

**NORTHERN COUNTIES LAND USE COORDINATING BOARD**

**Minutes**

**Thursday, August 5, 2010**

**KOOTASCA Senior Center**

**Northome, 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 Charles Lepper, Koochiching  
Commissioner Rich Sve, Lake  
Commissioner Jack Swanson, Roseau  
Commissioner Dennis Fink, St. Louis

Others Present:

Craig Engwall, Department of Natural Resources  
Mike Carroll, Department of Natural Resources  
Pat Tammen, Soudan resident  
Bob Tammen, Soudan resident  
Douglas Skrief, NCLUCB Staff

Administrative Actions

1. Approval of Agenda with the following additions:

- 1) MRCC (local)
  - 2) AMC Water Management Summit (local)
  - 3) Collaborative Governance Council (local)
  - 3) PILT – AMC (local)
  - 4) Con-Con lands and boundary surveys (state)
  - 4) Cap and Trade (federal)
- m. Fenwick      s. J. Swanson

2. Approval of Minutes: July 1, 2010 meeting

m. Napstad      s. Lepper

3-4. Financial Report and Bills:

The Director reported a general account balance of \$96,343.73 and a Land Use Conflict Management balance of \$15,005.28. Total accounts balance, after payment of approved expenses of \$782.72, was \$111,349.01.

The Executive Director submitted an invoice for \$704.34 for one month of professional services and expense reimbursement. An additional bill for \$55.00 for hall rental was verbally submitted.

m. Lepper      s. J. Swanson

5. 2011 Budget

Discussion considered the over-two-year budget reserve and whether dues should be adjusted. While budgets will be tighter for counties in the near future, eliminated dues might be difficult to reinstate. Cost of per diems and mileage as well as committee time are stumbling blocks for some counties. Costs have been maintained. Value must be communicated.

It was moved and seconded to accept the budget with the change that dues for 2011 be reduced to \$2,000 for all counties other than St. Louis, which would be charged \$3,000, and that additional northern Minnesota counties should be invited to join without dues for the first year of membership.

m. J. Swanson      s. Napstad      Opposed: Lepper

Comm. Fenwick noted that use of the \$15,000 in the conflict management fund could be directed toward work yet to be carried out under the fund plan.

#### Correspondence

1) Letters were received in response to a NCLUCB query to the Governor and others on their positions regarding Rep. Oberstar's Clean Water Restoration Act. Margaret Anderson Kelliher, Speaker of the Minnesota House, did not communicate a position addressing the proposed legislation directly. John Jaschke, Executive Director of the Minnesota Board of Water & Soil Resources, recalled in his response the Governor's position that states should remain a player. The Chair distributed a copy of a response from State Senator David Senjem who disagreed with deleting "navigable" from the bill language, following opposition of the Minnesota Farm Bureau Federation.

Comm. Napstad noted that the communication of these positions might be better directed toward the federal legislators. NACo has voiced its opposition, carrying the voice of counties. The State has not similarly voiced opinion due in part to the election schedule. The Chair noted that current interests in Washington may be interested in slipping Clean Water and Cap and Trade issues into other bills. Election results will determine whether the bill moves forward. Counties, with Minnesota input, have voiced their opinion.

NACo has a platform that sets the tone for movement for a year and resolutions are added annually by steering committees. A Clean Waters resolution has been introduced over three years in four committees: ELU, Transportation, Agriculture and Public Lands. The Board of Directors has reviewed the resolution and passed it by a majority over these years. One resolution submitted by the Chair this year added to the platform language that NACo supports keeping the terms "navigable" and "navigable waters" in the act to protect the principles of local land use controls. The platform passed. While there was some discussion against the resolution, it is now in the platform and will remain as long as the bill is in Congress.

Comm. Fenwick asked if there is any discussion about the EPA ignoring legislation and carrying out business solely administratively. The Chair responded that there had been discussion about not allowing the EPA and the Corps of Engineers to promulgate regulations as they have in the past. The migratory bird case was an example of a rule not being vetted after being written, leading to extended court actions.

2) County Administrators of Aitkin and Koochiching Counties requested budget, fund balance and dues information for 2011 and will receive same with the budget passed (above).

#### Discussion Issues

##### LOCAL

1. MRCC: Comm. Napstad reported that discussion at a recent MRCC issues meeting delved into SSTS issues and minor delays in their implementation. A good deal of discontent with the PCA was voiced concerning a lack of involvement of counties in decision making processes despite the perception that they are to be involved. The legislature allows the PCA to create new rules. No one expected in the case of the SSTS a 350-page document, of which the last 85 pages were not in place when local approval was demanded. Discussion of a more fundamental position is that the state mandates implementation but does not fund. MRCC as a caucus has power in numbers. A resolution to the MRCC Board of Directors was proposed, that it should draft a letter to MPCA stating that there is no intention to approve – a letter that says, "We will enforce 7080, an adequate rule, and that we see no benefit in 7380." By adopting new rules, each homeowner is going to be liable to up to \$1,400 in changes to their septic system. The 7080 rule brought protest from citizens who claimed they had to sell their homes to raise the funds for improvements, though the rule said they needed to improve before sale. When citizens, through a cooperative media, discover the impact of the new rules, they may become involved. In the 7080 process, people were so disgruntled with the "county approved" ordinances that they went to their legislators, who claimed they could do nothing about a locally approved ordinance. It needs to be pointed out that the counties will be adopting state mandated ordinances. The discontent at the MRCC meeting led to discussion that led to the request of the Board of Directors to develop a resolution or letter to forward to the PCA that would concurrently raise citizen concern.

Comm. Fenwick reviewed the process of bringing forward a resolution and how it relates to AMC. If it is in conflict with AMC it will need to be brought up and will influence AMC's outlook. Comm. Napstad noted that the protocol would be to bring it up, present it to AMC and have AMC write a letter. The Chair alluded to new federal rules that may influence housing standards before sale. Comm. Napstad added that uniform statewide building codes may be a continuing discussion topic of MRCC, related to a local unit of government adopting them without knowing the full implications and the inability to back out of them once adopted and that they change over time.

2) AMC Watershed/SWCD/County discussion: Comm Swanson reported that about 450 people attended an unprecedented meeting to discuss how to consider together watershed districts, Soil and Water Conservation Districts and counties. This extremely well-attended meeting addressed collaborative efforts. SWCDs seemed more enthusiastic than watershed boards. Comm. Sve mentioned that the Lake County SWCD director was very interested because there is not a watershed district in Lake County. In one breakout session discussion occurred concerning the combination of staffs. SWCDs are often poorly funded while watersheds have more money to work with. Mr. Carroll of the DNR noted that the merger of the Eco and Waters group would help this process. He mentioned histories of high-level staff working on independent projects; integration may help; questions of authority and election of board members would need to be addressed. Citizens want one-stop shopping, added Comm. Swanson. Boundaries may be seen differently, the Chair noted. The State, Comm. Napstad said, is not organized to determine watershed boundaries; hydrologic boundaries are not well established; the imposing of levies brings up the issue. Pass through dollars may be another issue, added Mr. Carroll.

[5] 3) AMC and PILT: Comm. Sve reported on an AMC PILT meeting held as a result of proposed legislation (vetoed by the Governor) to create a study group to discuss the value and assets of PILT. This round table discussion included land values placed on lands. One question was the disparity between, for example, Lake County at \$1.27 in payments and Hennepin at over \$200 an acre. The history of PILT payments was also reviewed, including its initial \$5.6 million funding versus \$26 million today – an amount that may make it a likely target for cuts. The Chair noted that the projection for next year at \$26 million is a result of an escalator clause of 2001 at which time the funds were moved from the DNR to the Department of Revenue. The Chair at the AMC meeting supported keeping the funds in the Revenue department. Land put into PILT has also changed over time, it was noted by the Chair; con-con lands were added in. Con-con lands get \$5.14/acre while counties are managing land at the \$1.27 payment. People at the meeting, reported the Chair, did not understand the purpose of PILT. He sought guidance from NACO who provided a definition: if the federal government owns land in your county then your county is unable to collect revenue off that land at its highest and best use, therefore it is important to compensate counties for the loss of this revenue source. Land managed by a county gets the lowest rate because counties do get revenue. Later in the AMC session Comm. Beckel reportedly suggested that the “highest and best use would be wetland credits.” A related question is that if there is a cut to PILT should counties cut services; how will they otherwise afford forest management plans?

Comm. Napstad suggested that the best solution is to move PILT out of the DNR or short of that to think of access fees perhaps administered by the DNR with its developed ability to license. Metro users of northern lands do not pay for the services provided. Wisconsin already has such a fee, noted Mr. Carroll. Users pay a trust fee when purchasing a hunting license in some western states. The DNR is reluctant to put forward such a proposal, which might better come from hunters. A conversation about access to school trust land is being held in other states, added Mr. Engwall. Should the Board take a position on moving the funds from the DNR, asked Comm. Napstad. The current funding of the DNR is simply for pass-through purposes. Mr. Carroll reviewed the complexities of the payments. He suggested that the Legislative Auditor be informed that counties need involvement up front. The Chair noted that significant questions were not asked by the Auditor in researching the matter and that increased public ownership in counties amplifies the issue. Comm. Fenwick added that PILT and property taxes should not be disentangled and that the point of property taxes is not about services received. Mr. Carroll added that until the previous week Beltrami County had been open to PILT propositions but this issue has revealed problems with adequate compensation; they have proposed no net loss of private land. The Chair is now considering the same for St. Louis County. There should be an agreement with the DNR about acquisition of new land. Comm. Sve noted that Lake County has a no net gain of public lands policy.

AMC will have other meetings on the matter. The issue is not decided.

3) AMC Representation on a Collaborative Governance Council Comm. Swanson reported that he has been invited to sit on a council created legislatively by Reps. McFarlane and Swails. The committee has met twice in St. Paul. Eight members include AMC, The League of Minnesota Cities, the school boards association, the townships association, the state Chamber of Commerce, and three unions and is chaired by State Auditor Rebecca Otto. The committee is looking at collaboration across entities, schools particularly, and looking at overcoming barriers. The state is not a voting member though may be involved in interstate issues. Comm. Swanson called for a contribution of ideas that might be brought to the table. Six votes must be cast in favor to pass an issue. The council created a list of eight topics, and these were voted on on-line. Public safety/law enforcement was rated number one. A report on the next meeting of the council was requested by the Chair.

Comm. Swanson added that Roseau County has forwarded its intention to form a regional rail authority.

### STATE

1) Lessard-Sams Outdoor Heritage Council update: An update from the council was distributed in member packets along with a news report on a rift within the council about the membership of Rep. Rick Hansen. A draft letter to Executive Director Bill Becker was distributed. Discussion ensued on where to start the conversation. Recommendations to the council are determined by statute, it was recalled, with the two legislative houses and the Governor making four appointments each. They do not formally entertain recommendations. Members can be reappointed. There will be a number of openings in the coming year. Terms expire on the calendar year; this means nominations are occurring previous to the new year. October might be a time frame for suggesting names from the Board. Members of the Council are to be a resource professional by background or education. Comm. Swanson suggested as a nomination Conway Marvin of the Roseau area. A successful businessperson with ties to game or hunting interests might be an appropriate nominee. A retired professional or commissioner might be another suggestion.

2) Heart of the Continent Partnership The most recent meeting was held in Grand Marais July 29-30. Comm. Johnson was to have been in attendance. The organization is attempting to bring in teachers from a Gateways Community-like program.

3) Completion of Working Forest Conservation Easement of UPM land This deal closed July 8 with one final payment. One appropriation was to be paid out over two fiscal years. Mr. Engwall added that Forest Capital has agreed to an easement on 76,000 acres in Koochiching County to close in late September. The protection is not going to be credited back to local units of government, noted the Chair.

4) Shoreline Rules Awaiting Review Decision The Chair pointed to an article in packets regarding a delay in signing of the Shoreline Rules. Comm. Napstad recalled sitting on both Alternative Shoreline Rules committees and noted rules are not being enforced statewide presently, thus making the need for new rules seem unnecessary. Mr. Engwall noted the political nature of the process. He recalled at the conclusion of creating voluntary rules that the MPCA sued the DNR saying they should be mandatory. The Legislature entered the exchange and said to make the rules mandatory. St. Louis County adopted into their land use ordinances the resort rules as written by the DNR, the Chair noted. Mr. Engwall called attention to news reports of a rule controversy in Becker County. Comm. Napstad added that BWSR recently granted \$25,000 to Wabasha County to help cost assist farmers to come into compliance with state shoreland regulations; the language of compliance was removed. To pay shoreland owners to come into compliance could result in high costs statewide, he added.

5) Con-Con Lands Mr. Carroll reported on attending a meeting of the Joint Powers Board on Conservation Consolidated Land. A rule-guided pilot project in Mahnomen County has been completed, and a table of payment schedules has been created. This high-tech interactive template can now be utilized. Marshall County will be next. Aitkin and Koochiching Counties will follow. Through the winter and next summer tables will be completed.

Because of con-con parcels that have remained "in limbo" for several decades, surveying has been made necessary. The original surveys were only section-based. Now 40-acre parcels are being surveyed. Most owners are happy to learn where their line is. Others realize that some corrections can be made. A small percentage of landowners are upset when a road is found to be on the wrong side of the line and it affects traditional hunting patterns. The DNR is developing a Powerpoint presentation that reviews the law and what it means to landowners and what options are available; this will be piloted in Roseau County. County boards could use the Powerpoint if they wished to work with disgruntled landowners.

6) Cloquet Forest and LTV Trails St. Louis County, reported the Chair, hosted a meeting in June to update citizens in and around the Cloquet Forest on LTV trail management. The hearings were well received by individuals on both sides. About 85 percent of the land is managed by St. Louis County, and when signs went up announcing some change in trail use there was controversy. Individual complaints have been examined. Signs have been moved in response to about fifteen comments. The plan signed by the Commissioner of the DNR in 2008 will be followed. The county is writing warnings.

### FEDERAL

1) NACo Resolutions Attendance was down by 1,500 at the NACo conference in Reno, reported the Chair. The EELU Committee had a standard attendance of some 70 voters. The timing of the conference, the location and especially the economy may all have influenced attendance. The platform was

changed by all committees. Of resolutions that came up, the invasive species resolution was accepted unanimously, with changes to include inland and coastal waters in addition to the Great Lakes. A minority report on Cap and Trade resulted in some chaos at the hearing of the resolution; the parliamentarian got involved. The Clean Water Act resolution was approved and entered into the platform. Two emergency resolutions included one from California on increasing funding to the Property Assessment Clean Energy program in which HUD is to supply funds to householders to make energy efficiency improvements; the county becomes the collector of the funds and the government the first lien holder in front of the bank; the resolution passed with the minority opinion being that putting PACE in the same category as the collection of property taxes and other assessments for general funding was not a good move. The Chair called attention to an article on cap-and-trade legislation.

Adjournment by the Chair at 12:05 p.m.

**Next meeting: September 2, 2010, 9:30 a.m. IRR Mining Reclamation Classroom, Chisholm, MN**

Respectfully submitted by Douglas Skrief, Administrator