possession of roads that existed prior to federal government taking possession of lands on either side. Comment period ends July 7, 2008.

4) Voyageurs National Park Superintendent Named: Mr. Engwall noted the appointment of Mike Ward of Missouri to the park leadership position.

5) Heart of the Continent: Comm. Pavleck brought up the Heart of the Continent, a non-policy organization to promote the boreal forest as it borders Canada and northern Minnesota. Koochiching County commissioners received a presentation by a Voyageurs National Park representative about the organization's aim to promote visitorship to the area, that Voyageurs is one of about 23 member organizations and that the non-inclusion of state and county representatives in the planning was an oversight. Mr. Engwall noted that his staff has been allowed to attend. The organization claims not to be a policy entity. The Director is to make a presentation on the organization to the Board.

#### NCLUCB

1) Membership in NCLUCB: Roseau County will continue its membership. Beltrami County is continuing to discuss membership. Comm. Beckel has offered to attend. Comm. Fink has been in contact with Beltrami commissioners who have indicated support. This effort should be concluded by end of year.

2) Video Conferencing: The potential for long-distance meeting of the Board will continue to be explored with discussion in September and perhaps a pilot attempt in the new year.

Meeting adjourned at 12:07 p.m. m. Lepper s. Jensen

Next Meeting Date and Location: **August 7, 2008, 9:30 a.m. Northome Senior Center, Northome, MN.**

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