

NORTHERN COUNTIES LAND USE COORDINATING BOARD

Minutes

Thursday, September 5, 2010

IRR Mining Reclamation Classroom

Chisholm, 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 Jim Johnson, Cook
Commissioner Charles Lepper, Koochiching
Commissioner Wade Pavleck, Koochiching
Commissioner Rich Sve, Lake
Commissioner Todd Beckel, Lake of the Woods
Commissioner Jack Swanson, Roseau
Commissioner Mike Forsman, St. Louis
Commissioner Dennis Fink, St. Louis

Others Present:

Craig Engwall, Department of Natural Resources
Elanne Palcich, Chisholm resident
Douglas Skrief, NCLUCB Staff

Administrative Actions

1. Approval of Agenda with the following additions:

- 1) Notice from Don Parmeter – National Water Conservation Alliance (Correspondence)
- 2) AMC meeting on PILT (local)
- 3) BWSR Tour (state)
- 4) PILT Data
- 4) Voyageurs National Park: Surplus property and historic sites (federal)
m. Beckel s. Napstad

2. Approval of Minutes: August 5, 2010 meeting

m. Napstad s. Lepper

3-4. Financial Report and Bills:

The Director reported a general account balance of \$95,584.39 and a Land Use Conflict Management balance of \$15,005.28. Total accounts balance, after payment of approved expenses of \$759.34, was \$110,589.67.

The Executive Director submitted an invoice for \$896.15 for one month of professional services and expense reimbursement.

m. Napstad s. Forsman

Correspondence

1) Invitations to nonmember counties have not been formally answered but noted were an expression of a lack of interest of Itasca County and of interest of Betrami County.

2) National Water and Conservation Alliance Chairman Fink relayed that the NWCA is hosting a workshop event in Bemidji on September 23 to review sides of the Commitment to Clean Water Act (H.R. 5088). An evening public education meeting is scheduled. Don Parmeter of NWCA, in soliciting hosts for the evening, suggested the Chair as one and Victoria Rhinehart as another from an opposing viewpoint. The Chair is unavailable. Dan Larson of MRCC reportedly recommended participation. Discussion included alternative hosts from the Board, the experiences of member counties in related issues and jurisdictions, the

language of the bill relating to water quality, states without equivalent rules, and the role of counties in the discussion. Clarity around the agenda was of concern and the long day of meetings scheduled. The Chair will communicate that the invitation was made.

Discussion Issues

LOCAL

1. Vacation Home Rentals: Comm. Sve related that Lake County has put a moratorium on short-term rentals of vacation homes. An R4 Zone along Lake Superior does not allow for same. The county during the moratorium is looking at its ordinance for commercial use. Minnesota Rental Association is providing documents and precedents. A public meeting was held with owners and realtors, who are favorable to rental as a means to make mortgage payments, and resort owners who point out that they follow rules of inspection and standards and do not want to compete with vacation home rentals. Comm. Pavleck recalled a Rainy Lake precedent in which neighbors have protested against commercial use of a private property; with thirty days or more of rental, vacation home issues do not apply; the local Chamber of Commerce supported when the owner said he would go through regulatory hoops. Comm. Forsman recalled that in St. Louis County the area around Wine Lake near Giant's Ridge has seen similar issues, relating that a cottage in an otherwise residential area is rented for a weekend and the renters turn out to be 17 youths holding parties. Neighbors have brought up issues of septic capacity and fire safety as well as water quality and peace and quiet. Owners advertise on a vacation property BRBO website. In Ely, a business acts as custodian of a property and rents it out for the owner; a question of payment of bed tax arises, which involves Fire Marshall inspection and resort competition. Comm. Sve said the issues were similar to those that have arisen in Lake County. Consideration of a conditional use permit has been discussed there, which would be valid only for the current owner. Lake of the Woods and Koochiching have sunseting conditional use ordinances.

Comm. Napstad noted how the Shoreland Ordinance board looked at these issues in depth as related to land regulations. Various issues in fact fall under the auspices of the Department of Health – improper wiring, plumbing, annual inspection, sprinklers – and the regulators are state building code inspectors or Department of Health officials. There is not an easy way of segmenting out lakeshore properties as distinguished from other county land; an ordinance would have to be county-wide unless there were a means to creatively discriminate. Comm. Sve in communication with the Department of Health found that the department is frustrated by a gap in the statutes in regards to properties that do not meet the description of a lodging or motel/hotel.

The Chair inquired after the number of property owners and the impact to determine the size of the issue. Discussion revealed some issues: only “family and friends” are using it, is one property owner's excuse; costs of upkeep are often found not to make it pay after a couple years; although one property owner is realizing \$10,000 over a summer.

The Chair noted that federal legislation had been passed allowing first right of refusal to counties on forfeited land prior to offering it to the general public; an ordinance might need to consider this in regards to an owner's financial position. Comm. Fenwick added that some resort owners are involved in the rental business itself and until there is an outcry from them the issue will not come to a head. It is talked about now because of the greater than three percent tax on lodging and taxes on recreational use. One question becomes, does the county benefit: there is some money spent in the county by renters. The issue is similar to businesses-in-the-home which spend needed money in a community. Portable wheeled fish houses are matters of discussion, said Comm. Beckel, that are not licensed as a trailer or fish house and have bunks; there can be 2,000 on a weekend on Lake of the Woods. Neither state nor community collect.

2) AMC PILT discussion: The Chair related that a few Board members had attended a recent Association of Minnesota Counties meeting on Payment in Lieu of Taxes. The agenda allowed for collection of language for legislation. The Chair felt that a more important and general issue is PILT funding as an important mechanism for counties with public land. The top recipients, of \$1 million or more, are St. Louis, Beltrami, Koochiching and Cass Counties.

The Chair distributed three documents: 1) from John Ongaro to county administration and the board of St. Louis County reviewing issues raised at a meeting with AMC staff in St. Cloud; 2) an email from Cynthia Moses-Nedd, Department of Interior liaison to state and local governments; and 3) a chart of PILT payments 1980-2010 with estimates through 2013. Ms. Moses-Nedd related in her email the history of PILT, noting that Congress, “recognizing the inability of local governments to collect property taxes on federally-owned land,” enacted the PILT Act in 1976. The Minnesota bill followed in 1978, the Chair noted. PILT was not to supplement expenses made elsewhere, the Chair noted, but was to directly result from ownership of land taken off the tax roles. To argue for continued PILT payments on the grounds of

their eventual dispersal is not pertinent. Discussion at the AMC meeting resulted in removal of the list of uses from the supporting materials. The Chair suggested that the Legislature be made aware of the history of the legislation and be told that payments should be made or that the land should be given back to counties. Perhaps the Board should take a stand on the issue. Comm. Fenwick concurred that AMC should not focus on uses of the funds but the obligation of the state. Comm. Beckel referred to land owner [federal or state government] rights and landowner responsibilities – to pay taxes and that discussion at AMC did include the recommendation that Lessard-Sams Outdoor Heritage funds be restricted to best use.

In 2011, \$26 million is scheduled to be distributed in PILT payments – an amount that may likely be targeted as a source of funds to meet other state obligations. The funds should be distributed to counties and remain discretionary to fortify what the state demands. Other AMC discussion included returning the PILT funds to the Department of Revenue rather than remaining a “pass-through” amount distributed by the Department of Natural Resources. Suggestions are that there will be a \$400,000 reduction in PILT payments from the DNR, reported the Chair, significantly affecting St. Louis County. Value of land is also at issue as forest values and acquired values are debated in regards to best potential use. Public value must also be considered. Comm. Beckel argued that if the state as a landowner cannot afford to keep up payments the land should revert to the county. Payment of PILT on newly acquired land, through, for example, the LSOHC, must be considered.

The Chair suggested that the history and intentions of PILT must be told in a reasonable report addressing issues raised in the Office of the Legislative Auditor’s recent report on PILT, including acquisition of new lands by any means. St. Louis County has lost 160,000 acres in the last ten years to acquisition by agencies and organizations, underscoring that the county is land rich and tax-base poor.

A plan is needed, suggested the Chair, recognizing that the Legislature will be taking up some of the issues in the coming year and lobbying to not touch the funds will not be sufficient. Comm. Fenwick asked whether funds in the Board’s Land Conflict Management account might not be used for same. A good study might be compiled. He noted three issues: that to argue around how the land is used is a non-issue; that classification of land is a detriment; the state would be best served to keep the issue in the air in order to make exceptions unless there is some conclusion regarding PILT, making a moratorium to solve the problem a good issue. The conflict resolution process might be used as a forum to begin a discussion, the Chair agreed. Comm. Napstad suggested that he would be going back to his board to introduce the notion that discussion around use of PILT funds is not as important as the reasons for Payment in Lieu of Taxes. Comm. Beckel asked that information on private acres, private value, and private payment be added to the columns regarding the history of PILT payments. An important factor is the proportion of total revenue PILT represents to counties, especially when in Lake of the Woods it adds up to 42 percent, noted Comm. Napstad. The tax rate is down to near 40 percent in Cook County, added Comm. Fenwick, leading the state to argue that taxes are too low; but that is not to the point of the reasons for PILT.

Comm. Fenwick made the suggestion, which was supported, that the Director look into the ability to use Land Conflict Management Funds to fund a study to look into the issue of PILT and come to conclusions concerning it. Potential contractors may include the ARDC. The Headwaters RDC may be a subcontractor. The management document may include suggestions as to who should carry out the study. Individual county boards should be notified that this is an issue of interest.

STATE

1) Lessard-Sams Outdoor Heritage Council update: Four members of the council will be appointed this year, one from each house and two from the Governor’s office. Personal contacts with leaders are recommended, such as with the Speaker of the House Sertich. Names and contacts may be suggested to ensure representation from the northern part of the state where much project funding is directed.

2) Heart of the Continent Partnership Comm. Johnson noted that at the July meeting of the HOCP in Grand Portage various factions were represented, including citizens for multiple use, environmental and ATV groups and that leadership is encouraging this mix and reaching out to various viewpoints. The next meeting will be held in Thunder Bay in October and Comm. Johnson will attend.

3) Shoreline Rules Rejected by Governor Comm. Pavleck recalled that parties were to review and digest information surrounding the draft rules before issuing a final version and sending it to the Governor; another look at the draft before it was forwarded would have been helpful. Discussion included suggestions that the proposed rules restrict private property use. A moratorium might be placed on rules that are not adequately funded by the state. Local governments can exercise their authority by establishing “ordinance amendments that follow the draft rules as substantially meeting the statutory and regulatory requirements,” a DNR release stated.

4) Tour by Board of Water and Soil Resources Comm. Napstad reported that the annual summer tour took the BWSR board to the Fargo/Moorhead area to survey flood mitigation efforts. Significant state and federal funds are being directed toward house purchases, etc. Predictions of a decade of wet conditions are cited as reason to mitigate.

At the end of the BWSR board meeting Chairman Randy Kramer announced his resignation and the opening for a citizen member to be appointed by the Governor. Also, Comm. Quentin Fairbank's seat will be available for appointment to it of a county commissioner. Members were encouraged to watch for openings on the Governor's web site and apply or to encourage other northern commissioners to apply. Comm. Johnson inquired about the legality of sitting on other boards when the board member appointees' terms have expired. Mr. Engwall noted the large backlog of appointments throughout state government.

FEDERAL

1) Cap and Trade legislation stalled The aftermath of the upcoming election has been seen as a potential opportunity of lame duck members to take risks to enact legislation. It was noted that the value of the Chicago Exchange of energy credits has lost fifty percent of its value in one month. Carbon credits are now selling for 5 cents.

2) NACO The Chair announced his chairmanship of the EELU. The new NACO President is concerned that membership in hard economic times may be an issue, so it is important to spread the word about how important NACO can be as a national organization.

3) Voyageurs National Park surplus property and Historic Designations A public notice from VNP that surplus government property would be available through Internet auctions referred to old equipment and not land, it was noted.

The Chair also noted that four pieces of land in St. Louis County will be registered on the National Register of Historic Places and will be designated as worthy of preserving. Money is set aside to purchase at least one of the properties. Comm. Raukar sent a note to VNP and received information that the properties are already owned by the DNR and funds are now being sought to preserve them.

4) The Chair added a note about the Delisting of Wolves; Plaintiffs have filed a judgment for default regarding the Federal government not having responded to a request to re-list wolves in the stipulated time and that the related judgment to re-list should be thrown out.

5) The October 22 AMC meeting will be at Giant's Ridge.

6) Mr. Engwall reported that comments are due September 17 on "buffer to the buffer" relocations of snowmobile trails neighboring the Boundary Waters Canoe Area Wilderness. The DNR will be commenting and sharing views with counties.

Adjournment at 12:05 p.m.

m. Johnson s. Lepper

Next meeting October 7, 2010, 9:30 a.m. Engwall cabin near Northome, MN

Respectfully submitted by Douglas Skrief, Administrator