

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Friday, May 8, 1998
Dining Room, Senior Meals and Services Center
Devils Lake, North Dakota

Senator Tony Grindberg, Chairman, called the meeting to order at 9:30 a.m.

Members present: Senators Tony Grindberg, Jerry Klein; Citizen Members Randy Bina, Erling Karlsbraaten, Stan Lyson, Ken Yantes; Governor Edward T. Schafer's representative Carter Wood

Members absent: Representatives Leonard J. Jacobs, Jim Torgerson; Citizen Members Jeff Fuchs, Bill Sorensen

Others present: Fay Huffman, Benson County, Minnewaukan

Verna M. Martz, Towner County, Cando
Curtis Hvinden, Benson County, Maddock
Kenneth G. Teubner, Towner County, Cando
John Grann, Towner County, Minnewaukan
Oscar Erie, Benson County, Leeds
Ardon Herman, Benson County, Minnewaukan
John T. Traynor, State Senator, Devils Lake
Bryan Hoime, North Dakota Township Officers

Association, Edmore

Richard Rathge, North Dakota State University, Fargo

Jerry Hjelmstad, North Dakota League of Cities, Bismarck

Steve Neu, Bismarck Park District, Bismarck
Roger G. Gress, Fargo Park District, Fargo
Wayne Beyer, Wahpeton Park Board, Wahpeton
Mark Johnson, North Dakota Association of Counties, Bismarck

Hjalmer Carlson, Ward County, Minot

Joe Belford, Ramsey County, Devils Lake

Eugene Nicholas, State Representative, Cando

Richard Kunkel, State Representative, Devils Lake

Robert J. Olheiser, State Land Department, Bismarck

It was moved by Citizen Member Yantes, seconded by Senator Klein, and carried on a voice vote that the minutes of the October 7, 1997, meeting be approved as distributed.

Chairman Grindberg invited Senator Jack Traynor, District 15, to address the commission. Senator Traynor welcomed the commission members to Devils Lake. He said the Devils Lake

area is experiencing problems that not only affect the local governments in the area but also affect state and international issues. If the lake can be managed properly, he said, it could be a magnificent resource for the state. He said several hundred homes have been lost to the lake, including his two years ago. In addition to affecting the tax structure of the counties, he said, the flooding is hurting businesses in the area because the city is being separated from its trade area due to the flooding.

Chairman Grindberg called on Mr. Joe Belford, Ramsey County Commissioner, for comments regarding the flooding in the Devils Lake area. Mr. Belford said the lake has risen approximately two feet this year and will likely rise nearly one more foot. He said 25 more homes may have to be moved. Since 1993, he said, the size of the lake has increased from approximately 40,000 acres to approximately 107,000 acres. The amount of water flowing into the lake in 1997, he said, was equal to the amount of water already in the lake. He said the lake has risen approximately 22 feet since 1993 and is at its highest level since 1830.

Mr. Belford said Devils Lake is a part of the Red River Basin, which comprises approximately 3,800 square miles. He said a Red River Basin Board has been formed consisting of 21 members from North Dakota, South Dakota, Minnesota, and Manitoba. He said the board has met to discuss basinwide water management and floodplain management.

Mr. Belford said the Devils Lake flooding has severely impacted the economy of the region. He said Ramsey County has approved approximately 130 tax abatements for lakeshore homes and is now reviewing abatements for agricultural land. He said the flooding is also affecting Benson County and will affect Nelson County as well. Another problem caused by the flooding, he said, is the question of ownership of the lakebed and the requirement to pay property taxes on that property.

Mr. Belford said local, state, and federal government officials are working to develop solutions for the flooding problem. He said the establishment of basinwide water management and floodplain management plans will assist in future management of the lake. In addition, he said, the proposed outlet to remove water from the lake will help to alleviate the flooding problem. He said storage sites are being used to store water, particularly on conservation reserve program land, marginal land, and public land.

Mr. Belford said over \$200 million in federal funds has been expended in the Devils Lake area in response to the flooding. He said highways have been raised or closed because nearly 120 miles of highway have been impacted by the flood. He said nearly 400 homes and businesses and other structures have been affected. He said some of the homes and businesses have been burned because the owners were unable to move the structures. Some of the homes have been moved outside the Devils Lake area, he said, which further impacts the tax base in the county. He said the utilities serving flooded land have been affected. He said the Ramsey County rural sewer system has been severely impacted, and property owners who were charged with special assessments to cover the cost of the system will likely be required to pay higher taxes.

Mr. Belford said the levee protecting the city of Devils Lake will be raised at least two more feet and may be raised up to seven more feet. He said the levee will be seven miles long, and the proposed project will likely cost in the area of \$52 million. He said the cost of the proposed outlet may be approximately \$40 million with costs of \$1.5 million for operation and maintenance. He said construction could begin on the outlet next spring if the emergency environmental impact statement is completed. He said issues that must be addressed with respect to the outlet include water quality concerns, the effect on tribal lands and resources, and opposition from Canadian interests.

COUNTY RESTRUCTURING STUDY

Chairman Grindberg called on Mr. Mark Johnson, North Dakota Association of Counties, for comments regarding the advisory study process being undertaken in several counties. Mr. Johnson submitted a written presentation, a copy of which is on file in the Legislative Council office.

Mr. Johnson said the local governance options advisory study process established under North Dakota Century Code Chapter 40-01.1 provides

that if a city or county does not establish a local advisory study committee or similar entity by August 1, 1998, an election on the question of establishing a five-member advisory study committee must be held at the next regular election in the city or county. After receiving numerous requests for information regarding the advisory study process, he said, the North Dakota Association of Counties put together a process to assist counties in starting the process. He said the association worked with the extension service, the North Dakota League of Cities, the rural development office, and the Department of Economic Development and Finance to discuss procedures regarding the advisory study process. He said a cooperative agreement was developed between the rural development office and the extension service to formulate a three-phase process that counties may follow.

Mr. Johnson said the three-phase process begins with presentations by a consultant to provide demographic, service, financial, and other key data to the advisory committee and other interested persons. During phase 2, he said, a trained facilitator from the extension service or the rural development office works with the advisory committee and others to process the information from phase 1, identify the objectives, and develop an action plan that can become the advisory committee's recommendation. He said phase 3 is a more long-term process after a governing board agrees with the recommendations of the advisory committee. He said 13 counties have participated in phase 1 of the facilitation process, and three groups are participating in phase 3.

In response to a question from Senator Klein, Mr. Johnson said the purpose of the legislation that established the advisory study process was to allow local officials to deal with the situation in their city or county. In addition, he said, the process was designed to demonstrate to the Legislative Assembly that the state does not have to make decisions to force changes at the local level.

Citizen Member Yantes said population shifts to more urban areas will require changes in services provided in rural areas. However, he said, there is resistance to change, and there must be a push to examine changes. He said the advisory study process is an excellent avenue to allow change.

Chairman Grindberg called on Mr. Ardon Herman for comments regarding realignment of county boundaries. Mr. Herman submitted a resolution, a copy of which is on file in the Legislative Council office, adopted by the North Dakota

Township Officers Association at its December 1997 meeting. The resolution requests the Legislative Council to study the merits of a constitutional amendment to allow a township by a 55 percent vote to realign with a contiguous county. He said this authority would allow a township to become a part of a county in which its regional trade center is located. He said the implementation of realignment could be done approximately every five years to reduce the costs of reorganization and production of updated maps.

In response to a question from Senator Grindberg, Mr. Herman said a vote of 60 percent could result in more stability. He said he would not oppose a change to the proposal to require a 60 percent vote. He said the proposal would require a constitutional amendment because the state constitution requires any change in county boundaries to be approved by the board of county commissioners.

In response to a question from Senator Klein, Mr. Herman said the proposal could result in concerns regarding the impact on the tax base of affected counties.

Mr. Belford said the state should encourage the sharing of services among political subdivisions.

Chairman Grindberg called on Mr. Bryan Hoime, Legislative Affairs Director, North Dakota Township Officers Association, for comments regarding the realignment proposal. Mr. Hoime said the purpose of the resolution was to address realignment that may be necessary in the future. He said realignment should only be allowed one time for each township, and implementation could be delayed to reduce costs. He said the idea should be studied to determine the impact on the tax structure of counties and the effect on school districts and the election process. He said political subdivisions need flexibility to restructure and realign.

Chairman Grindberg called on Dr. Richard Rathge, North Dakota State University Data Center, for comments regarding the survey of county and community services conducted by the center on behalf of the North Dakota Association of Counties and the Legislative Council. A copy of his comments is on file in the Legislative Council office.

Dr. Rathge said the survey was conducted in February 1998. He said the center randomly surveyed 594 persons statewide. Because results were expected to be different in urban and rural areas, he said, the survey was conducted through a two-stage stratified sampling approach through which counties were divided based upon

population. He said the survey focused on four main areas:

1. The quality of services provided by counties;
2. The cost of those services;
3. The issue of consolidation without loss of quality; and
4. The opinions of respondents relating to the structure and organization of county government.

Dr. Rathge said the overall attitude toward the quality of services provided by counties was not positive. He said approximately 55 percent of the respondents indicated that the quality of county services was average or poor. Therefore, he said, there appears to be an excellent opportunity for change. He said the poor attitude toward the services provided by counties is not a recent phenomenon because the survey indicated that 68 percent of the respondents believed that the quality of county services is about the same as five years ago. He said the attitude of the respondents toward the quality of county services was essentially the same in urban and rural areas.

Dr. Rathge said the survey indicated that the respondents were most dissatisfied with the property ownership recordkeeping services provided by counties and most satisfied with the road construction and maintenance. However, he said, the overall level of satisfaction of the respondents with respect to the quality of the services provided by the counties was only about average.

Dr. Rathge said most respondents indicated that the level of spending on the services provided by counties was just about right. He said the survey indicated that respondents believe too much money was spent on property tax administration, and too little money was spent in the areas of road maintenance, economic development, and social services. He said there were some differences in the responses in urban and rural areas in this area of the survey.

Dr. Rathge said 63 percent of the respondents indicated that their county could combine services with another county or political subdivision without losing quality. He said respondents in urban areas were more likely to believe that consolidation could be accomplished without losing quality. He said the majority of the respondents in rural counties with a population below 2,500 indicated that consolidation could not occur without losing quality. He said the respondents in rural counties generally believed that the most feasible type of consolidation would be sharing services with other counties. He said the results indicate that counties should be allowed to use technology to consolidate services.

Dr. Rathge said the respondents indicated that when faced with the option of higher taxes or combining services, most respondents would prefer to combine services. He said the level of satisfaction with the current structure of county governments was varied. He said approximately 38 percent of the respondents were dissatisfied with the current structure. However, he said, a great majority of the respondents were not in favor of replacing elected officials with appointive positions. He said urban respondents generally favored basing county funding upon population while rural respondents generally opposed that concept.

In response to a question from Citizen Member Karlsbraaten, Dr. Rathge said the survey was a random statewide sample that generally reflected the demographics of the state. He said the survey did not ask the respondents whether the respondents are likely to vote.

Dr. Rathge said the results of the survey provide policymakers with a good foundation to do something. He said the results provide a good indication that change is needed and that the impact of consolidation should be studied.

COOPERATIVE AGREEMENTS BY POLITICAL SUBDIVISIONS

Chairman Grindberg called on Mr. Jerry Hjelmstad, North Dakota League of Cities, for comments regarding cooperative agreements by political subdivisions. Mr. Hjelmstad said many cities, park districts, counties, and other political subdivisions have entered innovative partnerships. He introduced three city park district representatives who presented information relating to innovative cooperative agreements in Wahpeton, Bismarck, and Fargo.

Mr. Wayne Beyer, Director, Wahpeton Park Board, distributed written materials relating to the Prairie Rose Carousel project located at the zoo in Wahpeton. A copy of the materials is on file in the Legislative Council office.

Mr. Beyer said the carousel project was undertaken in partnership with several public and private groups and individuals. He said the zoo was in need of a method to raise funds, and the carousel has been an answer to that need. He said the National Guard assisted with the preparation of the ground where the carousel was built; gravel was donated by Richland County; and sod was provided by the golf course. The carousel was built by the park district employees, he said, with donated materials or materials purchased from local businesses at cost. He said the carousel building was designed by an instructor at

the North Dakota State School of Science who is also a city park commissioner. Trees planted by schoolchildren were donated by a landscaper, he said. He said the park district recruited sponsors for the horses on the carousel, and the horses were restored by a volunteer and were treated with a coat of seal by the auto body department at the State School of Science.

Mr. Beyer said the Wahpeton Park District frequently shares services and equipment with the city of Wahpeton. He said contributors to a project such as the carousel project must believe they have an ownership interest in the project.

Mr. Steve Neu, Director, Bismarck Park District, submitted written information relating to a 1996 sales tax initiative in Bismarck. A copy of the information is on file in the Legislative Council office. Mr. Neu said the sales tax initiative used the existing city sales tax to complete eight projects that had been in progress or proposed by the city, county, school district, and park district. He said the funds were available because the bonds for the Civic Center renovation had been paid off five years early. Because there was a competing initiative to use the sales tax funds for property tax relief, he said, the proponents of the initiative to complete the projects for the political subdivisions worked hard to inform the electorate of the benefits of their initiative. He said the initiative provided investment for growth and completed projects that benefited the city, county, school district, and park district. In addition, he said, 25 mills of direct property tax relief were maintained. He said the revenues collected from the sales tax provided funding for projects that would have required property tax money.

Mr. Roger G. Gress, Director, Fargo Park District, submitted written information relating to a cooperative project with the Fargo School District. A copy of the information is on file in the Legislative Council office. Mr. Gress said the park district works closely with the Fargo City Engineering and Planning Departments and developers to develop neighborhood parks and implement a trail system in the city. He said the park district has worked with the various athletic associations to improve athletic and recreational facilities and has worked with North Dakota State University to develop a soccer complex.

Mr. Gress said the park district built a new swimming pool by Fargo North High School and has worked with the school district to share the facilities and costs, including a shared bathhouse that is attached to the high school. He said the park district received \$150,000 from private funds to build a larger pool. In addition, he said, the park district rents the indoor pool from the

school and has contributed \$400,000 for two gyms and a running track. He said the park district and the school district also share a baseball diamond, and the school rents an ice arena from the park district.

Mr. Gress said it is sometimes easier to build a facility without cooperating with other entities. However, he said, cooperation saves money and resources for all the entities involved. He said the park district and the school district are cooperating on future projects to build recreational facilities at a proposed new school and to share facilities at most other schools in Fargo.

Chairman Grindberg called on Mr. Robert J. Olheiser, State Land Commissioner, for comments regarding barriers to cooperation. Mr. Olheiser submitted a written summary of his presentation, a copy of which is on file in the Legislative Council office.

Mr. Olheiser said he has worked with political subdivisions frequently to examine possible areas for change. He said it is important to look for an opportunity and the right timing for change and take into account the popularity of community and political leaders. He said it becomes more difficult to reorganize a governmental structure the longer people accept inefficiencies. If a person announces an intention to leave office, he said, there is usually an opportunity for change in that area. Because the merits of a change alone are often not enough to promote the change, he said, officials and administrators must push forward for the change. He said there is a direct correlation between the size of a community and the resistance to change in that, as the size of a community decreases, resistance to change increases. Because it is virtually impossible to find time to promote change, he said, community leaders must decide if it is important to make the effort to promote a change. He said it is much easier to defeat a proposal for change than it is to actually implement a proposal. Therefore, he said, it is important to put emphasis on getting people to vote. If a change suggests not electing an incumbent, he said, resistance occurs spontaneously. Because shorter timeframes generally

result in opposition to a proposal for change, he said, community leaders should allow plenty of time for discussion of proposals. Although there is often a political price to pay for being a leader promoting change, he said, community leaders must be willing to point the way for change.

In response to a question from Senator Grindberg, Mr. Olheiser said because time generally reduces the resistance to change, community leaders should allow for time to address concerns and to build confidence in leadership.

In response to a question from Mr. Wood, Mr. Olheiser said if a group of political subdivisions is working to support a project, it is often beneficial to use community business leaders to promote the issue to show the interest of the leaders and avoid the perception of governmental entities "ganging up" to push a project.

Mr. Olheiser said the Legislative Assembly should continue to support legislation to provide choices for political subdivisions to cooperate. He said there is a great need for change in local governments due to changing economic and demographic trends.

Chairman Grindberg said the commission will likely hold two more meetings during this interim. He said potential subjects for future meetings include the discussion of problems associated with state agencies shifting liability concerns to political subdivisions as a result of sovereign immunity, discussion of consolidation issues being proposed in South Dakota, and additional discussion regarding the advisory study process being undertaken in several counties.

Citizen Member Bina said he would like to see further discussion of the issue proposed by the commission during the previous interim relating to the consolidation of mill levies.

There being no further business, Chairman Grindberg adjourned the meeting at 2:35 p.m.

John D. Bjornson
Commission Counsel