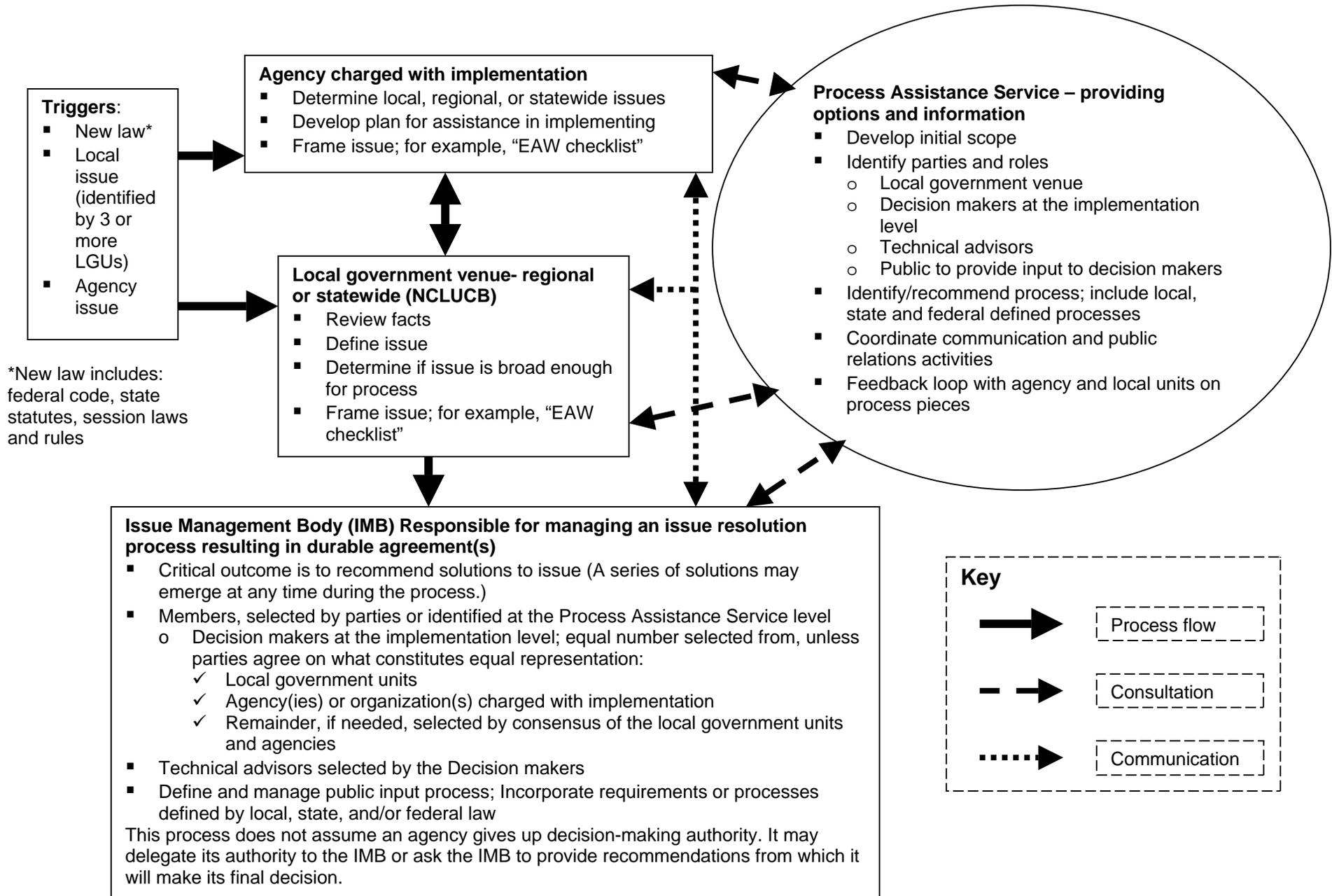


# Process for Making Land Use Decisions

## June 2005 Pilot Project Report

### *Developing a Mechanism to Address Land Use Issues*



# **Northern Counties Land Use Coordinating Board**

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## **1. Background on NCLUCB and Pilot Project**

### **A. NCLUCB**

In 1993, the Northern Counties Land Use Coordinating Board (NCLUCB) was established pursuant to the Minnesota Joint Powers Act. Counties in NCLUCB include: Aitkin, Cook, Koochiching, Lake, Lake of the Woods, Marshall, Roseau, Pennington, and St. Louis. The purposes of the NCLUCB are:

- To gather and disseminate information;
- To consider matters of common concern;
- To assist member counties and other units of government or regional organizations in the formulation of land use plans or general policies needed for the protection, sustainable use and development of lands and natural resources.

A key role of NCLUCB is to provide leadership in the development of comprehensive land use plans that meet the social, cultural, environmental and economic needs of the people of the region.

### **B. Process for Making Land Use Decisions Pilot Project**

The 2002 Minnesota Legislature passed legislation authorizing the Northern Counties Land Use Coordinating Board (NCLUCB) to conduct a pilot project for resolving conflicts over land use and property rights and developing a mechanism to address land use issues. The objectives of the pilot project are to:

- Document instances when policies and regulations are incompatible with local land use authority;
- Document instances when regulations and policies interfere with private property rights; and,
- Identify and promote a means of resolving differences.

Since the passage of the legislation, the NCLUCB has published two reports. The first report identifies instances where state and federal land use regulations are in conflict with local government land use authority and property rights. The second report describes several land use and environmental decision models and examples where they have been used. Further, individual components of the models are discussed along with nine potential issues/scenarios where those models or parts of them could be used.

The findings from the two previous NCLUCB reports provide a rationale for NCLUCB to develop a mechanism to address land use issues and conflicts. The goal of the pilot project is to create a better process that will produce fewer negative outcomes and consequences that often stem from land use issues and conflicts.

The mechanism and process is different from other public involvement techniques or processes. The main difference is found in the definition of the role of local government and the role of the public in resolving land use issues with other government entities. The public is not considered equal in this process or mechanism. Local government is distinguished from the general public as a partner with state and federal agencies to make decisions and resolve issues. The goal, however, is also to improve ways to receive input on an issue from the broader public, while allowing local government to serve as a partner with other government agencies.

The next step is to develop a pilot mechanism to attempt to prevent and/or resolve conflict, test the mechanism, and refine it.

## **2. Methodology for Developing a Mechanism**

### **A. Create a Steering Work Group to Develop a Draft Mechanism**

NCLUCB identified key partners, and potential representatives, to involve in developing a mechanism or process to identify and address conflicts. The identified partners or their representatives formed a Steering Work Group of about 12 members. The Steering Work Group members communicate regularly with their organizations or constituencies to report the committee's progress and provide feedback on the willingness of the various entities to participate in the mechanism.

The Steering Work Group initially met to identify its purpose, legitimacy, operating guidelines, decision-making process and intended outcomes of the conflict resolution mechanism.

The Steering Work Group, through a facilitated process, identified components of a successful conflict prevention and resolution mechanism including guidelines to ensure participation, communication and accountability. Staff analyzed the various components and developing draft mechanisms to which the Steering Work Group reacts and refines to develop an outline or flow-chart for a conflict prevention and/or resolution mechanism.

### **B. Operating Guidelines for Mechanism Participation**

The Steering Work Group developed a draft process and operating guidelines for the mechanism participants. Items that may be included in the operating guidelines are:

- Communication
- Definitions
- Membership
- Roles
- Principles, and
- Other key items deemed important by the committee

### **C. Criteria to Design Mechanism Components**

The Steering Work Group developed specific criteria for:

- When to initiate conflict resolution mechanism or determine need for mechanism
- Selecting the decision-making process and decision-makers

- Developing a public participation process

#### **D. Present Mechanism Draft to Agency and Other Stakeholders**

The Steering Work Group presented the draft mechanism to a large group of agency and other stakeholders on May 26, 2005 in Grand Rapids, MN to refine and edit the mechanism including the flow-chart, operating guidelines, criteria, the public participation process for public input (Appendix A), and other items as needed.

Meeting participants discussed the mechanism and flow-chart, but also used three scenario examples to test the mechanism to determine where the mechanism seemed helpful, what issues or problems were identified with the mechanism and what changes they would suggest to the mechanism. The meeting notes are found in Appendix B.

The meeting participants highlighted several suggestions or changes to improve the mechanism and the flow-chart as follows:

- To develop a new working title for the mechanism, from “Reaching Better Land Use Decisions,” to “A Better Process for Making Land Use Decisions,”
- To incorporate and describe communications and public relations in the mechanism document and flow-chart to ensure a transparent process where the public understands their role and will continue to provide public input on an issue,
- To identify a Process Assistance Service that is served by a regional or by a statewide entity that provides consistent interpretation of the issue and recommendations to the Issue Management Body (IMB),
- To further discuss the makeup of the IMB in terms of “equal numbers selected from,” and
- To modify the definition of trigger, “New Law” to incorporate federal code, state statutes, session laws and rules.

#### **E. Next Steps**

The comments from the large group meeting on May 26 were analyzed and incorporated into the mechanism as determined by the Steering Work Group and NCLUCB, together with the ideas on issues to operate as a test or pilot for the mechanism procedure, and presented to NCLUCB for approval at their board meeting on June 29, 2005.

The NCLUCB board approved the “Process for Making Land Use Decisions” pilot project mechanism, flow-chart and appendices at their meeting on June 29, 2005.

The next steps of the pilot project are to:

- Better define the Process Assistance Service (PAS) concept, including the definition of the PAS and possible costs associated with the management of a PAS,
- Identify a real world issue or situation to test the mechanism and flow-chart.

## **F. Steering Work Group and Agency and Other Stakeholders Profiles**

Representatives from these various entities constitute the Steering Work Group and will be actively involved in developing the mechanism:

- ✓ Northern Counties Land Use Coordinating Board (NCLUCB)
- ✓ Minnesota Department of Natural Resources (DNR)
- ✓ Minnesota Pollution Control Agency (MPCA), invited but not involved
- ✓ Regional Development Commission in Duluth (RDC)
- ✓ Minnesota Department of Administration

Representatives from these various agency and other stakeholder groups will be informed of the activities of the Steering Work Group and invited to comment via e-mail, web, or in person on the work of the group:

- ✓ Governor's Office
- ✓ MN Department of Agriculture
- ✓ MN Department of Employment and Economic Development
- ✓ MN Board of Soil and Water Resources
- ✓ Iron Range Resources and Rehabilitation Board
- ✓ MN Environmental Quality Board
- ✓ Minnesota Pollution Control Agency (MPCA)
- ✓ MN Office of Environmental Assistance
- ✓ U. S. Forest Service
- ✓ League of Minnesota Cities
- ✓ Association of Minnesota Counties
- ✓ Minnesota Association of Townships
- ✓ Logging industry
- ✓ Minnesota Environmental Partnership
- ✓ Recreation industry
- ✓ Explore Minnesota
- ✓ Minnesota Extension Service
- ✓ Regional Development Commissions; Northwest and Headwaters
- ✓ Minnesota Legislators
- ✓ National Parks Service
- ✓ U. S. Army Corp of Engineers

## **3. The Mechanism**

To date, the Steering Work Group has concentrated on defining the purpose, principles and general process to develop the governance mechanism.

### **A. Outcome or Purpose**

The purpose of the Process for Making Land Use Decisions Pilot Project is to develop a governance mechanism and decision-making processes for addressing land use and management issues that resolve and/or prevent conflicts among various jurisdictions and/or interests and recognize the authority and responsibility of local governments in land use and management.

## **B. Foundation Principles**

The Steering Work Group identified principles to use as guidelines to design the governance mechanism, including:

### 1. Decision makers at the implementation level

Local government must have a role as decision-makers at the implementation level.

- a) The implementation group or decision-making body makes the final decision on the issue based on:
  - (1) Representing a policy that has been adopted by some process that includes the gathering of input from constituents or the represented public (citizens and community groups); and
  - (2) A technical advisor or technical assistant to advise on the appropriate role and scope of the decision options; and
  - (3) Input from an advisory group of stakeholders relative to a specific topic or issue.

### 2. Public participation process must involve the public (citizens and community groups) as distinct from decision-makers at the implementation level

- a) Each level of government (federal, state, and local) frequently has a formal public participation process they need to follow. This process is not meant to substitute for public input processes currently defined in law or rule.
- b) State and Federal government officials should engage local governments in identifying the affected public (citizens and community groups).

The affected units of government need to work together, taking into account their formal input, to develop a process on public participation for coming to a resolution on the issue.

### 3. The governance mechanism and decision-making process developed here does not assume an agency will give up its decision-making authority. The affected agency or agencies may delegate its authority to the process or use the process to develop recommendation from which the agency(ies) will make the final decision.

### 4. Any decision making body developed by the governance mechanism and decision-making process should consist of members selected from a geographic representation of the state commensurate with the issue under discussion.

## **C. Definitions**

The following definitions are used throughout this document and in developing the governance mechanism and decision-making process.

- a) “Triggers;” are the issues or laws where there is or has a potential for conflict that initiates appropriate actions to resolve issues (or laws) within the governance mechanism and decision-making process. The Triggers include the following:
  - New Law,
  - Local Issue, and
  - Agency Issue.

- b) “Decision-makers at the implementation level;” includes local elected officials and representatives of state and/or federal agency(ies) with delegated authority to implement a law, rule or other public policy.
- c) “Agency and Other Stakeholders;” include representatives from various agency and other stakeholder groups who will be informed of the activities of the Steering Work Group and invited to comment on the activities via e-mail, web, or in person on the work of the group.
- d) “Public Stakeholders;” include interested citizens and community groups as defined in e) listed below.
- e) “The Public;” includes citizens and community groups, but are not limited to the following (Appendix A):
  - Interested citizens or individuals,
  - Community organizations or groups,
  - Local or national industry representatives,
  - Local or national advocacy organizations,
  - Local business organizations,
  - Individuals whose homes, livelihood, or neighborhoods may be affected by the action, and
  - Others.
- f) “Technical Advisors or Technical Assistants;” can advise on the appropriate role and scope of the decision options based on the goal to provide technical assistance. The technical advisor/assistant is of a professional nature that includes, but is not limited to government staff, academicians, industry and technical experts, and consultants.

#### **D. Mechanism Process**

The following describes the governance mechanism process. The process includes several components, including a discussion of the types of triggers that initiate appropriate actions to resolve issues and the administrative process to establish an Issue Management Body, which manages the dispute resolution process to resolve issues.

##### **1. Triggers to Initiate Action**

- **Trigger – New Law**

With the passage of any new law, federal code, state statutes, session laws and rules affecting land use, the agencies charged with carrying out the law need to bring it to the affected state and/or local units of government to assist in developing an implementation plan or process.

- a) New laws, federal codes, state statutes, session laws and rules directly impacting state and/or local units of government (they are required to act); or
- b) New laws, federal code, state statutes, session laws and rules that have an significant impact on state and/or local governments when they are carried out (impacts how they operate)

##### **Action – Agency charged with implementation**

The agency or agencies charged with implementation of the law will determine local, regional and/or statewide impact of the law. The agency(ies) frames the issue in

preparation of the Issue Management Body process. (Fill out checklist, similar to EAW checklist) Further, they will notify the affected local jurisdictions of the law and the need to coordinate for implementation of the law.

▪ **Trigger – Local Issue**

Initiation of action on an issue or topic: Three or more governmental units identify an issue or topic to be addressed and bring it to a local government venue or entity for further identification.

**Action – Local government venue**

The local government venue, be it regional or statewide in focus, reviews the facts of the issue brought to it and defines the issue. Some examples of a local government venue could be: Northern Counties Land Use Coordinating Board, Regional Development Commissions or a local government association such as the Association of Minnesota Counties.

They determine if the issue is broad enough in scope or impact for it to be taken to the Issue Management Body. Further, the governmental unit frames the issue in preparation for the Issue Management Body process. (Fill out checklist, similar to EAW checklist)

The local unit(s) of government will notify the affected agency(ies) (local, regional, state and/or federal) of the issue and the local government intended action.

▪ **Trigger – Agency Issue**

The agency or agencies identify an issue or topic to be addressed that could have local, regional or statewide impact.

**Action – Agency(ies) identifying issue**

The agency or agencies identifying the issue will determine local, regional and/or statewide impact of the law. The agency(ies) frames the issue in preparation of the Issue Management Body process. (Fill out checklist, similar to EAW checklist) Further, they will notify the affected local jurisdictions of the issue and the need to coordinate for addressing or resolving the issue.

**2. Process Assistance Service**

If preferred, the parties identifying the issue may engage the services of a third-party (Process Assistance Service) to develop the Issue Management Body. The Process Assistance Service (PAS) is a function provided by staff from a regional or by a statewide entity that provides consistent objectivity of the issue and recommendations to the Issue Management Body. The Process Assistance Service would follow the steps outlined in 3) below.

During the development of the Issue Management Body, the Process Assistance Service will communicate actions with the affected parties and provide for feedback with the various units of government involved. The Process Assistance Service will coordinate

communication and public relations activities to ensure a transparent process where the public understands their role and will continue to provide public input on an issue.

Possible regional entities to provide Process Assistance Service include Regional Development Commission's and local Extension offices. Another option for the Process Assistance Service is to operate under the authority of a statewide entity, such as within the Minnesota Department of Administration.

### **3. Administrative Process to Establishing an Issue Management Body**

Upon written notice from the various local units of government or affected agencies to proceed with an Issue Management Body (IMB), the Process Assistance Service staff will meet and initiate an Administrative Process to:

- a) Develop a scope for the issue
- b) Identify key parties and their roles, including:
  - 1.) Decision-makers at the implementation level and/or functional implementers (the IMB),
  - 2.) Technical advisors or technical assistants, and
  - 3.) The affected public (citizens, community groups, public stakeholders, and/or organizations) to provide input to decision makers.
- c) Determine appropriate size of the Issue Management Body. The size of the Issue Management Body should be odd in number and range between a minimum of 5 people and a maximum of 25 people. The Process Assistance Service staff may select an Issue Management Body outside these parameters with the agreement of the local units of government and agencies involved.
- d) Identify and/or recommend an appropriate process including documentation for resolving the issue and include local, state and federal defined processes.

During the development of the Issue Management Body Administrative Process, those developing the IMB will communicate actions with the affected parties and provide for feedback with the various units of government involved.

### **4. Issue Management Body**

With assistance from the Process Assistance Service, or with mutual agreement of the decision-making bodies involved, the Issue Management Body will be created. The Process Assistance Service, or the local government units or affected agencies, will select the members of the Issue Management Body.

The Issue Management Body consists of representatives based on the membership parameters identified in b-1) above. The Issue Management Body, or decision-makers at the implementation level, consists of equal numbers selected from the following, unless the Issue Management Body or the Process Assistance Service agrees on what constitutes equal representation of the IMB:

- a) Local government units,
- b) Agency(ies) or organization(s) charged with implementation, and
- c) Remainder, if needed, selected by consensus of the local government units and agencies.

If needed, the Issue Management Body may identify key technical advisors or technical assistants that may participate in the IMB's deliberation. Technical advisors/assistants will not be considered as formal members of the Issue Management Body. They may participate in discussion and deliberation of alternatives and options, but will not participate in the formal decision making process of the Issue Management Body and therefore are not allowed to vote on motions before it.

Technical advisors or technical assistants provide credible information on topics related to an issue to assist the Issue Management Body in the decision-making process. The Issue Management Body or the Process Assistance Service staff decides the type of technical advisor/assistant to use, based on the goal to obtain technical information or to provide assistance to the IMB.

The responsibility of the Issue Management Body is to manage and document the dispute resolution process to produce a durable agreement(s).

The initial action of the Issue Management Body will be to review and accept the scope of the issue. If the Issue Management Body cannot accept the scope as identified by the administrative process they may edit the scope identifying the specific edits and the reasoning for such changes.

The Issue Management Body will define and manage a public participation process for public input for the specific issue, as outlined in Appendix A. The Issue Management Body will also incorporate requirements or processes defined by local, state, and/or federal law.

This process does not assume an agency gives up decision-making authority. It may delegate its authority to the Issue Management Body or ask the IMB to provide recommendations from which it will make its final decision.

## **Northern Counties Land Use Coordinating Board**

### **Process for Making Land Use Decisions**

#### **June 2005 Pilot Project Report**

##### *Developing a Mechanism to Address Land Use Issues*

### **Public Participation Process for Public Input**

#### **1. Redefining the Public**

The Process for Making Land Use Decisions, Developing a Mechanism to Address Land Use Issues report redefines the description and definition of the public. The report Foundation Principles recognizes that local government must have a role as decision makers at the implementation level. The Foundation Principles also recognizes the important role of the public to provide input to the decision makers at the implementation level to aid in the decision-making process.

In the report, the public is redefined to include citizens, community groups and public stakeholders, but are not limited to the following:

- Interested citizens or individuals,
- Community organizations or groups,
- Local or national industry representatives,
- Local or national advocacy organizations,
- Local business organizations,
- Individuals whose homes, livelihood, or neighborhoods may be affected by the action, and
- Others.

The Process Assistance Service will help identify the affected public (citizens, community groups, public stakeholders, and/or organizations) to provide input to the decision makers at the implementation level.

The Issue Management Body will define and manage a public participation process for public input for a specific issue. The Issue Management Body will also incorporate requirements or processes defined by local, state, and/or federal law.

The public participation process for public input is defined as follows and includes public participation principles and goals, the steps to implement a public participation process, as well as the types of public participation methods to use to gain public input regarding an issue.

## 2. Public Participation Process for Public Input

The Issue Management Body (IMB) defines and manages the process to determine public input regarding an issue to aid in the decision-making process. The public participation process is based on public participation principles and goals, steps to implement a public participation process, and the types of public participation methods to use based on the issue and the goal to obtain public input.

### B. Public Participation Principles and Goals

The International Association of Public Participation (IAP2) identifies several core values for public participation (IAP2).<sup>1</sup> The IMB can use the following core values as principles to aid in public participation to ensure the public has an opportunity to provide input for the decision-making process.

The IAP2 Public Participation Core Values include:

1. The public should have a say in decisions that affect their lives;
2. Public participation includes the promise that the public's contribution will influence the decision. The output should reflect the input;
3. The public participation process communicates the interests and meets the process needs of all participants;
4. The public participation process seeks out and facilitates the involvement of those potentially affected;
5. The public participation process involves participants in defining how they participate;
6. The public participation process communicates to participants how their input affected the decision; and,
7. The public participation process provides participants with the information they need to participate in a meaningful way.

The Issue Management Body (IMB) can also use the following public participation goals as a guide to involve the public and to design public involvement approaches based on the principles listed above.

#### Goals for Public Participation

1. Incorporate public values into decisions;
2. Improve the quality of decisions;
3. Resolve conflict among competing interests;
4. Build trust; and,
5. Educate and inform the public.<sup>2</sup>

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<sup>1</sup> © 2000 International Association of Public Participation, <http://www.iap2.org/corevalues/index.shtml>.

<sup>2</sup> Cogan, E. *Successful Public Meetings: A Practical Guide*. American Planning Association, Chicago, 2000. 134 pg.

## **B. Steps to Implement a Public Participation Process**

The following steps allows the IMB to determine potential citizens and community groups affected by or interested in the issue, to determine the need, if any, for public participation, to identify the goals to determine public input, and to evaluate the process.

1. Identify the affected public involved or interested in the issue;

The public includes citizens and community groups, but are not limited to the following:

- Interested citizens or individuals;
  - Community organizations or groups;
  - Local or national industry representatives;
  - Local or national advocacy organizations;
  - Local business organizations;
  - Individuals whose homes, livelihood, or neighborhoods may be affected by the action; and
  - Others.
2. Determine the need for public participation;
  3. Identify the goals of the process and the goals to determine public input (Public Input Goals);
  4. Answer public participation process questions, including:
    - Who should participate; and
    - How much influence public input should have in decision-making?
  5. Match public participation process questions and goals to determine public input with appropriate public participation methods; and
  6. Conduct a public participation process. Evaluate the process/methods used.<sup>3</sup>

## **C. Public Participation Methods for Public Input**

The IAP2 (International Association of Public Participation) defines several public participation techniques based on a certain type of public involvement, such as a large group or small group problem solving technique. The Issue Management Body (IMB) can use the following IAP2 methods to allow public input and to determine public opinion or consensus regarding an issue.

1. Active Public Information Techniques
  - Open House

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<sup>3</sup> Cogan, E. Successful Public Meetings: A Practical Guide. American Planning Association, Chicago, 2000. 134 pg.

2. Large Group Public Information Techniques
  - Surveys
  - Focus Groups
  - Public Hearings
3. Small Group Problem Solving Techniques
  - Consensus Building Techniques
  - Advisory Committee
  - Task Force
4. Large Group Problem Solving Techniques
  - Workshops
5. Passive Public Information Techniques<sup>4</sup>

### **C. Public Participation Methods Based on Public Input Goals**

The use of the methods listed above to determine public input will depend upon the goal of the Issue Management Body (IMB) to obtain public input to aid in the decision-making process. For example, if the IMB determined the public input goal for a particular issue is to simply inform and educate the public, the IMB can hold an Open House. However, if the public input goal is to determine public opinion on an issue, the IMB can do a Survey.

Public input goals include:

1. To inform the public;
2. To explain the issue to or educate the public;
3. To determine public opinion; and,
4. To determine public opinion based on consensus.

The following public participation methods are based on the type of public involvement and the goal to inform the public, to explain the issue to or educate the public, to determine public opinion, or to reach a consensus on an issue to aid in the decision-making process (Table 2).

#### **ACTIVE PUBLIC INFORMATION TECHNIQUES (IAP2)**

##### **Public Input Goal: To Explain the Issue to the Public**

- An OPEN HOUSE allows the IMB to explain an issue to and educate the public.

##### **A. Who will participate**

- I. Citizens and community groups identified by the IMB or within the Administrative Process.

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<sup>4</sup> © 2000 International Association of Public Participation, <http://www.iap2.org/corevalues/index.shtml>.

- II. Other citizens and community groups notified through “Public Information Techniques.” (IAP2)
- B. Pros
  - I. Small group or one-on-one communication
  - II. Increases credibility
  - III. Serves those not typically served by public meetings (IAP2)
- C. Cons
  - I. Difficult to document public input
  - II. Protestors could disrupt event
  - III. Staff intensive
  - IV. May not provide opportunity for public input (IAP2)

### **LARGE GROUP PUBLIC INPUT TECHNIQUES (IAP2)**

#### **Public Input Goal: To Determine Public Opinion**

- SURVEYS allow the IMB to determine public opinion to make a decision on an issue (mail, telephone, Internet, response sheets, in-person surveys). (IAP2)
- A. Who will participate
  - I. Citizens chosen by random selection.
  - II. Citizens and other stakeholders notified through “Public Information Techniques.” (IAP2)
- B. Pros
  - I. Provides input from those who would not likely attend meetings
  - II. Provides a range of statistically accurate responses from a cross-section of the public (high representativeness and early public involvement)
  - III. In-person surveys reach a broad, representative public.
  - IV. Internet has highest response rate, but may not be statistically accurate.
  - V. Telephone has a higher response rate than mail surveys. (IAP2)
- C. Cons
  - I. In-person surveys are expensive and have a marketing feel.
  - II. Response sheets are not statistically valid.
  - III. Mailed surveys have a low response rate and can be expensive to receive detailed, unbiased results.
  - IV. Telephone surveys have greater expense than mailed surveys. Bias is an issue and questionnaire design and protocol is important.
  - V. Internet surveys are not statistically accurate and bias is shown in the geographic reach etc. (IAP2)
  - VI. Indirect influence on policy.

#### **Public Input Goal: To Determine Public Opinion (IAP2)**

- FOCUS GROUPS allow the IMB to determine public opinion to make a decision on an issue. (IAP2)
- A. Who will participate

- I. Citizens chosen random selection from a specific group.
- II. Citizens and other stakeholders notified through “Public Information Techniques.” (IAP2)
- B. Pros
  - I. Gain insight regarding a specific set of issues or questions.
  - II. Moderate public representativeness. (IAP2)
- C. Cons
  - I. High cost if focus groups conducted at professional testing facility. (IAP2)
  - II. Indirect influence on public policy.
  - III. Sample selection, focus group questionnaire and or facilitator bias.

**Public Input Goal: To Determine Public Opinion**

- PUBLIC HEARINGS allow the IMB to determine public opinion to make a decision on an issue. (IAP2)
- A. Who will participate
  - I. Citizens and community groups identified by the IMB or within the Administrative Process.
  - II. Other citizens and community groups notified through “Public Information Techniques.” (IAP2)
- B. Pros
  - I. Provides an opportunity for citizens to express their viewpoints and comments on the record.
  - II. Meets legal requirements. (IAP2)
  - III. Low cost and moderate influence on public policy.
- C. Cons
  - I. Lacks dialogue between public officials and citizens.
  - II. Many citizens may not participate and provide comments as they dislike public speaking, creating lack of representativeness.
  - III. Creates “us vs. them” sentiment. (IAP2)
  - IV. Low public representativeness.
  - V. Potential domination by special interests.

**SMALL GROUP PROBLEM-SOLVING TECHNIQUES (IAP2)**

**Public Input Goal: To Reach Consensus and have the IMB Commit to the Consensus.**

- CONSENSUS BUILDING TECHNIQUES (specifically a Nominal Group Process) allows the public to explore an issue and or provide consensus information to the IMB to make a decision. (IAP2)
- B. Who will participate
  - I. Citizens and community groups identified by the IMB or within the Administrative Process.
  - II. Other citizens and community groups notified through “Public Information Techniques.” (IAP2)

- C. Pros
  - I. Encourages compromise
  - II. Focuses on solving problems (IAP2)
  - III. Moderate representativeness of participants
  - IV. Moderate to high cost effectiveness
  - V. High transparency of the process to the public
- D. Cons
  - I. Only suitable for groups interested in compromise
  - II. Consensus may not be achieved (IAP2)
  - III. Variable influence on final policy

**Public Input Goal: To Determine Public Opinion Based on Consensus**

- An ADVISORY COMMITTEE explores an issue and provides public input or consensus to the IMB to aid in the decision-making process. (IAP2)
- A. Who will participate
    - I. Citizens and community groups identified by the IMB or within the Administrative Process.
    - II. Other citizens and community groups notified through “Public Information Techniques.” (IAP2)
  - B. Pros
    - I. Provides a detailed analysis of the issue or question.
    - II. Provides an opportunity to compromise on an issue by listening and understanding other perspectives. (IAP2)
  - C. Cons
    - I. Public may not agree with committee recommendations.
    - II. Consensus may not be reached. (IAP2)
    - III. Possible high cost and indirect influence on public policy.
    - IV. Moderate to low public representativeness.

**Public Input Goal: To Determine Public Opinion Based on Consensus**

- A TASK FORCE explores an issue and provides public input or consensus to the IMB to aid in the decision-making process. (IAP2)
- A. Who will participate
    - I. Citizens and community groups identified by the IMB or within the Administrative Process.
    - II. Other citizens and community groups notified through “Public Information Techniques.” (IAP2)
  - B. Pros
    - I. Increase credibility by including diverse interest groups.
    - II. Allows for compromise. (IAP2)
  - C. Cons
    - I. Consensus may not be reached or lack meaningful results.

II. Possible high cost. (IAP2).

**LARGE GROUP PROBLEM-SOLVING TECHNIQUES (IAP2)**

**Public Input Goal: To Determine Public Opinion**

- WORKSHOPS allow citizens and community groups to work in small groups to explore an issue and provide opinions to the IMB (small group discussion, use of flip charts, completing worksheets to weight or rank issues of importance). (IAP2)
  
- A. Who will participate
  - I. Citizens and community groups identified by the IMB or within the Administrative Process.
  - II. Other citizens and community groups notified through “Public Information Techniques.” (IAP2)
  
- B. Pros
  - I. One-on-one or small group discussion
  - II. Maximizes feedback from the public
  - III. Promotes public ownership (IAP2)
  
- C. Cons
  - I. Need for small-group facilitators
  - II. Possible hostile perception of small groups as (IAP2)

**PASSIVE PUBLIC INFORMATION TECHNIQUES (IAP2)**

**Public Input Goal: To Inform the Public**

- “PUBLIC INFORMATION TECHNIQUES” (IAP2) inform the public Open Houses, Public Hearings, a Nominal Group Process, Advisory Committees, Task Forces, and/or public Workshops.
  
- A. “Public Information Techniques” include:
  - Printed material
  - Public information postings
  - Advertisements
  - Newspaper inserts
  - Bill stuffers
  - Press releases, briefings
  - TV, websites
  - Info Hotline (IAP2)
  
- B. Local citizens affected by land use issues should also be notified through:
  - Local media, including newspapers;
  - Interested community organizations;
  - Direct mail to owners and occupants of nearby or affected property;
  - Onsite and offsite postings in areas where the action is located; and
  - Distribution to local Tribal Governments (National Environmental Compliance Handbook).

Table 2: Public Participation Process Matrix for Public Input

<b>Public Participation Process for Public Input</b>				
<b>Public Input Goal</b>	<b>Public Participation Methods</b>	<b>Who Participates</b>	<b>Pros</b>	<b>Cons</b>
Active Public Information Techniques (IAP2)				
To explain the issue to the public	Open House (IAP2)	<ul style="list-style-type: none"> <li>• Citizens and community groups identified by the IMB or within the Admin Process</li> <li>• Other citizens and community groups notified through “Public Information Techniques” (IAP2)</li> </ul>	<ul style="list-style-type: none"> <li>• Increases credibility</li> <li>• Small group or one-on-one communication</li> <li>• Serves those not typically served by public meetings (IAP2)</li> </ul>	<ul style="list-style-type: none"> <li>• Difficult to document public input</li> <li>• Protestors could disrupt event</li> <li>• Staff intensive</li> <li>• May not provide opportunity for public input (IAP2)</li> </ul>
Large Group Public Input Techniques (IAP2)				
To determine public opinion	Surveys (mail, telephone, Internet, response sheets, in-person surveys) (IAP2)	<ul style="list-style-type: none"> <li>• Citizens chosen by random selection</li> <li>• Citizens and other stakeholders notified through “Public Information Techniques” (IAP2)</li> </ul>	<ul style="list-style-type: none"> <li>• Provides input from those who would not likely attend meetings</li> <li>• Provides a range of statistically accurate responses from a cross-section of the public (high representativeness and early public involvement)</li> <li>• In-person surveys reach a broad, representative public</li> <li>• Internet has highest response rate, but may not be statistically accurate</li> <li>• Telephone has a higher response rate than mail surveys (IAP2)</li> </ul>	<ul style="list-style-type: none"> <li>• In-person surveys are expensive and have a marketing feel</li> <li>• Response sheets are not statistically valid</li> <li>• Mailed surveys have low response rate and can be expensive to receive detailed, unbiased results</li> <li>• Telephone surveys have greater expense than mailed surveys. Bias is an issue and questionnaire design and protocol is important</li> <li>• Internet surveys are not statistically accurate and bias is shown in geo. reach etc (IAP2)</li> <li>• Indirect influence on policy</li> </ul>

## Appendix A

To determine public opinion	Focus Groups (IAP2)	<ul style="list-style-type: none"> <li>• Citizens chosen by random selection from a specific group</li> <li>• Citizens and other stakeholders notified through “Public Information Techniques” (IAP2)</li> </ul>	<ul style="list-style-type: none"> <li>• Gain insight regarding a specific set of issues or questions</li> <li>• Moderate public representativeness (IAP2)</li> </ul>	<ul style="list-style-type: none"> <li>• High cost if focus groups conducted at professional testing facility. (IAP2)</li> <li>• Indirect influence on public policy</li> <li>• Sample selection, focus group questionnaire and or facilitator bias</li> </ul>
To determine public opinion	Public Hearings (IAP2)	<ul style="list-style-type: none"> <li>• Citizens and community groups identified by the IMB or within the Admin Process</li> <li>• Other citizens and community groups notified through “Public Information Techniques” (IAP2)</li> </ul>	<ul style="list-style-type: none"> <li>• Provides an opportunity for citizens to express their viewpoints and comments on the record</li> <li>• Meets legal requirements (IAP2)</li> <li>• Low cost and moderate influence on public policy.</li> </ul>	<ul style="list-style-type: none"> <li>• Lacks dialogue between public officials and citizens</li> <li>• Many citizens may not participate and provide comments as they dislike public speaking, creating lack of representativeness</li> <li>• Creates “us vs. them” sentiment (IAP2)</li> <li>• Low public representativeness</li> <li>• Potential domination by special interests</li> </ul>
<b>Small Group Problem-Solving Techniques (IAP2)</b>				
To Reach Consensus and have the IMB Commit to the Consensus	Consensus Building Techniques (Nominal Group Process) (IAP2)	<ul style="list-style-type: none"> <li>• Citizens and community groups identified by the IMB or within the Admin Process</li> <li>• Other citizens and community groups notified through “Public Information Techniques” (IAP2)</li> </ul>	<ul style="list-style-type: none"> <li>• Encourages compromise</li> <li>• Focuses on solving problems (IAP2)</li> <li>• Moderate representativeness of participants</li> <li>• Moderate to high cost effectiveness</li> <li>• High transparency of the process to the public</li> </ul>	<ul style="list-style-type: none"> <li>• Only suitable for groups interested in compromise</li> <li>• Consensus may not be achieved (IAP2)</li> <li>• Variable influence on final policy</li> </ul>
To Determine Public Opinion Based on Consensus	Advisory Committee (IAP2)	<ul style="list-style-type: none"> <li>• Citizens and community groups identified by the IMB or within the Admin Process</li> <li>• Other citizens and community groups</li> </ul>	<ul style="list-style-type: none"> <li>• Provides a detailed analysis of the issue or question</li> <li>• Provides an opportunity to compromise on an issue by listening and understanding other perspectives (IAP2)</li> </ul>	<ul style="list-style-type: none"> <li>• Public may not agree with committee recommendations</li> <li>• Consensus may not be reached (IAP2)</li> <li>• Possible high cost and indirect</li> </ul>

## Appendix A

		notified through “Public Information Techniques” (IAP2)		influence on public policy <ul style="list-style-type: none"> <li>• Moderate to low public representativeness</li> </ul>
To Determine Public Opinion Based on Consensus	Task Force (IAP2)	<ul style="list-style-type: none"> <li>• Citizens and community groups identified by the IMB or within the Admin Process</li> <li>• Other citizens and community groups notified through “Public Information Techniques” (IAP2)</li> </ul>	<ul style="list-style-type: none"> <li>• Increase credibility by including diverse interest groups</li> <li>• Allows for compromise. (IAP2)</li> </ul>	<ul style="list-style-type: none"> <li>• Consensus may not be reached or lack meaningful results</li> <li>• Possible high cost (IAP2)</li> </ul>
<b>Large Group Problem-Solving Techniques (IAP2)</b>				
To determine public input	Workshops (IAP2)	<ul style="list-style-type: none"> <li>• Citizens and community groups identified by the IMB or within the Admin Process</li> <li>• Other citizens and community groups notified through “Public Information Techniques” (IAP2)</li> </ul>	<ul style="list-style-type: none"> <li>• One-on-one or small group discussion</li> <li>• Maximizes feedback from the public</li> <li>• Promotes public ownership (IAP2)</li> </ul>	<ul style="list-style-type: none"> <li>• Need for small-group facilitators</li> <li>• Possible hostile perception of small groups as “divide and conquer” (IAP2)</li> </ul>

Source: © 2000 International Association of Public Participation, <http://www.iap2.org/corevalues/index.shtml>.

**Northern Counties Land Use Coordinating Board, Steering Work  
Group and Stakeholder Meeting**

**Process for Making Land Use Decisions  
June 2005 Pilot Project Report**  
*Developing a Mechanism to Address Land Use Issues*

**Thursday, May 26, 2005 Meeting  
9:00 a.m. to 3:00 p.m.  
Grand Rapids, MN**

**NOTES**

**Attendees:**

NCLUCB Members

Kim Bredeson – Lake of the Woods County Commissioner

Steering Work Group Members

Todd Beckel – Lake of the Woods County Commissioner

Bob Fenwick – Cook County Commissioner

Dennis Fink – St. Louis County Commissioner

Craig Engwall - DNR

Laurie Martinson - DNR

Chuck Spoden - DNR

Stakeholders

Nolan Baratono – MPCA

Len Hardy – ATVAM

Duane Kick – Superior National Forest

Kate Miller – Voyageur’s NPS

John O’Leary – US Army Corps of Engineers

Les Ollila – DNR

Terry Weber - MFRP

Legislators

Senator Tom Saxhaug

Staff

Charlie Peterson – Management Analysis Division

Susanna Wilson – Local Planning Assistance Center

**Invited:**

NCLUCB Members

Aitkin County Commissioner

Cook County Commissioner  
Koochiching County Commissioners  
Lake County Commissioners  
Marshall County Commissioners  
Roseau County Commissioners  
Pennington County Commissioners  
St. Louis County Commissioners

Steering Work Group Members

ARDC representative  
Koochiching County representative

Stakeholders

Forest Products Industry representative  
League of MN Cities representative  
NPS Midwest Regional Office representative  
Grand Portage NPS representative  
Nelson's Resort representative  
Association of MN Townships representative  
NRDC representative  
MN DEED representative  
Minnesota Environmental Partnership representative  
MN Ag Dept representative  
Superior National Forest representative  
MN Governor's Office representative  
MN BSWR representative  
Association of MN Counties representative  
IRRC representative  
HRDC representative  
US Army Corps of Engineers representative  
MN EQB representative  
MFRC representative

Legislators

Senators and Representatives from Northern Minnesota

Staff

Cook County staff  
Lake County staff  
Lake of the Woods County staff  
Marshall County staff  
Roseau County staff  
Pennington County staff  
St. Louis County staff

**Notes:**

**1. Welcome and agenda review**

Charlie Peterson welcomed meeting participants and provided a review of the meeting agenda contents.

**2. Introductions**

Meeting participants introduced themselves and stated why they “see a need for a new process” to manage land use issues and conflicts. Comments are as follows:

- Decision-making today occurs further away from individuals and the county and city level.
- Local citizens are often surprised over changes in law. A new process will avoid conflict.
- Decision-making is moving away from local decision-makers and there is a lack of coordination among decision-makers.
- We need a process (new or other) that works. A new tone of conversation, participation and ownership is required to develop decisions.
- A more progressive than defensive tone is important to the group. Natural resources, including the environment and recreation are important. Northern Minnesota is often not considered good stewards of the environment, which is an issue.
- Decisions are made that impact local citizens directly or indirectly, but do not often involve those impacted. Opening up channels of communication to let citizens know when and why decisions occur is important.
- We need a process, or to invent a process to help land use decisions. NCLUCB is a worthwhile, mature and credible group.
- Communication on the same page makes the process easier, for example with a needed ATV trail system.
- A better process is needed for technical folks and staff to work together on projects and procedure.
- Decision-making needs to occur as close to the resource as possible. For example, to protect natural resources and to support economic and environmental quality of life.
- Involving the public will create a better communications process that involves government and citizens.
- It is difficult dealing with government to government processes. There needs to be a process (not sure if one exists) that gives a voice to the public.
- We need a process to build relationships and get technical groups to work on the same side of a plan or process that is less reactive and more proactive to situations.
- Residents, local officials and state agencies need to work together to solve land use issues.
- We need a way to work together. There is a hesitant need for a process because folks are currently frustrated with the Superior National Forest “process.” Caution is needed for a new “process” that will make things difficult, especially when the process is not followed. Caution is also needed to not make the process so complex it is hard to involve folks.

**3. Background and purpose**

Bob Fenwick and Craig Engwall described the purpose of NCLUCB and provided background information about the “Reaching Better Land Use Decisions” pilot project.

- Decision-making is moving further away from the people and is often taken to regional and federal levels. The old “republican” form of government and decision-making is dissolving. The current process of land use decision-making is slanted toward special interest groups. Also, the current mindset of citizen action committees balancing the county commissioners’ work does not make sense for governance.
- A framework is needed to talk on the same page about land use issues. A better process is also needed for citizens to work with government officials. The DNR is very interested in the project and issue. Some DNR staff members, however, have expressed concerns about “what are you going to give away at the (NCLUCB) meetings.” The DNR is not giving up anything and hopes the DNR can be better partners with local government officials.

#### **4. Mechanism description**

Charlie Peterson explained the “Reaching Better Land Use Decisions” or mechanism report and the corresponding flow chart. Susanna Wilson explained the “Public Participation Process for Public Input” (Appendix A). Discussion ensued as follows:

- Can you use examples when you describe each trigger?
- How we can include the Mississippi Headwaters Board, for example, in the mechanism as a member of the IMB?
- The Process Assistance Center or the IMB can identify other possible groups to include in the IMB or that may have a technical role in the situation.
- How do issues or situations rise to the level of a trigger?
- It is sort of like an EAW/EIS. The group (agency, local government venue) can decide if it rises to the level of conflict resolution.
- If conflict exists, any group can use the process to test if criteria are triggered to move forward in the process.
- The Steering Work Group talked about how to get dialogue to diffuse conflict in moving the process forward.
- Counties implement decisions and keep communication open with decision-makers, for example.
- The federal Homeland Security border is an example of a communications issue affecting local government.
- The state Highway 2 bill for example is posturing and does not involve the public, which provides a need for a new process.
- “Government on the people and not by the people” is the current public involvement process.
- State septic issues also pose legislative conflict for local government.
- Where will interest groups fit in the mechanism process?
- The local government units (decision-makers at the implementation level) are empowered to make decisions.

- The mechanism sets different roles for government. Local government units have more weight and voice for decisions, but will take input from interest groups and citizens.
- Will the Process Assistance Center provide facilitation for a public input process?
- The federal level public input process is very different. The “public not heard” is a litigated issue based on how they follow the process. The issue is if the decision is fair and if the right folks are involved.
- We can still follow the guidelines of the mechanism and not use public input if we need to avoid that for a particular issue.
- In terms of NEPA, there is no difference in the NEPA public input process, when NEPA is done well, and the process described in the mechanism.
- The Army Corps of Engineering can involve every unit of government for an issue and will often receive no public input. The public input does occur when an EIS will arise. Today is an “age of information over load” for people to become involved in issues. The challenge is when an issue will become “hot.” How do we deal with other levels of government in the mechanism and do other agencies exist to solve problems rather than reinvent the wheel?
- NEPA gives all of the “public” an equal say in decision-making, but they will receive a few extreme decisions. There are two issues; the first is it takes a lot of time to create many alternatives when reviewing plans when only one alternative is implemented. The second issue is the process is such that the public has a trump to litigate, so staff still needs to create alternatives and involve the public in receiving input on the alternatives to allow the public to make a decision.

## 5. Process questions

### Triggers

Charlie Peterson asked if the mechanism can be triggered by other measures. Discussion followed. Other triggers include:

- A. Pending legislation
  - B. Pending rulemaking
  - C. Lawsuits – within the issue or an actual treat of a lawsuit.
  - D. Natural events – floods, gypsy moths, etc.
  - E. Private sector development – around lakeshores, for example in the Golden Crescent, etc.
- Recommendations include creating a new definition for “new law” to include legislation, rule and code.
  - The process could be built in to rule making. Discussion followed to include SONAR and government units, for example.
  - The document will stimulate folks to think about where an issue fits into the process.
  - Will the document only identify triggers to start the process?
  - The mechanism will try to be flexible.
  - How will forest plans fit into the process?
  - Local government units will have more say than the public, but does not change the way the public can provide input about an issue.

- By identifying that there are conflicts, agencies may try to avoid conflicts and be more aware of what needs to be done on an issue.
- The mechanism is not a tool to be used against the public.

### IMB Makeup

A meeting attendee asked about the make up of the IMB and if the current selection contains the right people to include in the IMB. Discussion followed.

- The agencies may have issues with the make up concerning legislative language, for example with “the Commissioner shall...”
- How did NCLUCB and the Steering Work Group create the title “Reaching **Better** Land Use Decisions?” Define “better.”
- The title could state “Conflict Avoidance and Land Use Decisions.”
- A “better” decision is one that is more compatible with local land use decisions.
- There is currently no dispute resolution mechanism, so groups cannot agree clearly and know what to do when groups cannot agree. Identifying local interests and working together will help produce durable agreements.
- A “better” decision may simply be an opportunity for local governments to provide input on an issue.
- A “better” decision may be a locally supported land use issue or interest.
- Under law, agencies are required to provide better communication between the public and government agencies.
- Northern Minnesota counties land use decisions are not negative towards private property rights. The question is what is a better land use decision?
- A “better” decision is locally driven.
- An objective balance is needed between needs and decisions, for example local versus tourist issues and federal versus community goals.
- A balance of interests is good, which requires compromise between the mission and goals of an agency. Balancing participation and local input is also good.
- Transparency is needed between the media and the issue.
- Transparency is required.
- A possible new project title is; “A Better Process of Making Land Use Decisions.”
- NCLUCB is committed to implementing the project.
- How will the tribes be included in the process as there is no mention of the tribes in the report?
- The tribes are included equally in the process. Many tribes however may not want to be involved in the process at the same level of a county.
- They could fit into any of the three IMB categories.
- The IMB appears not to be hierarchical as it could include many different levels of groups.
- The tribes may not abide by the same decisions made by the IMB.
- The tribes would exist as a “decision-maker at the implementation level” as described in the mechanism.

### Process Assistance Center

Charlie Peterson asked if the Process Assistance Center (PAC) can provide other key services. Discussion followed.

- Who would provide the PAC services? The Department of Administration (Admin)? An RDC?
- The Local Planning Assistance Center in Admin is a possibility, but the Center will dissolve on June 30, 2005.
- The Minnesota Extension Service is an option for the PAC.
- Consistency is required for the PAC as the process can change depending on the way the process or the issue is perceived. How the PAC is developed or where it exists can open it up for criticism and inconsistency.
- The documentation requirement of the IMB will help make the process, the PAC and the IMB consistent.
- If we have multiple PAC players they can individually interpret the mechanism differently to their viewpoint and interpretation. The PAC should be a single and consistent unit.
- RDC's will all approach an issue differently. Even the Admin Department could be a one size fits all approach that will have less resources and less flexibility. A partnership could occur, however, between Admin and the RDC's.
- The PAC is a considered and intended as a staff role, which may change the interpretation of "consistency."
- Influence is also exercised in staff and that should also be consistent.
- What happens if parties do not want to come on board and participate in the IMB, or criticize if they do not want to contribute?
- There are ways to help get parties that do not play fair on board.

### **6. Scenarios**

Charlie Peterson provided an overview of the Scenario discussion. He separated the participants into groups and had each group read a separate scenario and run the scenario through the "Reaching Better Land Use Decisions" mechanism and flow chart.

The groups reported back on how they used the scenario in the mechanism. They also stated how the mechanism was helpful, what problems occurred and suggested changes to the mechanism.

#3 Agency Issue – Budget Cuts: As part of the state's budget balancing bills, the departments of Administration and Natural Resources have been ordered to each sell \$2 million worth of existing real property by the end of the next fiscal year (July 2006). The departments have total discretion in determining which properties to sell, but are considering approaches for involving local governments and the public in the decision-making process.

Team members include Nolan Baratono, Todd Beckel, Craig Engwall and Duane Kick.

- The group modified the scenario to only include the DNR to make the process easier.

- Many entities are affected by selling DNR land, including, but not limited to SWCD's, the legislature, etc.
- The group did an internal inventory on how the agency would set priorities to sell DNR land. They narrowed to sell property or land in three counties and discussed on how to engage the counties. They also discussed methods like sending notices in a scoping phase, or what to do with other groups, agencies or citizens affected by the decision to sell land.
- The group selected to sell DNR land in Koochiching County. They discussed the “fear of a process running out of control” in selling land in the county. They are only required to sell \$2 million in land, but the issue can affect many people and groups that they many spend more money in the process to mitigate issues than what they would receive from the land sale.
- The group decided they would send the issue back to the agency where they discussed three options; (1) to sell land in many counties, (2) to sell land in counties with the most public land, or (3) counties may nominate themselves as a possible option to sell land in their county.
- The group questioned if the “benefit justifies the behavior” of selling the land.
- The group had an issue with the time limit of selling the land. Time is needed to sell land in one year.
- Stakeholders are an issue with user and geographic issues. The group questioned if the sale of no land in southern Minnesota, for example, affected the sale of land in Northern Minnesota.
- They group also questioned the issue about the sale of large versus small tracts of land and high priced versus low priced land and how that would affect the mechanism.

*A. Where did the mechanism work?*

- The mechanism worked at the IMB level where other units would get involved in the decision-making.
- The mechanism forced us to think about all aspects, large and small, of the issue.
- The mechanism scoped out the problem.
- The issue was driven by revenue, but the DNR in that particular issue could easily spend more money on the mechanism and working with all the public and private players than what is needed to sell land.
- The mechanism helped determine who is at the table and the timeliness of the issue.

*B. What problems were identified with the mechanism?*

- The issue itself was a “no win situation.”
- It is difficult to fit a statewide issue of limited cost and a broad issue with a short time frame into the mechanism process.
- There was no time to use the PAC.
- Money and time was an issue concerning using the PAC. Saving money on the quick is a bureaucratic nightmare.
- The process is flexible enough that you can chose not to use the PAC.

C. *What changes would you suggest to the mechanism?*

- A narrower issue is a better example to use as an “Agency Issue.” An issue with a longer timeframe, larger benefit and more money available is also a better example to run through the mechanism.
- The process works well for issues with a longer time frame, larger benefits and more money.
- This issue could create a double trigger, where three other counties could come into the process. Streamlining with the agency and local decision-makers is an option.
- This is an opportunity to see how it works in real life.
- The issue is a no win situation, but other parties could be involved in the process.
- The mechanism allows you to look at other parties involved in the issue.

#2 Local Issue – “Nasty Nat:” New residents to Northeastern Minnesota have begun planting the “European Evergreen,” a non-native landscape variety commonly used in Finland. Larva of the “Nasty Nat,” associated with the plant in Finland, was inadvertently imported with the trees. The “Nasty Nat” has no local predator in Northeastern Minnesota and has begun to kill pine seedlings at county nurseries and forests. Three LGU’s want to marshal state, federal and university expertise to devise an approach to save the forests, including possibly homeowner education, “Nasty Nat” eradication and/or development of regulations to limit plantings of the “European Evergreen.”

Team members include Dennis Fink, Len Hardy, John O’Leary and Chuck Spoden.

- The trigger in this issue is the local government unit that wants to kill the bug, but land ownership is also an issue. The group decided to include state, local, federal and private groups in the issue.
- The goal is the challenge to stop the import of the “European Evergreen” so the bug can be killed.
- The issue is the three governmental units involved. The local units lack expertise and the state and federal units have the expertise to address the issue.
- The group identified several issues:
  - (1) The question is who ultimately has authority to implement the process,
  - (2) Do the entities involved need an agreement for all to buy into an agreement,
  - (3) The issue is broad enough to use the PAC to define and scope the issue and identify the players involved,
  - (4) Another issue is the time spent on identifying the members of the IMB. The group questioned if the number of agencies and local governmental units (LGU’s) have to match. For example, if you have three separate LGU’s do you need three agency representatives in the IMB? Or, do you have three LGU’s, three state and three federal representatives in the IMB. Or, can you have one representative per agency.
  - (5) Where do technical representative exist in the process? Are they the same groups at the table who would also have expertise? An example of technical groups that could also be members of the IMB includes the Department of Agriculture and the USFS, etc. The DNR, Agriculture, USFS, pollution control, private experts, chemists and environmental experts could serve as technical advisors with this issue.

(6) The public is less involved in defining the solution to this particular problem, but they can help to work on a solution to the problem. Example, the public can help to identify ways to stop buying the plant.

- The group had questions about the process and issue and identified no conclusions.
- The group had an issue with how the Agency and NCLUCB boxes in the flow chart affect the issue or process.

A. *Where did the mechanism work?*

- The mechanism gave order to develop the players in the IMB and the process to use.

B. *What problems were identified with the mechanism?*

- It is unclear on the balance of the number of participants of the agencies and local governmental units in the IMB. They asked if it is a one to one match per group, or based on the number of groups involved.

C. *What changes would you suggest to the mechanism?*

- The group stated questions on the mechanism need clarification.
- The timing of the issue is difficult to include in the mechanism.
- The issue example creates a big, cumbersome process that is difficult to include in the mechanism.
- The mechanism is geared for long-term planning and not for short-term emergency issues.
- The issue is the time it takes to go through the process versus the time to make the decision.

#1 New Law – Mandatory rule regulating first and second tier development around lakes and rivers: A new law was passed requiring expansion of the Shoreland Management Act regulations to address problems associated with 2<sup>nd</sup> and 3<sup>rd</sup> tier development around lakes and rivers. The current Shoreland Management Act regulates land within 1,000 feet of a lake and 300 feet of a river and its designated floodplain; the new law doubles the area regulated to 2,000 feet for lakes and 600 feet for rivers. The law authorizes a pilot project to explore details of the new regulations before final rules are developed. The agency charged with implementation is the DNR.

Team members include Kim Bredeson, Bob Fenwick, Laurie Martinson and Kate Miller.

- The group used the issue to go through the process rather than to try and solve the problem.
- They identified two triggers; (1) an agency level situation could trigger the issue, and (2) a local unit of government result on planning and zoning could trigger the issue.
- The group decided both triggers (agency issue and local issue) would move the process to the right on the flow chart.
- They also decided the issue would require the help from the PAC to define the issue, the IMB team and the technical advisors. The PAC would identify the issue as statewide but it could not be identified with a broad brush.

- The PAC would identify two pilot projects and PAC's for the issue; (1) a metro pilot project, and (2) a Northern Minnesota pilot project. The metro pilot project would use Admin as the PAC. Northern Minnesota would use a regional RDC as a PAC. The issue is more complicated in northern Minnesota than in the metro area. For example, more decision-makers exist in the north.
- The IMB is equal in size between the LGU's and the agencies. The group identified seven departments and seven local officials (counties, cities and townships). Agencies involved include SWCD, DNR, BWSR, Army Corps, Tribes, NPS and RDC's (as facilitators).
- They discussed how to define a technical advisor that is "uninvolved in the issue," for example DNR staff, etc. A technical advisor is different than developers and stakeholders, for example, who would have some bias.

*A. Where did the mechanism work?*

- Public relations are important to the Process Assistance Center and the mechanism.
- Timing is critical and groups may need more time than what is available.
- The mechanism narrowed the scope of the decision-makers.
- The PAC is needed and helpful.

*B. What problems were identified with the mechanism?*

- It is helpful to have third party assistance (PAC) for a particular issue.
- To have a separate and regional PAC for Northern Minnesota was also helpful.
- The issue may drive the composition of the PAC.
- The role of technical advisors as providers of expertise rather than advocacy is needed.
- It is important to have transparent public relations, as described in the process, for the public to know and understand their role.

*C. What changes would you suggest to the mechanism?*

- To identify public relations issues within the mechanism.

## **7. Report back on scenario review**

Charlie Peterson asked the participants to provide additional observations on the scenarios and the mechanism. He also asked participants if the mechanism is a useful too and if they would use it to solve conflicts in their work area. Discussion followed.

### Observations

- Time creates challenges for the process to work versus just getting the job done.
- Costs are a challenge to implement the mechanism, especially for statewide issues.
- Making the process expedient, for example a fast track process versus earlier notice.
- The "Nasty Nat" example may be the most time driven of the scenarios. Is it possible to do the PAC in a week and start the process in fourteen days? Can the process, including the PAC, be sped up?

- The PAC can be narrowed to limit the responses and shorten the time frame. Agencies can also make quick scoping decisions, etc.
- The PAC is designed to be operational funded so staff can respond quickly.
- The “incident command” option for a lead agency in an emergency situation may be a useful tool for an issue with a short time frame.
- NEPA is a great format for participation but can prevent a good process from occurring. “Incident command” could help model short-term issues and issues that require quick resolution.
- A clear understanding of the convener or initiator and determining who will take the lead on an issue will help the process.
- Who can be involved, without involving the PAC that can be useful in determining the IMB?
- If we identify who is involved in an issue will we get agency buy in?
- It depends.
- Agency wide training is an issue.
- Public relations are important for this issue.
- The end result may be the same if one does not follow the flow chart or the mechanism exactly

Charlie Peterson asked the group if the mechanism is a useful tool.

- The participants responded yes.

Charlie Peterson asked the group if they would use it to solve conflict in their area.

- The participants responded yes.
- The mechanism is not completely different as compared to current practices and processes. With the local trigger, however, it creates a different process for local involvement. Local issues and NPS issues are usually a one-way street.
- It is a useful tool, but the reality is the conflict with local interests and broader interests. Federal agencies cannot exclude the broader national interest.
- How will the mechanism work with transboundary issues with other states or with Canada, etc?
- NCLUCB would have to ask for legislative authority to mitigate transboundary issues.
- Devils Lake is an example of a transboundary issue.
- Comments from citizens or a group from other states about our state forests is an issue to explore. Local interests have more knowledge on local issues.
- Yes, we need to refocus information used by the USFS to have a majority of influence at the local level.

**8. Reflections and next steps**

- Charlie Peterson stated the documentation of the meeting will be sent via email. The next NCLUCB meeting is on Thursday, June 9, 2005 at the Ironworld facility in Chisholm, MN, where the mechanism document will be voted on by NCLUCB for approval.
- The legislature must receive the document approved by NCLUCB on June 30, 2005.

The meeting adjourned at 2:55 PM.