

NORTHERN COUNTIES LAND USE COORDINATING BOARD
Minutes
Thursday, August 6, 2009
KOOTASCA Senior Center, Northome, Minnesota

Call to Order: The meeting was called to order at 9:35 a.m. by Chairman 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 Jim Johnson, Cook
Commissioner Chuck Lepper, Koochiching
Commissioner Rich Sve, Lake
Commissioner Don Jensen, Pennington
Commissioner Oliver "Skip" Swanson, Pennington
Commissioner Jack Swanson, Roseau
Commissioner Dennis Fink, St. Louis
Commissioner Mike Forsman, St. Louis

Others Present:

Mark Jacobs, Aitkin County Land Commissioner
Craig Engwall, Department of Natural Resources
Bob Tammen, Soudan resident
Pat Tammen, Soudan resident
Douglas Skrief, NCLUCB Staff

Administrative Actions

1. Approval of the agenda with the following additions:

- 1) Local: Plasma Gasification Project Aitkin County - Napstad
- 2) Local: Appeal from Aitkin County to BWSR - Napstad
- 3) Local: Voyageurs National Park waters protection and Boat
- 4) State: Wetland Conservation Act - Napstad
- 5) Federal: NACo and Clean Water Restoration Act - Fink
- 6) Federal: EPA Volunteer Water Testing Initiative - Fink
m. Napstad s. J. Swanson

2. Approval of Minutes: July 2, 2009 meeting
m. Forsman s. J. Swanson

3-4. Financial Report and Bills:

Vice Chair Napstad as former Treasurer moved to accept a reported general account balance of \$84,557.48, and a Land Use Conflict Management balance of \$15,005.28. Total accounts balance, after payment of approved expenses: \$99,562.76.

The Executive Director submitted an invoice for \$874.17 for one month of professional services and expense reimbursement. The Room and Refreshments costs for the current meeting were \$55.00.

m. Napstad s. Jensen

5. Budget 2010:

A proposed budget for 2010 of \$132,505 in Revenue and Carryover and \$37,100 in expenses was approved. Bills are to be sent member counties for the full amount of dues with notice of a 50 percent "discount". Comm. J. Swanson noted that this might be a time to solicit new members.

m. Forsman s. J. Swanson

Correspondence

1. A responsive letter to Aitkin County explained services and estimated budget demands in the coming year. A similar notice was forwarded to all NCLUCB counties.

Presentation

Mark Jacobs, Land Commissioner of Aitkin County, was introduced by Comm. Napstad who explained that the Aitkin County Land Department, in light of dropping timber values and also under instruction by the county's Forest Advisory Committee, directed the Land Department to look at available programs to raise funds in creative ways. Mr. Jacobs related that through exploration of the field of carbon credits the county hooked up with a research organization and next approached the Blandin Foundation as it was about to hold a carbon seminar in February for statewide Society of American Foresters. They asked if a local project might not be an attractive candidate for testing the process. Surprises followed. One conclusion was that the Chicago Climate Exchange, based on commodities, was not the place to sell credits as it is not conducive to managing existing forests through harvesting. Instead a voluntary carbon system based on projects was pursued. "X" amount of carbon credits are offered for bidding; Minnesota forests have attractive elements, such as rare species, core economic benefits to local economies, etc. In the voluntary system there is not a managed forest system that has made it through the process. The project was entered with Cass County, though both counties are now working independently.

Because trees tend to store carbon for a long time, compensation might be sought for allowing such growth. Young forests, on the other hand, tend to "sequester" carbon by sucking it in as they grow, but the biomass isn't there. Northern Minnesota has both. A metaphor for a young forest is a hand vac that sucks up air quickly, while an old canister vac works more slowly but stores more. Carbon compensation might align with vigorous young trees, a multi-age mix of species, a healthy mature forest, long-lived forest products like lumber and OSB board – as well as storage in areas like peat lands, though adding to them is difficult to consider. Forest Carbon Project Strategies examine thinning, mixed plantings, regeneration of decadent, under-stocked forests and big tree management. Carbon storage planning becomes part of the management plan of county land departments, with benefits to recreation, wildlife, clean water and forest products. Strategic plans are created for a desired future; a carbon plan had to fit the strategic plan. Just to store carbon is not a goal of certification. Three concerns govern a voluntary carbon storage system: Additionality – what are you going to change in the future; Leakage – that there is not transfer of impacts to other property; and Permanence – the stability of the land base selling carbon credits, including long-term commitment and management. Payment comes from changes in management from business as usual.

Forests are cut in high, medium and low intensity, related to square footage per acre left after cutting. Percentages of business-as-usual harvest were adjusted in the alternative carbon plan, raising low intensity harvest acres while lowering others. The difference was 11,000 metric tons total, which is equivalent to 40,000 metric tons of CO₂, at \$5 per acre that would be about \$200,000 in credit payments. In a voluntary system Aitkin County would put these credits on the market and sell directly to a company. Some pooling of smaller properties is possible, for example of farmland. Aitkin has harvested 40,000 cords a year for the past several years, or between 3,000 and 3,500 acres, while selling 46,000 cords. Under the carbon plan, the county would sell 47,000 cords. The additionality is determined on what is changed. Organizations, called "verifiers," come in and audit the changes. Consideration of value of forested lands comes from both timber value and carbon value, and this can be affected by kind of forest. Aitkin has identified its "carbon hot spots" on county land and noted its glut of mature pine and hardwoods.

Computerized forest prescriptions are weighed by verifiers who calculate residual carbon on sales. Sales reflect local market demands. Despite sales of tax forfeit lands, percentage of harvest has remained constant in Aitkin. A forest plan for Aitkin meets the three governing concerns. Monetary benefit would generate funds to be distributed to county revenue funds, school districts and townships, though areas of disbursement may not be obvious. Millions of dollars of revenue initially predicted would not be realized in any plan compatible to the overall forest plan for Aitkin County. Risk factors center around long-term commitment to a carbon plan and would be dependent on a signed agreement and potential penalties. Benefits include financial reward and benefits to the forest and local communities.

Questions followed. Fire planning is part of risk analysis based on history, and management reduces hazard. Insect invasions are a concern. Liability to court-related costs from verification middlemen or purchasers who do not see credits being produced is a potential. Aitkin is breaking new ground in this analysis and has made no commitments. Mr. Engwall noted that the DNR has ten-year plans and is exploring options. He inquired whether companies may end a payment agreement. An attorney, responded Mr. Jacobs, is exploring such scenarios; some companies like to pay ten years in advance. Comm. Forsman asked about burning of biomass. Aitkin has calculated round wood; the burning of rotting treetops, for example, would be at worst carbon neutral. Comm. J. Swanson asked after additional costs to Aitkin

County, for example, in the potential hiring of extra staff. Mr. Jacobs noted how funds would be distributed back to the county; some seasonal people might be needed, but the current discussion is very preliminary. Even methodology might not be verifiable by one company. There have been no strong concerns expressed by the forest industry. Aspen harvest would go from about 1100 to 925 acres; volumes would be slightly reduced. Pine and hardwood harvest would go up if there is a market for them. Are there economies of scale, asked Comm. J. Swanson. Costs will depend on shift in practices, Mr. Jacobs indicated, pointing to predicted thinnings. Mr. Tammen from the audience inquired about peat and carbon storage. Peat poses other concerns; for example, additionality of peat in the state is not occurring, responded Mr. Jacobs who also pointed to avoided deforestation as a potential source of credits, along with avoiding the draining of abandoned ditches and such things as no-till for farmers.

Comm. Napstad concluded with noting that by locking up the credits now, Aitkin County may prevent the state or other entities from claiming them later. Concern remains that the tacit approval of Cap and Trade may in turn mean increased utility rates for county citizens. The purchase of credits some where other than the county will also raise rates, added Mr. Jacobs.

Discussion Issues

LOCAL

1. Plasma Gasification for Aitkin County: Comm. Napstad reported that the Aitkin County Board might as early as the following week consider an opening up of a solid waste ordinance to allow import of hazardous waste. A potential project being proposed by an individual who owns a peat drying plant is interested in an alternative to the millions of gallons he now uses of LP gas. Plasma gasification might offset some costs. Ensuing discussions raised the possibility of an energy park for those who need heat. The individual has raised the issue of Hazardous Waste disposal and has been engaging partners. Phones have been ringing, with callers saying they have been promised, for example, a reduction in taxes if the project went through. No formal request has yet been made. If there is a request, news media will respond.

Comm. Lepper recalled that Koochiching County is about three-quarters done with a feasibility study for a \$30 million gasification project with about \$5 million having come from federal and state funds. These funders may give Aitkin support. Such disposal does appear feasible. Companies have approached Koochiching County to supple waste. A mix will be necessary. Import of waste would be necessary. There will be a competition for hazardous solid waste. Comm. Skip Swanson noted that other entities are trying to take advantage of funds already. Comm. Forsman urged consideration of a rail link during planning. Comm. Johnson noted that he had a bad experience in trying to raise negative issues related to hazardous waste disposal at the RC&D. There are pitfalls, he warned.

2. Wetland Conservation Act: Comm. Napstad reported that the Permanent Rules were published August 3 in the State Register and will go into effect August 8. Any plans approved in the interim will revert to statutory language and the 2002 Rule. SWDs should refrain from making rules in this interim. The published rule includes "exemptions" as exemptions, and NCLUCB member counties made it through the process without significant affect.

Funds are distributed in block grants to counties to implement WCA. Comm. Napstad has indicated flaws to the BWSR Board regarding that distribution. Some counties with almost no wetlands get proportionately large distributions in relation to Aitkin County. And Aitkin's costs to implement WCA are considerable. More equitable distribution needs to be considered, perhaps apportioning to those with significant wetlands and related costs more of the total funding. For example, companies are targeting 15,000 acres in Aitkin as potential banking sites, creating a large obligation for the county to process requests.

Also, Points North Properties wanted under Exceptional Natural Resource rules a one-for-one, 100 percent credit for land it holds on the Mississippi River near the City of Aitkin. The application was denied by the TEP because the request was one-for-one. An appeal to the county upheld the decision. The applicant appealed to the BWSR. The BWSR Exec. Dir. agreed to hear the appeal. A letter was sent from the Aitkin Environmental Services officer to BWSR expressing dismay that the appeal would be heard, noting the TEP and the County Board did an excellent job according to BWSR staff. Now records must be prepared, documents indexed and an attorney hired. BWSR, the letter argued, should have funds to cover these costs if there was nothing done wrong. All NCLUCB members could face large expenses related to challenges to TEP decisions. Appeals by private property owners are not the issue, but that the costs of this one appeal are greater than the yearly grant – costs coming even before carrying out of other WCA functions.

The BWSR's Exec. Dir. and board chair are aware of the issue. NCLCUB may hear again about this issue. Comm. J. Swanson asked if half of the grant funds would cover the costs. Comm. Napstad

responded that the issue was not appropriate to settle during a grants meeting, but that he had suggested granting half the funds and reserving half for appeals. Next year, he will not support without change. The Chair suggested that the rules on accepting appeals, because they are procedure-based, need be examined. In the specific case, Comm. Napstad explained, there was a negotiated outcome; the party wanted credits for 500 acres and 290 were granted. The party pays \$500 for an appeal to the dispute resolution committee.

3. Voyageurs National Park and Water Quality: Comm. Forsman reviewed that Voyageurs National Park covers land in both Koochiching and St. Louis Counties and that federal funding is being sought to do a cleanup of sewer and septic systems emptying into the park. Discussion with Senator Amy Klobucher and Rep. James Oberstar have occurred. The area includes Crane Lake, Ash River and Kabetogama Lake in St. Louis and the south shore of Rainy Lake in Koochiching. A joint powers agreement between the counties is expected in order to enter a federal program to provide sewers where the rocky landscape presents obstacles to installation. The national park noted high i coli counts in Kabetogama. Crane Lake improved its water quality since installation of a system. The joint appeal for funds and presence of the national park and Canada improves chances for gaining competitive funds. St. Louis County just allocated \$100,000 toward planning within its borders. The IRRR has added \$100,000. Koochiching has allocated \$70,000 towards engineering. This may be a \$30-40 million project. Comm. Johnson added that Cook County has been doing an inspection of all septics; 50 percent failed inspection; homeowners are faced with replacement and the need to take out loans; NACo has suggested a revolving loan fund for counties so that short-term owners of land may pass on the loan burden to future owners.

STATE

1. Clean Water Council and recommendations for Legacy Amendment funding: A letter regarding the funding plans was distributed. Comm. Johnson added that the planning funds might be minimized so as to add to concrete efforts. Septic improvements are a potential target of funding, added the Chair. Comm. Forsman noted that one-third of 30,000 septics in St. Louis County need upgrading, amounting to \$100 million.

2. Regional Haze SIP: The comment period on the regional plan was extended to August 19, 2009. The Chair noted that the buffer zone to Class A areas, such as Voyageurs National Park, extends as far as Duluth.

3. AMC Issue on Federal Lands: The Chair noted that on July 15 in Walker, Minnesota, the Association of Minnesota Counties hosted a meeting attended by fourteen counties with Indian Reservations. A morning session was devoted to identifying issues; eighteen were listed including social services costs, jail costs, and joint service costs. The afternoon was devoted to discussion of common action among counties; a recommendation was that counties develop an entity similar to the Ag Committee, a committee with the goal of examining policy, with permanent members made up of those counties with reservations in addition to others who wish to attend. A "summit" meeting may be held in October at the request of the Minnesota Indian Affairs Council. Forty people attended the meeting, including administrators and land commissioners. There was discussion of fee to trust, but there was no concentration on that concern. Scott County challenged the transfer of over 900 acres in 2000; it was in the court system for eight years.

4. Lessard Council Appointments: Comm. J. Swanson inquired whether there was progress on appointment of a northern counties representative to the Lessard Heritage Council. The Chair responded that Mr. Les Bensch had discussed an ex officio member representation. The Chair had suggested a letter of invitation be addressed to the Board and the Board would nominate a representative.

FEDERAL

1. Fee to Trust: The Chair reported that the finance committee of NACo examined the fee to trust issue and enthusiastically passed a resolution that the federal government reclassify reservation land and create legislation parallel to Payment in Lieu of Taxes. It would, however, be inappropriate to use PILT formulas since some of the land is already developed at highest and best use.

A presentation was given at NACo by two attorneys regarding the Carcieri ruling in February that said that if a reservation was not listed in the Indian Reorganization Act of 1934 then it is not eligible to transfer land from fee to trust. In Minnesota, only the Red Lake Band was listed. Fond du Lac was recognized in 1936. The Carcieri decision created a window of opportunity for local units of government, argued the presenters, to get a seat at the table in these decisions. A proposal is being developed for consideration by NACo. Land transferred since 1934 may be in question regarding fee to trust. Comm. Napstad asked about future transfers. St. Louis County opposed putting 33 acres into trust. Another 340

acres have been proposed for transfer. One question arising from the decision regards the party that is to refuse the transfer, this potentially being townships, for example.

2. NACo Public Lands Committee: Comm. Johnson reported that the Public Lands Committee considered 23 resolutions, 11 having direct impact on Cook County. These included full support for the Healthy Forest Stewardship Project, reduction of forest fuels, OHV management, changes to PILT formula, right of access to private lands within national forests through wetlands, changing the definition of biomass in federal legislation to include “woody” biomass obtained on federal land. Management of the “sage grouse” was linked by Comm. Johnson to lynx habitat rules, and that protection could on range land preclude cattle grazing.

3. NACo and Clean Water Restoration Act: The resolution, reported the Chair, for the CWRA was heard in four NACo committees, including public lands and agriculture, voting for retention of “navigable waters”. The Board of Directors agreed unanimously to maintain the position of opposing the removal of “navigable waters” from the legislation. NACo will continue to lobby against the change. Congressman Oberstar has not reintroduced the bill. Sen. Klobuchar is introducing language change. Comm. Napstad asked for clarification on “navigable” and the redefinition of “waters of the United States.” The line in the sand is “navigable”; NACo’s position and half the country says do not remove the language. A reasonable definition of “waters of the United States” has not been presented.

4. Land in Trust: Comm. Johnson reported on a bill introduced by Sen. Schumer to compensate for lands put into trust. There might be a compromise in discussions with the House, added the Chair. Comm. Napstad asked about the payments, which are proposed to be similar to PILT; there is still some discussion on whether the bill would compensate at the level of what would otherwise be generated by the value of land and developments. It would not look at, for example, a casino and say that a portion of revenue of a developed industrial property should be received, but rather best use of the property is to be developed and payment would be made on those acres developed, added the Chair. It would be greater than the PILT payment alone.

5. EPA Volunteer Water Testing: Residents on Schultz Lake in St. Louis County who are members of the lake association received a letter from the Environmental Protection Agency noting that a nation-wide lake water testing initiative was being carried out, reported the Chair. The EPA is looking for volunteers to take tests and send them to the EPA. It would perhaps set a base line. Comm. Lepper noted that pit owners in Koochiching County had received similar letters; calls have been made to the county, though Koochiching has no knowledge about the program. The Chair tied the program to the federal government’s initiatives toward including “waters of the United States” in its purview. Minnesota already has clean water initiatives in place. Volunteer action can lead to permanent action. The Chair asked other counties to note if similar letters are being sent to residents on interior lakes.

Comm. Johnson noted that a similar program is being done on the Cook County level. Comm. Forsman added that a lake association has been doing sampling for some years. Comm. Napstad pointed out the variety of levels of testing in Minnesota, as opposed to some other states that may not be taking the initiative in water quality improvements.

6) Forestry Issues: Mr. Engwall briefly touched on state forestry issues, including the repercussions to northern counties of the Governor’s unallotment of state funding to the Sustainable Forestry Project and the losses this might cause to local companies. The Chair added that a closed bid timber sale is coming up in St. Louis County.

NCLUCB

1) ITV Meetings: Comm. J. Swanson encouraged further investigation of ITV meetings of the NCLUCB, which might encourage membership of other counties otherwise reluctant to join because of travel demands.

Motion to Adjourn
m. Forsman s. Sve

Meeting adjourned at 12:10 p.m.

Next meeting: September 3, 2009, 9:30 a.m. Iron Range Resources Classroom, Chisholm, MN

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