

NORTHERN COUNTIES LAND USE COORDINATING BOARD

Minutes

Thursday, February 4, 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 Jim Johnson, Cook
Commissioner Wade Pavleck, Koochiching
Commissioner Rich Sve, Lake
Commissioner Todd Beckel, Lake of the Woods
Commissioner Oliver "Skip" Swanson, Pennington
Commissioner Jack Swanson, Roseau
Commissioner Mike Forsman, St. Louis
Commissioner Dennis Fink, St. Louis

Others Present:

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

Administrative Actions

1. Approval of Agenda with the following additions:

- 1) Land Asset Management Project in Roseau County (Local #5)
- 2) Plasma Gasification Project (Local #4)
- 3) Minnesota Counties article on septic systems (Local #3)
- 4) Invasive species resolution (Federal #2)
- 5) Minnesota Forest Resource Council Working Forest Land Conservation Initiative (State #4)
- 6) Map on Forests for the Future projects (State #5)
- 7) Note on Mary Murphy Committee meeting under Jim Mulder email (Correspondence)
m. Beckel s. Napstad

2. Approval of Minutes: January 7, 2010 meeting

With the correction of the spelling of "Mulder".
m. J. Swanson s. Johnson

3-4. Financial Report and Bills:

The Chair reported a general account balance of \$80,487.07 and a Land Use Conflict Management balance of \$15,005.28. Total accounts balance, after payment of approved expenses of \$214.89: \$95,492.35.

The Executive Director submitted an invoice for \$1,032.79 for one month of professional services and expense reimbursement. A bill for \$55.00 was submitted by Northome Senior Citizens for the meeting hall and refreshments.

m. Forsman s. Sve

Correspondence

1. A letter was sent over the Chair's signature in support of the 480-page Environmental Impact Statement for the PolyMet Mining project carried out by the Department of Natural Resources as the Local Unit of Government. Polymet was copied. The Chair added that at a recent meeting of Citizens in Action

he corrected the impression that the EIS was produced by the company; a comment at that meeting followed that the Governor would be biased in favor of the company.

2. A letter was sent to Bill Becker, the Executive Director of the Lessard Sams Outdoor Heritage Council, inviting him or another representative to a meeting of NCLUCB and that a NCLUCB delegation could visit an LSOHC meeting.

3. An invitation was sent to Dale Krystosek of the Board of Soil and Water Resources and Tom Tri of Barr Engineering to address NCLUCB on advancements in the Northeast Minnesota Wetland Mitigation project. The approval of the plan is likely to be on the BSWR agenda in late March. Comm. Beckel recommended inviting the guests to bring an interactive tool developed for the project.

4. Emails were shared between the Chair and Jim Mulder of the Association of Minnesota Counties regarding clarification of “the Arrowhead group” – meaning NCLUCB and the Arrowhead Counties Association – and their position on PILT and the Lessard Sams Outdoor Heritage Council. The Chair clarified for Mr. Mulder that counties in the north prioritize the maintenance of PILT as it stands rather than confusing, and jeopardizing it, with LSOHC funding. Proposed legislation, the “Dill Bill”, defined alternatives, but that legislation did not move forward. Current PILT payments are under attack. The request of AMC is that PILT be prioritized no matter where the funds for land purchases originate. The Arrowhead Counties Association had no objection to this position.

After AMC passed its resolution on the Dill Bill concept, the Chair called John Ongaro requesting a meeting among them and State Rep. Mary Murphy and Comm. Dick Sweeney. The Chair at that meeting pointed out a concern for PILT but more significantly added that Rep. Murphy’s legislative committee oversees LSOHC and other land acquiring programs and that to target land because it is cheap to buy is not as appropriate as purchasing land according to an overarching plan dependent on criteria regarding recreation, etc. After this meeting Rep. Murphy invited the Chair to address her committee on the same issues and to bring AMC to the meeting. The conversation was not about PILT but the setting up of criteria and oversight. The Chair meanwhile requested from Craig Engwall an update to a 1983 map of county land ownership to reflect changes since the map was created. Mr. Engwall does have a lands and minerals document that does not factor in federal ownership. The Chair reviewed that in 1983 17 counties had 10 percent ownership and that nine were over 50 percent ownership; 56 counties had less than 3 percent. These were reportedly facts of which Rep. Murphy was previously unaware.

Comm. Napstad inquired after Rep. Murphy’s position. The Chair responded that Rep. Murphy said the committee has no control over a process that has its own momentum and agenda. The Chair challenged this outlook, and recommended that a representative be named from north of Perham, that criteria be established, that the target purchases be made locales without public land. Comm. Beckel offered to forward a letter from the Governor. Mr. Carroll noted that the legislative committee is hearing from very well organized groups who are challenging their authority and threatening litigation over language of the amendment; the Chair of the LSOHC, Mike Kilgore, is walking a line between those who supported the amendment and those with legislative control. A debate over definitions of “restore, protect and enhance” is pending, added Mr. Engwall. Reps. Wagenius and Murphy have been focused on ecosystems. Comm. Johnson recommended keeping focused on PILT and new purchases while the rest is resolved. Comm. Beckel underscored the authority of the legislator to make final determinations after the advisory body recommends. The Chair argued that the legislature can demand defensible criteria to include social, environmental and economic considerations even for the selection of projects to consider. The Lessard group is not trying to fund any project fully, Comm. Beckel noted. Controversy arose last year when Rep. Hanson introduced legislation to divert funds, recalled Mr. Engwall.

The Chair summarized that Rep. Murphy did hear the point, that AMC might present at the upcoming committee meeting its position on PILT. The Chair will argue for one pot of PILT funds and not to purchase properties for which there is not adequate funding.

Discussion Issues

LOCAL

1. Hoyt Lakes taconite waste pits: A press article was distributed recounting a suit to be filed against Cliffs Erie, LLC, previous owners of taconite waste pits in Hoyt Lakes, over condition of the pits. The Chair suggested it may be a nuisance lawsuit as the pits are to be re-dug and relined. Duluth attorney Marc Fink, an environmental lawyer, is representing the Center for Biological Diversity and two other groups.

2. Lake Vermillion State Park agreement announced by Governor: Mr. Engwall related that the Governor and U.S. Steel had come to an agreement to acquire land for a state park at Lake Vermillion. The cost of 3,000 acres would be \$18 million plus over \$2 million in tax concessions. The Legislature in the

\$20 million bonding legislation stipulated that if the purchase price exceeded 12 percent of the appraised value legislative authority would be needed. To go through, the Legislature has to approve. Rep. Rukavina is reviewing DNR ownership around Vermillion.

Comm. Forsman noted his support for the project were it not to cost St. Louis County anything, if the state paid PILT for the land purchased, and if the project were funded at the amount necessitated to support 300,000 visitors (not 100,000 now mentioned) – a cost closer to \$100 million (not \$30 million now mentioned). The Chair added that 163 properties plotted by USS in an environmentally conservative manner with minimal shoreland impact would otherwise produce multi-million-dollar tax revenue in perpetuity. Mr. Engwall noted that the project is not a certainty. In the discussion is consideration of potential positive impact on the local economy of increased tourism. PILT payments to local townships would not be secure, though mention of payments to Brighton Township have been proposed. Comm. Pavleck noted the failure of prognostications on high attendance at Voyageurs National Park. The proposed park might divert VNP traffic, as noted by Rep. Anzenc. The value of the property versus the sales price may be complicated by consideration of the property as a mining or timber site versus as a developed property; these numbers are in hand, said the Chair. Currently, St. Louis County receives about \$130,000 annually. US Steel would assume development costs and the county three-year planning and law enforcement costs. Mr. Carroll noted a negative change in carrying out developments in other parts of the state due to the soured economy. This development is only a small portion of US Steel's nation-wide balance sheet, responded the Chair. The St. Louis County Board is not enthusiastic about the announcement. Comm. Sve asked over the support of the Township board. Mr. Forsman said there was 2-1 support for the park. He added that the land abutting the potential park has state subsidies and is not developed. Mr. Engwall responded that the DNR considers the Soudan Mine Park to have unique challenges; the Vermillion property would be easier to develop. There might be potential funding out of amendment dollars aimed at state parks and trails.

3. Septic System Ordinances: The Chair noted that on page 6 of the Minnesota Counties an article by Gretchen Sabo notes that revised septic system ordinances are due in 2010. The MPCA will consider a county's having a new SSTS ordinance in place by June 30 of 2010 as meeting the intent of the law. The February 4 deadline earlier stipulated would not be in effect according to this article. MPCA has a commitment from BWSR to keep natural resource block grants from counties who do not amend their ordinances. At the AMC Steering Committee meeting the previous week it was decided that a letter would go out to MPCA stating that because of its trouble with making changes, together with a number of counties not moving forward with their ordinances, that once revision is complete and background information gathered, counties should then have two years to institute changes, as provided by law. While the outcome is uncertain, perhaps the legislature would allow a year to institute ordinances in consideration of the circumstances. Point of sale was reviewed. Counties reviewed their status regarding ordinances; several are waiting on complete rules issuance.

4. Plasma Gasification: Comm. Napstad reviewed a plasma gasification plant plan that has been abandoned by the developer after exploration of importing and disposing of auto fluff and hazardous materials. The Aitkin County Board was to consider it hazardous waste ordinance until met by public outcry. Now a small city of 100 homes, Palisade, is looking at building a smaller plasma gasification plant to bring jobs, energy offshoots and insulation production from slag through waste disposal. Transportation to the community is lacking, and the investment is large at \$50 million. The multi-year project is in part being suggested by participants of a Blandin Community Action Leadership Program. Location within city limits circumvents county authority. Comm. Pavleck offered that the feasibility study for a plant in Koochiching County is soon due and would be helpfully informative. Completed plants do not employ large numbers of people. Comm. Forsman suggested letting other counties pioneer the work. Aitkin County would not invest in the project, noted Comm. Napstad.

5. Land Asset Planning Pilot Project in Roseau County: Comm. Swanson, Mike Carroll and Cindy Buttleman, project manager, have been involved in a pilot project focusing on Roseau County which is 27 percent DNR managed. Goals are to review, internally, the state land base administered by the DNR and to identify DNR priorities for acquisitions, exchanges, sales, etc. in support of their mandated Conservation Agenda while creating trust with the county and advancing transactions of mutual interest. A complex variety of ownership and management exists. To take small steps within this complexity was a goal. Long term, a workable process might be created and meetings held with all 23 counties in the region. Comm. Swanson added that the DNR and Roseau County would like at some point to approach the Legislature and help them understand the cumbersome nature of the exchange process and to streamline the process. Significant state land and county land is a checkerboard. Mr. Engwall concurred on the profound obstacles encountered in exchange of land without expedition.

Ms. Buttleman continued, noting that a review of specific conditions in Roseau County is complete and that a second part of the project was begun last summer to meet with the county to identify who administers which area. Six land types were identified. DNR Management Units were identified, including Wildlife management Areas, State Forests, and Scientific and Natural Areas. DNR Staff and infrastructure were considered. Six topics, including economic information and land types, were encapsulated in information sheets. A work group of DNR and county staff was established to meet for a year to foster communications and advance land proposals of mutual interest. Better understanding of respective processes and complexities and cost has resulted and several land transactions are pending.

Comm. Napstad asked about potential legislative interest in the project when so few counties have large public ownership. Mr. Carroll noted that the region's state senator and representative have interest in forcing the state to sell land. To pull all the pieces together and to approach legislators together repeatedly may set a precedent for larger counties. Comm. Swanson added that he has a concern over legislators who may think the status quo of state ownership is already optimal and that counties should not profit from sale of land. Simplifying the process even incrementally may be of benefit. Mr. Engwall added that the legislature has not trusted the DNR on administration of Land Trust lands; exchange without oversight has been clouded; the initiative might best come from counties as public benefit is shown. The trust level has increased in the last ten years, noted the Chair. Metro counties have little significant presence of DNR. Comm. Johnson pointed out that finding appropriate land for exchange is complicated by local landowner considerations and critical locations of some properties. The pilot fits with AMC redesign, commented Comm. J. Swanson. Mr. Engwall spoke of a glacial shift occurring away from traditional DNR and legislative stands of never selling land once acquired; looking strategically, land sale may result in revolving funds to cover other demands of the department.

STATE

1. Minnesota Regional Haze SIP Released: The Chair noted that in 2009 a final haze improvement plan document was submitted. At a public hearing Mike Ward, superintendent of Voyageurs National Park and Jim Sanders, supervisor of the Superior National Forest, asked that standards be tightened. The Chair has expressed his concerns with Mr. Ward and will speak to Mr. Sanders. Comm. Pavleck suggested a visit from both men to NCLUCB.

2. Outdoor Heritage Fund Stakeholders Forum - RIM/WRP debate: An article was distributed reviewing the discussion at a recent Outdoor Heritage Fund Stakeholders Forum of the potential for leveraging state funds to earn federal monies under a request from BWSR for LSOHC funding.

A question from Comm. J. Swanson regarding debate over definitions of "enhance, restore and protect" in the legacy amendment was addressed by Mr. Engwall. The outdoors community and groups advocating for 3/8 percent funding were focused on habitat and game and fish. The council itself defined "enhance, restore and protect" which comes from the constitutional language. This was focused on game and fish habitat. At the last minute of the last legislative session statutory language was included to change those definitions, orienting them towards ecosystems. This statutory language was put in the front of Chapter 84, affecting all DNR activities. This might shift funding away from the intent of amendment supporters. Definitions are at issue on many fronts, added the Chair. Comm. Beckel noted the potential for legal action based on definition disputes. Comm. Napstad, in referring back to bonding for WRP, noted that different parts of the state have different perspectives on BWSR; money will be awarded to southern and western Minnesota as there is less to restore in northern counties. He added that he has been appointed to the BWSR board for four more years.

3. Presentation: Erick Kaardal, of Mohrman & Kaardal, P.A., related that he is an attorney from Minneapolis educated at Harvard College and the University of Chicago Law School practicing in the area of constitutional, administrative and public law. He is associated with a strategic alliance, the National Water and Conservation Alliance, with a neo-populist outlook focused on getting people involved in a democratic stance based on the ordinary meaning of words in laws as opposed to governance by mediocrity of bureaucratic rule. He suggested government is not listening to citizens, leading to dissatisfaction with government. Legislatures' refusal to exercise oversight of agencies leads to need for citizen groups to do oversight. He suggested NCLUCB might take the lead on issues. He offered his services in a strategic relationship to increase local decision-making akin to the Quincy Library Project in California. He is working on a book on neo-populism examining different approaches to the meaning of the law.

Comm. Napstad asked about approaches to issues resulting from state agencies, such as BWSR being overruled on WCA decisions, by federal agencies that assume jurisdiction. Mr. Kaardal spoke of citizens being overwhelmed by complexities and that he would create a counter-narrative.

The Chair noted that he would be participating in a round table discussion “Who’s in Charge: Usurping Local Land Use Authority” to be held at a National Water & Conservation Alliance conference, Reinventing Environmentalism, February 26-27, in Brooklyn Park.

4. Minnesota Forest Resource Council: Working Forestland Conservation Initiative: The Chair distributed a draft of an initiative to assess trends, drivers, and effects of forest parcelization as well as the available policy responses and recommendations for decision-makers. This would include assessment of the extent of forestland parcelization in ten counties. Potential recommendations include the use of Minnesota Forests for the Future program as the platform for a coordinated approach to forest land conservation as well as providing strong support to counties to foster their forest management capabilities. The Chair drew attention to the second potential recommendation, the “empowerment and encouragement of local governments to use local planning to maintain their forest land base.”

The Chair also distributed a Minnesota Forests for the Future Program map of MFF Project Updates across the state. He pointed out the preponderance of funds being spent north of Detroit Lakes. Mr. Engwall offered to discuss the negotiations relating to any of these sales. The Chair added that the MFF easement and conservation program is targeting northern land areas. These are meant to keep a working forest working, noted Mr. Engwall, not to set aside land.

5. Haze standards: The Chair distributed an article relating that nationally 650 counties, a majority, exceed the EPA’s lowest smog standard limits. New standards may force revision of standings.

FEDERAL

1. Invasive Species: The Chair addressed recent press about invasive species, including news of Asian carp and the VHS virus. He noted that in review of materials from the NACo Environment, Energy and Land Use Policy Committee, the topic of invasive species was not addressed on a policy level. The Chair drafted a policy and sent it to Julie Ufner of NACo addressing in part an announced reduction by the President from \$475 to \$300 million in funding for combating invasive species in the Great Lakes. The correspondence with NACo suggested that allocation of resources, research and implementation of solutions were not happening fast enough. The resolution says that NACo would encourage quicker movement to avoid further expansion of species into the inland waterways. As much as \$137 billion is being spent annually across the country in the reduction of invasive species. The President had looked at \$5 billion on the lakes for ten years. \$300 million would be for Lake Superior harbor rebuilding and other items as well as species control. This would be independent of the Clean Water Restoration Act.

NCLUCB

1. Teleconferencing: The Chair distributed St. Louis County options for teleconferencing. Mr. Engwall again offered DNR sites in Bemidji and Grand Rapids. Northland College would be available in Roseau. North Shore members could attend in Lake County or St. Louis County. Three locations might be used. Members encouraged picking a month. Members are to bring options to the March meeting.

2. Exchange of BWCAW Trust Funds: Mr. Engwall has been involved in discussions of exchange of Boundary Waters Canoe Area Wilderness state trust fund lands with the federal government. He could address this at a future meeting.

3. PBS offering: Mr. Engwall reported on a Public Broadcasting System offering in February: a program on a visit by 40 individuals representing industry, environmental and governmental groups to Thunder Bay, Sweden and Finland examining forestry and biomass projects.

Adjournment by the Chair at 12 p.m.

Next meeting: March 4, 2010, 9:30 a.m. IRR Classroom, Chisholm, MN

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