

MINNESOTA ENVIRONMENTAL QUALITY BOARD

MEETING MINUTES

Thursday, September 21, 2006
State Office Building, Hearing Room 5

EQB Members Present: Dana Badgerow, Jonathan Bloomberg, Gene Hugoson, Susan McCarville, Brad Moore, Paige Winebarger

Others Present: Robert Roche, Michael Sullivan

EQB Members Absent: Ward Einess, Brenda Elmer, Randy Kramer, Dianne Mandernach, Gene Merriam, Lt. Gov. Carol Molnau, Glenn Wilson

I. Call to Order:

Chair Badgerow called the meeting to order at 9:05 a.m. There was no quorum of members and no motion to adopt the minutes of the August 17, 2006 meeting.

II. Executive Director's Report:

Michael Sullivan explained several handouts that were presented as background information on an agriculture preservation/MN DOT project. Nothing is required of the EQB until next month. He explained that the draft response to the LCCMR was being updated by a new document from the PCA as well as the response of the Department of Administration.

Mr. Sullivan indicated that the governor's office had signed off on the Phase 1 rules amendments. The Revisor of Statutes prepared certified copies of the rules and sent them to the Office of Administrative Hearings. There are still administrative steps that need to be taken but the process is expected to go forward and the deadline of mid-November will be met.

As regards Phase 2 rulemaking, the staff published the request for comments approved by the EQB. The deadline for comments is just prior to the October board meeting. A staff analysis of the comments may be ready for the October board meeting, however, if most comments come at the deadline, it is likely that there won't be enough time to prepare the analysis in time for the board meeting and that review would be done at the November board meeting.

Mr. Sullivan explained the follow up memorandum to board members about the testimony of Mr. Michael Felix at the August 17, 2006 board meeting. EQB staff worked with DNR staff in preparing the memorandum.

III. Legal Counsel Report

Mr. Roche explained his memo summarizing Minnesota law on the issue of cumulative effects and environmental review, giving a description of cases where it has been an issue. The purpose of the memo is to frame the issue going into Phase 2 rulemaking.

IV. Response to Legislative-Citizen Commission on Minnesota Resource Request

Chair Badgerow indicated that a number of thorough responses were received. She pointed out the Department of Administration response that included input from the State Archaeologist, GIS, and EQB. She further commented on the state's involvement in GIS and its importance as a resource in providing geographic and spatial data for the purpose of environmental review and environmental decisions.

John Wells of the EQB staff reported that staff prepared the suggested cover memo and summary to the LCCMR of the seven agency responses. Staff tried to identify common themes as a part of the memo and to include highlights that came out of those responses. Those similarities occurred as a result of more than one agency suggesting the same or similar item or because the idea was the backbone of a single agency's response. He indicated that the LCCMR will meet on Thursday, September 28, 2006, to begin discussions.

Mr. Sullivan indicated that staff has sent all material out, including the draft cover letter, to the agencies responding. If anything else needs to be included, staff will reflect that in the final letter from Commissioner Badgerow to the LCCMR.

V. Campaign for Conservation, John Curry

John Curry introduced himself as the campaign director for the Minnesota Campaign for Conservation. Mr. Curry presented board members with copies of *Minnesota Calling: Conservation Facts, Trends and Challenges*, released in February 2006.

Minnesota Calling is an effort to inform Minnesotans of what's right and what's wrong in Minnesota conservation. It contains over 100 recent studies, reports, and trends. Trend lines are going in the wrong direction and action is required soon.

Curry indicated that Minnesota is currently in a time of rising expectation through increased activity and reforms in game and fish fund oversight committees, residents in Dakota County voting to be taxed more for open space, Duck Rallies numbers 1 and 2, creation of the Clean Water Cabinet, the Campaign for Conservation, and others. Countertrends include 14 counties with no new public land referendums, general fund budgets down 47 percent for the four agencies primarily responsible for environmental programs, and dedicated funds being depleted or resources shifted to the general fund.

Curry suggested that Minnesota's enormous growth puts pressure on public budgets, shows people that the open space nearby them is being used up, and indicates a need for new parks and state lands. Minnesota is growing faster than any other state in the Midwest; the next closest state is Wisconsin and Minnesota is growing at twice the rate of Wisconsin and four times the rate of Michigan. In the next 25 years another 1.2 million people will be coming to the state with no plan on where they will go or how to conserve resources put at risk.

Curry noted that if current trends continue, over one million acres of farmland and open space will be converted to residential development. Because of technology and retirement, these people will be more likely to live on a lake or in a forested area. They will migrate to amenities. This will have a significant impact. Trends increase pressure to natural resources and decrease access to natural resources.

Curry argued that because of these increasing pressures and because public/government response has been unacceptable, the need for the Campaign for Conservation arose to preserve outdoor traditions by engaging Minnesotans in protecting the state's lands and waters for future generations. The Campaign for Conservation has four goals: 1) maintain a broad partnership of interest dedicated to the outdoors; 2) generate public support and appetite for conservation issues; 3) create a 50-year vision of conservation, also called "green printing;" 4) establishing new sources of ongoing dedicated funding for conservation.

The 50-year vision requires taking into account demographic and economic growth; the Campaign for Conservation is not about stopping growth but coordinating it with conservation, looking at key features such as parks, trails, lakes, rivers, fishing, wildlife habitat, and hunting. They suggested looking to local conservation experts to develop the plan and to whet the public appetite. As an example, Mr. Curry pointed to zone 9, the Iron Range to the Red River Valley, areas that are expected to grow by 50 percent in the next 15 years. By looking at current conditions and quantifying what's known through existing reports and plans, the Campaign for Conservation will develop a template based on existing plans that call for no new state parks to be created, but has a stated goal of acquiring in-holdings in private ownership, consisting of 2,223 acres. Using that as a starting point, local conservation experts will be asked if the existing plan works or if there is something else that should be done. Those local conservation experts may come back with a request for a new state park or that purchase of in-holdings is unfeasible for a certain area because private ownership will continue. That process will be followed for all other amenities in all 14 zones. Then an aggregate will be created covering the 50-year vision. It is suggested that the task will take about eight months, finishing in March or April 2007.

Funding and strategy goals will be looked at again because they did not pass in the legislative process. Research will be made in other states with dedicated funding to see what works for them. Needs will be better quantified and a funding source and governance structure will be proposed. What has been learned from five key states is that enabling local governments to

establish their own dedicated funds and to use a state fund for matching works well. As an example, in Maryland, every unit of government has established a conservation fund. By starting out locally, some of the political acrimony is removed. Many of the states studies rely on bonding, bolstered by sales and deed taxes. Bonding is successful because land costs rise faster than debt service.

A funding model currently exists in the state constitution on trunk highway bonds, where the debt is paid off not by general fund dollars but by gas tax dollars. Thus there would be no competition in the state bonding bill.

After an analysis dating back to 1998, the average of the annual expenditures from the bonding bill and the LCMR is \$37 million for bondable projects. In looking at wildlife management areas, duck and trails plans for the future, clean water legacy anticipates \$44 million in bondable projects every year. The aggregate of state plans anticipates \$94 million every year.

In looking at governance structures, the Campaign for Conservation has labeled “Nature Nearby,” as a fund used as an oversight and match for local units of government. There is a need for a statewide fund for projects of significance beyond the local level, labeled the “Great Outdoors Fund.” It is unclear if that needs to be a new entity, as other states have done, or if it would be better using an existing unit of government. The relationship BWSR has with local units of government is one organization, as is the new LCCMR, and the EQB through its statutes and mandates (although staff and resources are not sufficient).

Commissioner Moore asked how the work of Campaign for Conservation would link to the efforts of the Duck Rally, the Minnesota Outdoor Heritage Alliance, and other groups. Mr. Curry responded that they all hope to be on the same page. There is a great deal of overlap in the coalitions. Campaign for Conservation was started as a hedge that dedicated funding wouldn’t pass in 2006 and to ignore the legislative process and do thoughtful work on how to approach the issue in the future. Goals and objectives for the Campaign for Conservation are the same as Duck Rally, Outdoor Heritage Alliance, and the others.

Chair Badgerow asked what the interaction is with the LCCMR. Mr. Curry responded that some of the citizen appointees to the LCCMR have been involved in the work being done. Many of the legislators have also been involved in the same work. The Legislature appropriated a grant for the LCCMR to issue a request for proposals for a statewide strategic plan.

Member Winebarger added that the origin of the Campaign for Conservation goes back three years when a group of concerned individuals in Minnesota got together and started talking about trends in terms of demographics, state funding, non-profit organizations doing conservation work, and other things. Attendance at the early brainstorming and early development for what the movement would look like was across the entire spectrum.

Attendance included game and fisheries people, local government, park organizations, representatives from state agencies and local government, environmental groups, parks and recreation. This effort reflects a very broad coming together of public interests; it is not aligned with any specific focus but only concerned with what is best for natural resources in Minnesota.

Commissioner Moore indicated that he was involved in early meetings with the group, but that in his new role he no longer sits on that board. He felt that the biggest challenge for the Campaign for Conservation is in how to take the message out to local agencies and so that it is not viewed as coming from an urban constituency in St. Paul, but is being co-developed with people who live and work in affected areas.

Commissioner Hugoson asked for clarification on the monetary figures and if they represented actual funds or if they were goals. Mr. Curry responded that the figures were assembled from all of the state plans that have been articulated. Thirty reports, plans, and their figures were assembled to come up with the figures quoted. Some were 20-year plans, some 30-year plans, some 5-year plans. Those plans were condensed into the same 20-year timeframe and then annualized. Just for the purpose of clarifying the approach.

Commissioner Hugoson responded that Minnesota spends a large amount of money on conservation and there is always debate that more money should or could be spent. There are a lot of efforts going on that aren't necessarily well coordinated and have overlapping aspirations and issues about what should be done and, as a result, money is not always spent wisely. He asked Mr. Curry if he sees the campaign as a means of trying to sort through some those issues or coordinate goals.

Mr. Curry responded that he and the Campaign for Conservation agree on just about everything Commissioner Hugoson articulated with governance, the delivery of conservation, the overlap of programs, the overlap of goals and agendas, and reports. He cited the pheasant and duck plans as being very similar and possibly duplicative. The real exercise is in going out and determining what those figures should be. At the end of the 50-year vision process, the campaign is going to have the true number of acres, the true vision for an area. Right now it hasn't been coordinated. They also hope that the plan will allow local units of government to be a partner in making conservation decisions. Once issues have been vetted, coordinated, planned, and the local units of government have built a relationship to the state in conservation, then a more cohesive conservation strategy can be developed.

Commissioner Hugoson expressed that oftentimes agriculture appears to be pitted against conservation but that agriculture is all about conservation. He suggested is that as the conversation is about acres and dollars, it's not necessarily about public acres and that there are opportunities to partner public/private approaches to achieve goals that will be more cost effective and less confrontational as they relate to doing things that provide habitat. Agriculture likes to talk about "working lands," but working lands can also be working

conservation lands, and there are ways that lands can be used for both conservation and income producing purposes. He pledged that agriculture and the Campaign for Conservation could work together, that pheasant and duck habitat could be done on private as well as public lands. Farmers are nervous that special interests are working through the legislature advocating tax money to buy up farmland. Those issues can be avoided by working together.

Mr. Curry responded that the best conservation programs are those that partner with the agricultural community. Conservation in the future comes in the form of private lands and in the form of easements and other practices. To do conservation properly, federal farm bills need to be considered. Mr. Curry said that it's a big job to manage the coalition of many interests and the Campaign for Conservation has not done a good job reaching out to the agricultural community.

Commissioner Moore responded that forest land protection involves easements for working forests, as opposed to buying the land. Mr. Curry agreed that forest legacy easements and other partnerships are becoming the accepted way of working for forest conservation.

Commissioner Hugoson stated that he had just returned from a national conference of agriculture departments in which the focus of effort was on the new farm bill. Also looming on the horizon are energy needs and there is a classic way that all of these efforts can be pulled together in a useful way in terms of developing lands for conservation purposes or managed harvesting. If done correctly, they offer the potential to address needs that are upcoming.

Chair Badgerow commented on the strategic planning effort by LCCMR, Campaign for Conservation's 50-year plan, and a group called Envision Minnesota that also has long-term strategies and asked if Mr. Curry knew how many long-term plans are in existence. Mr. Curry stated that there are quite a few and that all of them need to work together. The governor has just created the Conservation Legacy Council and that, while it may be beneficial, it is also frustrating that there is overlap and that many of the members of the Campaign for Conservation will also be involved on the governor's council along with many from the Minnesota Environmental Initiative. A meeting has been planned with the Minnesota Environmental Initiative to see if they can assemble the groups. The goal is to call in people from other states that have successfully passed dedicated funding and assemble stakeholders for a day to figure out how to move forward and work on a strategy. Governance is an important part of the journey, conservation dollars need to be delivered in a more effective way that embraces public opinion and doesn't divide it.

Chair Badgerow asked about the possible role of the EQB and asked for more information on what that involvement might be. Mr. Curry explained that when they looked at the existing governing structures currently in place, there was a battle to make LCCMR different in the legislature; it was very significant, with significant floor votes, party division, and acrimony. The Campaign for Conservation felt that if they were going to go to the legislature and ask

for new funding, that would be a big enough battle in itself and that by creating a new government entity on top of that would end up losing votes and be too cumbersome. They looked at existing structures that have a current relationship to the citizens. Mr. Curry is of the opinion that Minnesotans don't know what the Environmental Quality Board is nor do they know what the Campaign for Conservation is. But PCA and DNR are likely sources for new funding and programs and they have a history with the citizens of Minnesota. The Board of Water and Soil Resources has a history of delivering certain types of conservation programs. Campaign for Conservation looked through Minnesota Statutes as related to the EQB and they found it to be broad, expansive, and possessing a strategic vision for conservation in the state, able to deal with issues in a holistic manner. Through implementation of an environmental summit, there is a means to get all stakeholders together to talk about a new direction for the state and how to get there. There is no other entity in the state currently that could do that. What is lacking is that the EQB is not a well-funded entity nor is it adequately staffed. To create a relationship with local governments, looking at conservation projects and deciding which ones merit funding, the EQB needs support.

VI. Next Steps

Chair Badgerow commented that the activities of the Board have morphed significantly over the past year in light of legislative action in the 2005 session transferring energy siting duties to the Department of Commerce. Now that those issues are off of the EQB agenda, and once the Board gets past the rulemaking process that will involve a fair amount of effort, there is a legitimate question of whether the Board is fulfilling its statutory mandate and what more it could or should be doing. That is the beginning of a dialog that will take a significant amount of time and discussion needs to take place on what that timetable will look like and what the process should be to engage in that dialog. She felt that Mr. Curry's presentation set the stage and presented some of the coming challenges.

John Wells explained that the EQB was established in Minnesota Statutes, section 116C.01 with the finding that "... problems in the environment often encompass the abilities of several state agencies and solutions to these problems require the interaction of these agencies." The Legislature also had a perception back in 1973, when it established the board by law the first time, that "environmental problem-solving in Minnesota was highly fragmented and issues surrounding preservation and protection of Minnesota resources highly complex." The EQB was a forum set up with a big vision but one that has gotten more narrowly focused over time out of necessity as a result of resources allocated.

Mr. Wells reviewed the table of EQB authorities, indicating three types are reported: 1) Review responsibilities, where the main work is done by a single agency and they are asked to send a draft report to EQB; 2) Coordination authorities, with specific charges to bring people together to do such things as develop the state water plan or biennial water priorities reports; 3) Policy and planning activities and authorities, including environmental review and looking at issues that cut across department lines and warrant coordinated treatment.

The authorities table identifies how EQB's authorities have been used and discusses if changes may be needed. As an example, under Section 83.29 of Minnesota Statutes, EQB is to establish state environmental quality standards for subdivision and development of land in the state. This is something EQB has never done and staff is unsure if it is still needed. Many things have happened in the 30 years since this law was enacted: storm water regulations and local water planning activities in part address this issue. However, there could be an opportunity to build environmental quality standards into local government infrastructure in dealing with resources. Alternatively, it is possible to conclude that adequate environmental protection already happens.

EQB has a broad role on groundwater policy and information in MS 103A.204. The EQB spends a good amount of time working with its partners at PCA, DNR, Health, Agriculture and BWSR.

Under Minnesota Statutes, section 103A.43, the Legislature calls for assessing trends in water quality, availability and research needs. EQB works with its partners to take the pulse of what's happening in the area of water.

Under Minnesota Statutes, section 103B.151, EQB is mandated to develop the state water plan every 10 years. The next one will come up in four years, as well as a number of specific authorities dealing with coordinating how data is entered into the state's information system so that it can be used widely.

The EQB's originating law, sections 116C.01-.04 describe the EQB as the forum to initiate interdepartmental investigations into those matters that it determines need to be studied, review programs of state agencies that may be overlapping and need coordination, and ensuring agency compliance with a state environmental policy. EQB has the authority to convene an annual congress to receive reports and exchange information on progress and activities related to environmental improvement. Chair Badgerow asked if the congress had ever been convened. Mr. Wells responded that it had been convened 3-4 times, most recently in 1994, called a Congress on Sustainable Development." They have also been held on environmental education and an overall assessment of environmental policy. Wells stated that it can be an exciting opportunity, but it is important to know what you want to get out of it and where you want to take that information. It can be an ideal opportunity to fuel a strategic planning process. Staff has discussed with John Curry the opportunity of dovetailing with the Campaign for Conservation in engaging the public. It is important to engage both the public and state agencies that have the body of laws that govern how natural resources are managed and how we develop economically to see how they fit together. Chair Badgerow asked if the 1994 congress was effective in meeting its objective. Mr. Wells indicated that it was very energizing and led to creation of the Governor's Roundtable on Sustainable Development. Small steps were taken but more focus was needed and that was a lesson EQB learned. The roundtable had good information on working to preserve farmland.

Agricultural and environmental stakeholders came together with the common desire to halt urban sprawl and protect farmland and the Community Based Planning Act was passed. Chair Badgerow asked about the amount of EQB and agency staff effort required to institute a congress. Mr. Wells replied that all members played a role while facilitation was done by DNR and Administration. Prior to that congress, Governor Carlson had set up the Sustainable Development initiative that had seven teams managed by EQB, with five teams staffed by other agencies.

Mr. Sullivan indicated that there had been an appropriation out of the EQB budget in the amount of \$50,000 to support the initiative. There was also a buy-in by the agencies in their willingness to commit staff to make it possible.

Wells also highlighted Minnesota Statute 116D.10-11, a law directing the EQB to coordinate the strategic plans of the various energy and environmental agencies on a biennial basis and to package them into a comprehensive strategic plan for the Governor and Legislature. That law replaced a law directing the governor to do an annual environmental report.

The last item Wells noted involves Laws of Minnesota 1999, Chapter 250 Section 108. The EQB is responsible for preparing an urban development generic environmental impact statement. The scope of the GEIS was prepared several years ago with \$200,000 in funding over a two-year period. A steering committee was established with builders, environmentalists, and citizens. The committee came to a strong consensus and defined a narrow agenda that the EQB ought to focus on. However, no funding was provided to prepare the GEIS.

Mr. Wells explained the Next Steps handout. It provides a background on the last 30 years of EQB, how it was originally envisioned, what it has been asked to do, what the law currently says it is to do. The document suggests ways the EQB could establish a new focus for the future. One obvious opportunity would be a board retreat; another is an environmental congress to engage the public. The board also could establish a sub-committee to address the issue. In the 1990s, EQB strategic planning and executive committees managed the sustainable development process and board meetings respectively. The sub-committees met monthly to guide on how things were going or what corrections needed to be made.

Mr. Sullivan indicated that EQB is at a crossroad as an institution and that the next six weeks is a good point to have a conversation about the EQB's direction. He felt that the Board could benefit from an internal retreat early in the next year. When commissioners have shown a commitment to making the process work, it has generated positive results. When commitment isn't there, the EQB's potential suffers.

Chair Badgerow asked for comments from Board members and Member Bloomberg commented that he has always been struck by the fact that the Board has an incredible mandate and an unfulfilled promise. He wonders if the Board can achieve this promise in the face of overlapping priorities among agencies or where strategic visions may be at odds. The EQB has the unique ability to align those priorities and lay out a vision that makes sense from a good government perspective. If the Board had fulfilled its promise, instead of responding to the LCCMR request by sending out a memo to each department and asking for input, it would already have had a statement that reflected the best thinking of members. The way the LCCMR request used to be handled reflected that failed promise. He questioned if there were sufficient political will and ultimately the willingness of member agencies to cede some degree of strategic planning authority to the Board to enable that process to happen. Without that cooperation of member agencies, the EQB would continue to have unfulfilled promise.

Commissioner Moore reflected on Mr. Curry and Commissioner Hugoson's comments that Minnesota is experiencing new mechanisms and renewed interest in environmental and conservation policy. At the same time, the new interest is creating potential redundancy, questions about governance, and funding. It's healthy for an institution to step back and reflect on where it's been and where it's going to go. Commissioner Moore agreed that a retreat would be a good thing for the Board to experience as long as the analysis is led by the commissioners and citizen members of the Board so that there is ownership in the process.

Commissioner Hugoson agreed. He pointed out that the Board currently has issues related to commitment. All of the commissioners have priority issues and time restrictions. Staff is also experiencing the same issues as a result of staff cut-backs. In moving ahead there needs to be commitment from the top down, recognizing that it will need to be seen as needed from state administration. In terms of timing, the process should begin in January and be wrapped up by the end of the 2007 session.

Chair Badgerow agreed that a retreat is needed and offered that the Management Analysis Division (MAD) of the Department of Administration could be used for facilitation. They can be objective in bringing issues to the table.

Member Winebarger agreed that without active commissioner participation the EQB is not spending its time well or fruitfully. She expressed a sense of urgency to get on with things that are behind schedule and that waiting until next June is not acceptable. January is realistic. She commented that as a citizen member she felt a sense of pride on being asked to sit on the EQB, but has felt that if a citizen asked her what she had been able to accomplish in the time she spent on the Board, that she would not be proud to give the answer. She believes that the statute offers a huge mandate but the Board has not been able to get to the level of policy, strategic planning, and cross-agency struggling with competing priorities that it needs to do in order to keep the state that we all love. She believes that this discussion is important to allow EQB to become what under law it was mandated to be.

Chair Badgerow agreed that the retreat needs to be explored and administration support be sought.

Commissioner Hugoson stated that the EQB does not have to wait until January to begin some of the work. Beyond what was presented today, from the middle of November there can be things that begin to happen to move in that direction. The EQB would be foolish to wait to see who the next administration is before taking the next steps.

There being no further business, Member Winebarger moved and member Bloomberg seconded a motion to adjourn. Passed.

The meeting was adjourned at 11:10 a.m.