

LEGISLATIVE-CITIZEN COMMISSION ON MINNESOTA RESOURCES

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Susan Thornton, Director

MINUTES

Wednesday, December 2, 2015

9:00 a.m. – 4:00 p.m.

State Office Building, Room 5

St. Paul, MN 55155

Members Present: Jeff Broberg, Sen. Gary Dahms, Sen. Kari Dziedzic, William Faber, Nancy Gibson, Bonnie Harper-Lore, Gary Lamma, Rep. Denny McNamara, Norman Moody, Rep. John Persell, Sen. David Tomassoni, Rep. Paul Torkelson, Rep. Jean Wagenius, Sen. Torrey Westrom, Della Young

Staff Present: S. Thornton, M. McDonough, M. Banker, D. Griffith

Members Excused: Rep. Tom Hackbarth, Sen. John Hoffman

Co-Chair: Sen. David Tomassoni

1. Approve the minutes for October 20, 2015

Co-Chair Tomassoni started the meeting at 9:10 a.m.

MOTION (00:00:22): Commissioner Gibson moved to approve the minutes for October 20, 2015 – motion prevailed.

2. Members report potential conflicts of interest regarding today's business

MS 116P.09 Subd 6 Conflict of interest. A commission member, technical advisory committee member, a peer review panelist, or an employee of the commission may not participate in or vote on a decision of the commission, technical advisory committee, or peer review panel relating to an organization in which the member, panelist, or employee has either a direct or indirect personal financial interest. While serving on the commission, technical advisory committee, or peer review panel, or being an employee of the commission, a person shall avoid any potential conflict of interest.

Members reported no conflicts of interest for today's meeting.

Susan Thornton reviewed the meeting packets and mentioned that a summary packet of all members Conflict of Interest reported for the 2016 (FY17) Environment and Natural Resources Trust Fund (ENRTF) proposals is on file and will be appended to the December 2nd minutes. (Attachment #1).

3. Carver County request to convey land acquired with ENRTF funds, in Lake Waconia Regional Park, to the DNR for a public boat access. LCCMR approval is required for land conveyances according to M.S 116P.15 LAND RESTRICTIONS. ENRTF funding was from M.L. 2011, First Special Session, Chp. 2, Art. 3, Sec. 2, Subd. 04c "Metropolitan Regional Park System Acquisition" – Presenters: Marty Walsh (Carver County) and Emmet Mullin (Metropolitan Council)

Marty Walsh (Carver County), Emmet Mullin and Jan Youngquist (Metropolitan Council) gave a presentation on Carver County request to sell land acquired with ENRTF funds, in Lake Waconia Regional Park, to the DNR for a public boat access.

Co-Chair Tomassoni stated that in the materials for Item 3 on page one it states that the county will pay back \$356,020 but the correct amount is on page 5 at \$347,620. (See Attachment #2)

Commissioner McNamara asked if the monies returned could be reallocated to build the access on the lake. Susan Thornton explained that according to statute (M.S 116P.15 LAND RESTRICTIONS)

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the monies are to be paid to the corpus of the Environment and Natural Resources Trust Fund or be used for the purchase of land of equal or greater value.

Members requested that the staff consult with the House and Senate research staff regarding options for the dollars to be used to build the boat access.

MOTION: Commissioner Moody moved to approve Carver County request to convey land acquired with ENRTF funds, in Lake Waconia Regional Park, to the DNR for a public boat access - M.L. 2011, First Special Session, Chp. 2, Art. 3, Sec. 2, Subd. 04c "Metropolitan Regional Park System Acquisition". Co-Chair Tomassoni tabled the agenda item while staff determines whether or not it is possible to reallocate the monies instead of repaying the Environment and Natural Resources Trust Fund.

4. Discuss DNR Direct and Necessary for ML2016 Environment and Natural Resources Trust Fund Proposals – Presenter: Barb Juelich (DNR)

Barb Juelich (DNR) gave a presentation on DNR's Direct and Necessary for M.L. 2016 Environment and Natural Resources Trust Fund Proposals.

Commissioner Harper-Lore requested the total DNR Direct and Necessary dollars in the 2016 proposals be provided at the next LCCMR meeting on December 10.

(01:52:00) Members reverted back to the agenda Item #3. Co-Chair Tomassoni explained to members that the monies have to be returned to the corpus of the Environment and Natural Resources Trust Fund and asked Commissioner Moody if he wanted to renew his motion.

RENEWED MOTION (01:52:03): Commissioner Moody renewed his motion to move to approve Carver County request to convey land acquired with ENRTF funds, in Lake Waconia Regional Park, to the DNR for a public boat access - M.L. 2011, First Special Session, Chp. 2, Art. 3, Sec. 2, Subd. 04c "Metropolitan Regional Park System Acquisition" – motion prevailed.

5. Review for adoption LCCMR Appropriations Bill for the 2016 MN Legislative Session Funding Recommendations from the Environment and Natural Resources Trust Fund (ENRTF)

- **ENRTF Draft Appropriations Bill for M.L. 2016 (FY2017) including items requiring members attention related to recommended appropriations**
- **M.L. 2016 ENRTF Recommendations Spreadsheet (FY2017)**

Susan Thornton reviewed the materials for LCCMR Appropriations Bill for the 2016 MN Legislative Session.

Staff handed out three sheets: (1) M.L. 2016 LCCMR Recommendations Potential Technical Changes to draft Language for Consideration (white sheet); (2) LCCMR funding recommendations for 2016 (FY2017) – Scenario A – Draft (12-1-15) (yellow sheet); and (3) LCCMR funding recommendations for 2016 (FY2017) – Scenario B – Draft (12-1-15) (green sheet).

Staff reminded members as of the LCCMR meeting on October 20 members recommended \$45,402,000 so there is a remaining balance of \$935,000 to be allocated.

MOTION (02:31:20): Commissioner Wagenius moved the handout titled "M.L. 2016 LCCMR Recommendations Potential Technical Changes to draft Language for Consideration" – motion prevailed. (See Attachment #3)

MOTION (02:33:08): Commissioner Broberg moved the LCCMR Appropriations Bill language with staff directed to make technical changes including:

- ENRTF ID: 180-G (Subd. 09e) "Wilder Forest Acquisition" by adding the following language "This appropriation is not subject to Minnesota Statutes, section 116P.10"
- ENRTF ID: 181-G (Subd. 09f) "Lincoln Pipestone Rural Water System Acquisition for Well Head Protection" by adding the draft language included in the draft paragraph "Land outside of the

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well head protection area may be acquired from willing sellers to facilitate Internal Revenue Code 1031 land exchanges for land within the wellhead protection area. M.S. 116P.15 land restrictions shall be on the lands put in to public ownership within the well head protection area through either direct purchase or land exchange”

– motion prevailed.

Members recessed at 11:50 a.m. and reconvened at 12:35 p.m. and moved to Agenda Item #6 to discuss the Emerging Issues Account (02:38:55).

MOTION (02:55:10): Commissioner Moody moved on the spreadsheet titled “LCCMR funding recommendations for 2016 (FY2017) – Scenario A – Draft (12-1-15)” allocating additional dollars from the Environment and Natural Resources Trust Fund 2016 Recommendations to the following:

- ENRTF ID: 001-A (Subd. 03e) “Completing the National Wetland Inventory Update for Minnesota”, DNR, Steve Kloiber increase by \$300,000 for a total recommendation of \$1,500,000
 - ENRTF ID: 047-B (Subd. 04j) “Innovative Assessment of Minnesota’s Surface Waters from Space”, U of MN, Jacques Finlay increase by \$95,000 for a total recommendation of \$345,000
 - ENRTF ID: 154-F (Subd. 8c) “Seeding between the Lines: Permanent Habitat Within”, Science Museum of Minnesota, Shawn Schottler increase by \$20,000 for a total recommendation of \$179,000
 - LCCMR Data Management System for \$75,000
- motion prevailed.

6. Emerging Issues Account Procedure and Issue Discussion – M.L. 2015, Chp. 76, Sec. 2, Subd. 10, “Emerging Issues Account”, \$1,000,000

Members started discussions on the Emerging Issues Account.

MOTION (02:59:45): Commissioner Dahms moved on the spreadsheet titled “LCCMR funding recommendations for 2016 (FY2017) – Scenario A – Draft (12-1-15)” allocating dollars from the Emerging Issues Account to the following:

- ENRTF ID: 037-B (Subd. 04a) “Tracking and Preventing Harmful Algal Blooms”, Science Museum of Minnesota, Dan Engstrom for \$93,000
- ENRTF ID: 038-B (Subd. 04b) “Increasing Harmful Algal Blooms in Minnesota Lakes”, U of MN, Miki Hondzo for \$71,000 for a total of \$164,000 from the Emerging Issues Account and the rest of the Emerging Issue Account would be set aside for Avian Flu responses if needed.

AMENDMENT: Commissioner Wagenius moved to amend Commissioner Dahms motion to move ENRTF ID: 037-B (Subd. 04a) “Tracking and Preventing Harmful Algal Blooms”, Science Museum of Minnesota, Dan Engstrom for \$93,000 and ENRTF ID: 038-B (Subd. 04b) “Increasing Harmful Algal Blooms in Minnesota Lakes”, U of MN, Miki Hondzo for \$71,000 from the Emerging Issues Account and split an additional \$336,000 from the emerging issues account between ENRTF ID: 037-B and ENRTF ID: 038-B and increase ENRTF ID: 174-G (Subd. 09a) “State Parks and State Trails Land Acquisition”, DNR, Jennifer Christie increase by \$336,000 plus the \$445,000 on the spreadsheet for a total of \$781,000 from the Environment and Natural Resources Trust Fund 2016 Recommendations. Commissioner Dahms did not accept amendment.

RENEWED MOTION: Commissioner Dahms renewed his motion to move on the spreadsheet titled “LCCMR funding recommendations for 2016 (FY2017) – Scenario A – Draft (12-1-15)” allocating dollars from the Emerging Issues Account to the following:

- ENRTF ID: 037-B (Subd. 04a) “Tracking and Preventing Harmful Algal Blooms”, Science Museum of Minnesota, Dan Engstrom for \$93,000

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- ENRTF ID: 038-B (Subd. 04b) "Increasing Harmful Algal Blooms in Minnesota Lakes", U of MN, Miki Hondzo for \$71,000 for a total of \$164,000 from the Emerging Issues Account and the rest of the Emerging Issue Account would be set aside for Avian Flu responses if needed.
- motion prevailed.

MOTION (03:21:21): Commissioner Moody moved on the spreadsheet titled "LCCMR funding recommendations for 2016 (FY2017) – Scenario A – Draft (12-1-15)" allocating additional dollars from the Environment and Natural Resources Trust Fund 2016 Recommendations to the following: ENRTF ID: 174-G (Subd. 09a) "State Parks and State Trails Land Acquisition", DNR, Jennifer Christie increase by \$445,000 for a total recommendation of \$2,445,000.

Commissioner Wagenius suggested designating the \$445,000 specifically for State Parks and Trails along the MN River. Commissioner Moody accepted Commissioner Wagenius suggestion.

RENEWED MOTION: Commissioner Moody renewed his motion to move from the spreadsheet titled "LCCMR funding recommendations for 2016 (FY2017) – Scenario A – Draft (12-1-15)" regarding allocating additional dollars from the Environment and Natural Resources Trust Fund 2016 Recommendations the following: ENRTF ID: 174-G (Subd. 09a) "State Parks and State Trails Land Acquisition", DNR, Jennifer Christie increase by \$445,000 for a total recommendation of \$2,445,000 and the \$445,000 is designated specifically for the State Parks and Trails along the MN River – motion prevailed.

MOTION (03:24:06): Co-Chair Tomassoni moved to adopt the ENRTF Draft Appropriations Bill for M.L. 2016 to the 2016 MN Legislative Session Funding Recommendations the FY17 Environment and Natural Resources Trust Fund as amended. The staff are requested to make any grammatical, stylistic and technical changes as needed – motion prevailed (unanimous – 13 members present).

7. Environmental Quality Board 2015 Water Policy Plan – Presenters: Anna Henderson and Erik Dahl (EQB)

Anna Henderson and Erik Dahl (EQB) gave a presentation on the Environmental Quality Board 2015 Water Policy Plan. Members discussed.

Commissioner Wagenius requested the pesticide appendix from the 2015 Water Policy Plan.

8. Begin Discussion FY18 LCCMR 2017 ENRTF Request for Proposal (RFP)

Members discussed and gave staff the following suggestions:

- Under the water and air topic areas, add "New techniques that can result in significant measurable prevention of air and water contamination"
- Economic study of the ecosystem services studies
- Effectively engage an aging population in natural resources
- Environmental health issues – what are the impacts
- Under the Environmental Education Issue area consider opportunities for teachers to work with students

9. Review LCCMR 2016 Calendar

Staff handed out a corrected calendar for 2016. Members discussed and suggested moving the dates at the end of June to June 27, 28 and 29 instead of June 28, 29, and 30 to avoid the 4th of July weekend.

10. Other business (as needed)

- **Next steps in the process**
- **Next meeting Thursday, December 10, 2015**

Commissioner McNamara requested updates on the AIS Center funding at the next meeting.

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Commissioner Young asked about letters received by email from Rep. Daudt and Greg Hubinger. Co-Chair Tomassoni said it was the intent to take those up at a future LCCMR Executive Committee meeting.

11. Adjourn

The meeting adjourned at 2:50 p.m.

FY17 Conflict of Interest

ENRTF ID	LCCMR Member
042-B	Commissioner Faber reported a conflict of interest for ENRTF ID: 042-B "Morrison County Performance Drainage and Hydrology Management", Morrison SWCD. Written statement attached. (Attachment #1)
088-B	Commissioner Young reported a conflict of interest for ENRTF ID: 088-B "Surface Water Bacterial Treatment System Pilot Project", Vadnais Lake Area Water Management Organization. Written statement attached. (Attachment #2)
099-C	Commissioner Gibson reported a conflict of interest for ENRTF ID: 099-C "Expanded Wolves at Our Door Program", International Wolf Center. Written statement attached. (Attachment #3)
134-D	Commissioner Broberg reported a conflict of interest for ENRTF ID: 134-D "Invasive Carp Applied Research in Lake Nokomis Subwatershed", Minneapolis Park and Recreation Board and ENRTF ID: 173-F ". Written statement attached. (Attachment #4)
153-E	Co-Chair Persell stated he does not have a conflict for ENRTF ID: 153-E "Solar Solutions to Minnesota Energy Poverty", Rural Renewable Energy Alliance but would like it noted that he works for the Leech Lake Band of Ojibwe. The Leech Lake Band of Ojibwe are partners in the ENRTF ID: 153-E proposal but will not be receiving any funding from this proposal.
173-F	Commissioner Broberg reported a conflict of interest for ENRTF ID: 134-D "Invasive Carp Applied Research in Lake Nokomis Subwatershed", Minneapolis Park and Recreation Board and ENRTF ID: 173-F ". Written statement attached. (Attachment #4)
183-G	Commissioner Lamma reported a conflict of interest for ENRTF ID: 183-G, "Tower Historic Harbor Nature Trail/Kayak Route", City of Tower. Written statement attached. (Attachment #5)
n/a	Commissioner Kari Dziedic reminded members of a letter on file from Tom Bottern, Senate Counsel, regarding a family member working at the DNR affirming that it did not constitute a conflict of interest with MN DNR's proposals submitted. (Attachment #6)

Diana Griffith

To: Susan Thornton
Subject: RE: Faber COI 42B

From: William Faber [<mailto:WFaber@clcmn.edu>]
Sent: Wednesday, September 30, 2015 7:22 AM
To: Susan Thornton <susan.thornton@lccmr.leg.mn>
Subject: Re: DNR launches voluntary program to test ducks for avian influenza

Dear Susan and LCCMR Co-Chairs Persell, Gibson, and Tomassoni,

I would like to officially notify you of an upcoming conflict of interest that I have, concerning the proposal hearing of Project 042-B Morrison County Performance Drainage and Hydrology Management, scheduled for Wed. October 7 at 2:45 P.M. (I don't plan on attending that entire day, but still want this put in the official minutes) - I would like to recuse myself from that hearing, and any other actions concerning that project. If you need further information or justification kindly let me know, otherwiese a confirmation of receipt of this e-mail would be greatly appreciated-

Thanks kindly, see you tomorrow- Dr. Bill Faber

William E. "Bill" Faber, Ph.D., Certified Wildlife Biologist®
Natural Resources Program Head, Dept. of Natural Resources
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"We all answer the calls of life: family, God, friends, and career. Some of us hear an additional voice, the call of conservation." Jim Slinsky



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Diana Griffith

Subject: FW: 88-B - Conflict of Interest Statement

From: Young, Della NS [<mailto:dnsyoung@burnsmcd.com>]
Sent: Monday, September 21, 2015 4:20 PM
To: Susan Thornton <susan.thornton@lccmr.leg.mn>
Cc: Young, Della NS <dnsyoung@burnsmcd.com>
Subject: 88-B - Conflict of Interest Statement

LCCMR Commission Members:

Burns & McDonnell Engineering Consulting firm is assisting the Vadnais Lake Are Water Management Organization (VLAWMO) with this proposal. As an employee of Burns & McDonnell a conflict of interest exists.

Thanks,

Della Schall Young, PMP, CPESC \ Burns & McDonnell
Sr. Hydrologist \ Regional ES&P Manager
O 952.656.3613 \ M 651.249.6974
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September 18, 2015

Senator David Tomassoni-Co-Chair LCCMR
Representative John Persell- Co-Chair LCCMR
LCCMR Office
Room 65 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155

Dear Senator Tomassoni and Representative Persell:

This letter declares that I have a conflict of interest with LCCMR proposal 99C "Expanded Wolves at Our Door" submitted by the International Wolf Center. I am a current member of the board of directors at the International Wolf Center.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy Gibson". The signature is fluid and cursive, with a large loop at the beginning and a long horizontal stroke at the end.

Nancy Gibson
LCCMR Co-Chair
2712 Glenhurst Ave.
St. Louis Park, MN 55416

Jeffrey S. Broberg

LCCMR Citizen Commissioner

11596 Persons Rd, St. Charles, MN 55972

C 507-273-4961

LCCMR Chairmen and Executive Committee

c/o Susan Thornton, Executive Director

Rm 5 State Office Building

St. Paul, MN 55155

Re: Avoidance of appearance of conflict of interest.

Projects

173-F Restoring the City of Champlain's Northern Gateway

134-D Invasive Carp Applied Research in Lake Nokomis sub watershed.

Dear LCCMR Chairs and Ms. Thornton:

I wanted to be put on record information relative to my current employment at WSB Associates, Inc. who was named in two LCCMR proposals 134-D and 173-F. Two years ago I sold my ownership interest in McGhie & Betts Environmental Services (38 employees) to WSB Associates, Inc. (350 employees). At the time of the sale I entered into an employment contract with WSB as a Senior Environmental Manager for the Environmental Natural Resources and Permitting Group in Rochester, MN. I have no stock or other ownership interest in WSB and I gain no financial benefit directly from any WSB projects.

No Prohibited Conflict of Interests.

For the two projects where WSB has been mentioned as possible consulting engineers WSB is not the project proposer. I have no direct, or indirect interest in the project proposers, the City of Champlain or the Minneapolis Park and Recreation Board, therefore, I do not believe I have a prohibiting conflict of interest in projects 134-D and 173-F.

Conflict of Interest Managed Through Procedures:

I am not an employee of the project proposers, nor would I gain any direct financial benefit if WSB were selected as a project consultant and I do not have any conflict in these regards. However, due to the possibility that WSB Associates, Inc. could be selected as a consultant by these project proposers it is remotely possible that I could be asked to provide consulting services to the project proposers. For this reason, however remote, I prefer to avoid any appearance of conflict of interest and therefore I will not advocate for, or against, nor vote on projects 134-D or 173-F.

Sincerely:



Jeffrey S. Broberg

Diana Griffith

Subject: FW: Conflict of Interest Letter Needed

From: Gary Lamma [mailto:glamma@crdlc.net]
Sent: Thursday, September 17, 2015 4:15 PM
To: Susan Thornton <susan.thornton@lccmr.leg.mn>
Subject: Re: Conflict of Interest Letter Needed

I have declared a conflict of interest for 183g the Tower Historic Harbor project. While working for SEH, I secured this project for SEH engineering and upon my retirement they have retained me as a consultant. I understand that I cannot participate in advocating for or voting as it has to do with this project. Thank you.

Sent from my iPad
Gary Lamma, Principal
Community Resource Development
Office phone: 651-770-7417
Cell phone: 218-260-9639
glamma@crdlc.net

**Senate Counsel, Research,
and Fiscal Analysis**

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THOMAS S. BOTTERN
DIRECTOR

Senate

State of Minnesota

TO: Senator Kari Dziedzic

FROM: Tom Bottern, Director (651/296-3810) *TSB*

DATE: June 29, 2012

RE: LCCMR Procedures -- Analysis of Conflict of Interest
Regarding a Family Member

You have asked me whether the Procedures of the Legislative-Citizen Commission on Minnesota Resources (LCCMR Procedures) (as adopted September 23, 2008, and attached to this memo as you provided them to me) raise any concerns regarding a potential conflict of interest arising from your brother-in-law's employment with the Minnesota Department of Natural Resources (DNR). After reviewing the procedures and the information you have provided to me, I do not believe a conflict of interest exists.

Item C, section 7 of the LCCMR Procedures deals with conflicts of interest. Under the heading titled "Conflict of Interest to be Managed through Procedures" the LCCMR Procedures state "nevertheless, certain affiliations may constitute a conflict of interest that must be managed by the LCCMR. They include...having a family relationship with a proposer or a staff or board member of a proposing organization." The LCCMR Procedures then state that a conflict of interest must be identified before or during the initial proposal review process, and that a member who has declared a conflict of interest "may not advocate for or against the proposal or vote on the proposal."

The first step in evaluating this issue is to determine whether your brother-in-law can be considered a "family member" within the meaning of the LCCMR Procedures, which do not contain a definition of the term "family member". In the absence of a specific definition, the term should be given a reasonable construction and interpretation based on the common understanding of the term. With that in mind, I have reviewed selected Minnesota Statutes in search of a definition of the term "family member." There are several sections in statute that



define the term "immediate family member." One example is Minnesota Statutes, section 58A.02, subdivision 4, found in the chapter of law regulating Individual Mortgage Licensing. This subdivision defines "immediate family member" as follows:

58A.02 DEFINITIONS.

Subd. 4. Immediate family member.

"Immediate family member" means a spouse, child, sibling, a parent, grandparent, or grandchild. This includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

Another example is Minnesota Statutes, section 181.947, which provides unpaid leave for immediate family members of military personnel injured or killed in active service. Minnesota Statutes, section 181.947, subdivision 1, paragraph (e), defines "immediate family member" to mean "a person's parent, child, grandparents, siblings, or spouse."

I did not find a statute that defines in-laws (whether siblings or parents related by marriage) as family members. As you can see, the two statutes I have cited in this memo do not contain a reference to in-laws, even though they provide a broad and inclusive definition of the term "immediate family member." These definitions in statute provide a strong basis to interpret the term "family member" as it used in the LCCMR Procedures not to include siblings related by marriage.

I do not believe the term "family member" as it is used in LCCMR Procedures includes a relationship to a sibling by marriage. For this reason alone, I believe the LCCMR Procedures do not require you to declare a conflict of interest with respect to any LCCMR project proposal involving your brother-in-law.

/TSB
Attachment

cc: Greg Knopff

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Susan Thornton, Director

Date: November 16, 2015

To: Senator David Tomassoni
Senator Bill Ingebrigtsen
Representative Denny McNamara
Representative Rick Hansen

From: Susan Thornton, Director

Subject: Notice of request for potential land conveyance of five-acres of Carver County Lake Waconia Regional Park property acquired with ENRTF funds to the DNR

I am writing to you on behalf of the LCCMR regarding a potential conveyance of a 5-acre parcel in Lake Waconia Regional Park purchased with funds from the Environment and Natural Resource Trust Fund (ENRTF). Minnesota Statute 116P.15 (below) requires that the LCCMR notify the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over the ENRTF at least 15 business days before approval of a land conveyance.

The LCCMR agenda for December 2, 2015 will include this request by Carver County to sell the 5 acres of Lake Waconia Regional Park property partially funded with ENRTF funds to the MN DNR for a public water access.

The ENRTF funds paid for 28% (\$1,020,000) of the purchase of the 19.3 acre property in March 2013. The county is choosing to pay the proportional amount of ENRTF funds back to the ENRTF instead of the alternative of requesting to replace the land with equal or better value. The county is proposing to pay the ENRTF back \$356,020 -- 28% of the appraisal price for the 5 acre boat access site to be sold to the DNR.

The intent to resell part of the property to the DNR was not was not previously communicated to the LCCMR either through amending the acquisition list or other work plan reporting.

The Metropolitan Council was the recipient of 2011 ENRTF funds and made a sub-grant to Carver County as one of the ten Regional Parks Implementing Agencies, to acquire property in Lake Waconia Regional Park. This 5-acre boat access property is part of the 2013 Lake Waconia Regional Park acquisition of approximately 19.3 acres for \$3,552,352, acquired with a combination of funds of \$2,571,724 from the Metropolitan Council and Carver County along with \$1,020,000 from the ENRTF - M.L. 2011, First Special Session, Chp. 2, Art. 3, Sec. 2, Subd. 04c

Carver County's Metropolitan Council approved Lake Waconia Regional Park master plan includes the boat access on these 5-acres within the park. The DNR will build and pay for the access but the county's

Jeff Broberg, Sen. Gary Dahms, Sen. Kari Dziedzic, William Faber, Nancy Gibson, Rep. Tom Hackbarth, Bonnie Harper-Lore, John Hoffman, Gary Lamppa, Rep. Denny McNamara, Norman Moody, Rep. John Persell, Sen. David Tomassoni, Rep. Paul Torkelson, Rep. Jean Wagenius, Sen. Torrey Westrom, Della Young

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parks department will manage it as part of the larger park. As a state public water access there will be no fees charged to use the access. The County and the DNR have been in discussions for more than ten years about having the County purchase part of the property for the regional park and the DNR acquiring 5 acres of it for the boat access. The landowner became a willing seller in 2013 and wanted to sell right away. The DNR did not have the funds available for the boat access part at that time so the county purchased the entire 19.3 acre property with the idea that it would sell the 5 acres to the DNR at a later date. The county is seeking to be paid by the DNR at this time for the 5 acre boat access site.

The 5-acres for the public water access was appraised at \$1,271,500 and the County and the DNR have agreed on a \$1,100,000 purchase price. We understand that the DNR intends to use funds from the "Game and Fish Account" and other agency funds to acquire the property and then seek 2015 Federal Aid for reimbursement of 75% of the purchase price. The DNR sent an election to purchase notice to the county on July 21, 2015, prior to the end of the federal fiscal year on September 31, 2015 so it is eligible for reimbursement. However, the closing cannot take place until the conveyance issue is resolved.

The Metropolitan Council Parks and Open Space Commission (MPOSC) reviewed and recommended approval of Carver County's Lake Waconia Regional Park request to sell the 5-acre parcel to the DNR and to repay the ENRTF \$356,020 at their October 6, 2015 meeting and forwarded their recommendation to the Metropolitan Council Community Development Committee which also recommended the request at their October 19, 2015 meeting and forwarded it to the Full Metropolitan Council which reviewed and approved the request at their October 28, 2015 meeting.

The letter requesting the conveyance and related materials are attached.

Please let me know in advance of the meeting if you have questions or concerns.

cc: LCCMR Executive Committee
Emmet Mullin, Metropolitan Council
Deb Jensen, Metropolitan Council
Marty Walsh, Carver County

M.S. 116P.15 LAND ACQUISITION RESTRICTIONS.**Subdivision 1.Scope.**

A recipient of an appropriation from the trust fund or the Minnesota future resources fund who acquires an interest in real property with the appropriation must comply with this section. For the purposes of this section, "interest in real property" includes, but is not limited to, an easement or fee title to property.

Subd. 2. Restrictions; modification procedure.

LEGISLATIVE-CITIZEN COMMISSION ON MINNESOTA RESOURCES

(a) An interest in real property acquired with an appropriation from the trust fund or the Minnesota future resources fund must be used in perpetuity or for the specific term of an easement interest for the purpose for which the appropriation was made. The ownership of the interest in real property transfers to the state if: (1) the holder of the interest in real property fails to comply with the terms and conditions of the grant agreement or work plan; or (2) restrictions are placed on the land that preclude its use for the intended purpose as specified in the appropriation.

(b) A recipient of funding who acquires an interest in real property subject to this section may not alter the intended use of the interest in real property or convey any interest in the real property acquired with the appropriation without the prior review and approval of the commission or its successor. The commission shall notify the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over the trust fund or Minnesota future resources fund at least 15 business days before approval under this paragraph. The commission shall establish procedures to review requests from recipients to alter the use of or convey an interest in real property. These procedures shall allow for the replacement of the interest in real property with another interest in real property meeting the following criteria:

(1) the interest must be at least equal in fair market value, as certified by the commissioner of natural resources, to the interest being replaced; and

(2) the interest must be in a reasonably equivalent location, and have a reasonably equivalent useful conservation purpose compared to the interest being replaced, taking into consideration all effects from fragmentation of the whole habitat.

(c) A recipient of funding who acquires an interest in real property under paragraph (a) must separately record a notice of funding restrictions in the appropriate local government office where the conveyance of the interest in real property is filed. The notice of funding agreement must contain:

(1) a legal description of the interest in real property covered by the funding agreement;

(2) a reference to the underlying funding agreement;

(3) a reference to this section; and

(4) the following statement:

"This interest in real property shall be administered in accordance with the terms, conditions, and purposes of the grant agreement controlling the acquisition of the property. The interest in real property, or any portion of the interest in real property, shall not be sold, transferred, pledged, or otherwise disposed of or further encumbered without obtaining the prior written approval of the Legislative-Citizen Commission on Minnesota Resources or its successor. The ownership of the interest in real property transfers to the state if: (1) the holder of the interest in real property fails to comply with the terms and conditions of the grant agreement or work plan; or (2) restrictions are placed on the land that preclude its use for the intended purpose as specified in the appropriation."

History:

LEGISLATIVE-CITIZEN COMMISSION ON MINNESOTA RESOURCES

1Sp2001 c 2 s 141; 2002 c 225 s 4; 2006 c 243 s 21; 2013 c 52 s 6

M.S. 116P.10 ROYALTIES, COPYRIGHTS, PATENTS, AND SALE OF PRODUCTS AND ASSETS.

(a) This section applies to projects supported by the trust fund and the oil overcharge money referred to in section 4.071, subdivision 2, each of which is referred to in this section as a "fund."

(b) The fund owns and shall take title to the percentage of a royalty, copyright, or patent resulting from a project supported by the fund equal to the percentage of the project's total funding provided by the fund. Cash receipts resulting from a royalty, copyright, or patent, or the sale of the fund's rights to a royalty, copyright, or patent, must be credited immediately to the principal of the fund. Receipts from Minnesota future resources fund projects must be credited to the trust fund. The commission may include in its legislative bill a recommendation to relinquish the ownership or rights to a royalty, copyright, or patent resulting from a project supported by the fund to the project's proposer when the amount of the original grant or loan, plus interest, has been repaid to the fund.

(c) If a project supported by the fund results in net income from the sale of products or assets developed or acquired by an appropriation from the fund, the appropriation must be repaid to the fund in an amount equal to the percentage of the project's total funding provided by the fund. The commission may include in its legislative bill a recommendation to relinquish the income if a plan is approved for reinvestment of the income in the project or when the amount of the original grant or loan, plus interest, has been repaid to the fund.

History:

1988 c 690 art 1 s 14; 1993 c 172 s 79; 2003 c 128 art 1 s 151; 2008 c 367 s 3; 2009 c 143 s 5

Attachment H: Timeline of Boat Launch and Associated Financial Transactions

Date	Action		
1995	Met Council approved an acquisition master plan for Lake Waconia Regional Park that delineated the park boundaries		
October 2001	Lake Waconia Regional Park development master plan approved by Met Council— included a planned boat launch		
2004-2015	Negotiations occurred between Carver County and the DNR regarding the boat launch		
December 2009	Met Council issues grant for acquisition of property adjacent to the planned boat launch site using Parks and Trails Funds and Council bonds.		
	<table border="1"> <tr> <td data-bbox="410 520 1105 573">Total Acquisition Costs</td> <td data-bbox="1105 520 1489 573" style="text-align: right;">\$876,763</td> </tr> </table>	Total Acquisition Costs	\$876,763
	Total Acquisition Costs	\$876,763	
	<table border="1"> <tr> <td data-bbox="410 573 1105 625">Total Grant</td> <td data-bbox="1105 573 1489 625" style="text-align: right;">\$657,572</td> </tr> </table>	Total Grant	\$657,572
	Total Grant	\$657,572	
Parks and Trails Fund (45% of costs)	\$394,543		
Met Council Bonds (30% of costs)	\$263,029		
Carver County (25% of costs)	\$219,191		
2012-2013	Negotiations between Carver county and key property owner for boat launch project land are accelerated		
June 2013	Met Council issues grant for acquisition of 19.29 acre property, a portion to be used for the boat launch. DNR does not have funds available for the acquisition, so Carver County purchases the entire parcel, with the plan to sell to DNR once funds are available.		
	<table border="1"> <tr> <td data-bbox="410 993 1105 1045">Total Acquisition Costs</td> <td data-bbox="1105 993 1489 1045" style="text-align: right;">\$3,629,240</td> </tr> </table>	Total Acquisition Costs	\$3,629,240
	Total Acquisition Costs	\$3,629,240	
	<table border="1"> <tr> <td data-bbox="410 1045 1105 1098">Total Grant</td> <td data-bbox="1105 1045 1489 1098" style="text-align: right;">\$1,700,000</td> </tr> </table>	Total Grant	\$1,700,000
	Total Grant	\$1,700,000	
ENRTF (28% of costs)	\$1,020,000		
Met Council Bonds (19% of costs)	\$680,000		
Carver County (53% of costs)	\$1,929,240		
March 2015	Carver County and DNR enter into Cooperative Agreement and Option for Purchase of 5.17 acres of land for boat launch. 5.05 acres of boat launch site is part of the 19.29 acres acquired in 2013. The remaining .12 acres is on the adjacent property purchased in 2009.		
July-October 2015	Staff from Met Council, Carver County, DNR, and LCCMR discuss transaction and refunding of ENRTF and Parks and Trails Fund money		
	<table border="1"> <tr> <td data-bbox="410 1497 1105 1549">Appraised Value of 5.17 acres to be sold to DNR</td> <td data-bbox="1105 1497 1489 1549" style="text-align: right;">\$1,271,000</td> </tr> </table>	Appraised Value of 5.17 acres to be sold to DNR	\$1,271,000
	Appraised Value of 5.17 acres to be sold to DNR	\$1,271,000	
	Value of 5.05 (proportionate to appraisal)	\$1,241,499	
	Proposed amount to be refunded to LCCMR (28% of \$1,241,499)	\$347,620	
	Value of 0.12 acres (proportionate to appraisal)	\$29,501	
Proposed amount to be refunded to Met Council's Park Acquisition Opportunity Fund (45% of \$29,503)	\$13,276		



Carver County Parks

Attachment #2

Department of Public Works

11360 Highway 212

Suite 2

Cologne, MN 55322

Phone (952) 466-5250 Fax (952) 466-5223

www.co.carver.mn.us/parks

11360 Hwy. 212 West, Suite 1

Cologne, Minnesota 55322

Phone (952) 466-5200

Fax (952) 466-5223

November 16, 2015

Ms. Susan Thornton
Director
LCCMR
100 Rev. Dr. Martin Luther King Jr. Blvd.
State Office Building, Room 65
St. Paul, MN 55155

Dear Ms. Thornton:

Lake Waconia is the second largest lake in the Metropolitan area and is a tremendous recreation destination for many types of water based recreation activities. Notably the lake hosted the 2012 Governor's Fishing Opener and annually has the largest vintage and antique snowmobile show in the world.

The Minnesota Department of Natural Resources, Metropolitan Council, and Carver County have been working together in partnership to plan, acquire land, design, develop and maintain a public water access at Lake Waconia Regional Park for many years. Early work between the agencies was conducted as a part of the 1995 Acquisition Master Plan and the 2001 Development Master Plan for Lake Waconia Regional Park.

While discussions with the DNR for acquisition, development and maintenance of water access have been ongoing since 2004, it wasn't until 2012 that negotiations for a key parcel of property for the boat launch became a pressing matter when the owner threatened legal action against the County if the County would not work in good faith to acquire the lake shore property. This property had been mapped for park purposes and prevented the owner from negotiating sales with other buyers. The County reached agreement with the property owner (Pauls) and took ownership on June 13, 2013. The cost was \$3,629,240. Carver County paid 53% of the acquisition costs, which was \$1,929,240 and received a grant in the amount of \$1,700,000 from the Metropolitan Council's Park Acquisition Opportunity Fund. The grant was funded with \$1,020,000 in Environment and Natural Resources Trust Fund (ENRTF) dollars (28% of acquisition costs) and \$680,000 in Council bonds (19% of acquisition costs). The DNR was not able at that time to participate in funding but has remained engaged in the partnership and committed to purchasing land from the County for the public water access when funding became available.

On March 3, 2015, Carver County executed an Option for the Purchase of Real Estate and Memorandum of Conditions with the DNR to sell 5.17 acres of lakeshore property at Lake Waconia Regional Park for a boat access. The area to be acquired by the DNR is consistent with the master plan for the park. The appraised price of the property is \$1,271,000. However, Carver County has agreed to sell the property at a price of \$1,100,000 (the amount the DNR offered). The DNR will develop the boat access site and cooperate in planning, constructing, and managing the site, consistent with plans for Lake Waconia Regional Park.

The area to be sold to the DNR extends over two separate acquisitions for Lake Waconia Regional Park. The Metropolitan Council authorized Grant SG-2013-074 (June 12, 2013) to Carver County to acquire the 19.29 acre Pauls property described above. Within this parcel, 5.05 acres would be sold to the DNR. Further, since 28% of the funding was provided by the ENRTF for acquisition of this parcel, Carver County

will repay the ENRTF the proportionate amount calculated at 28% of the appraised land value on 5.05 acres. The amount to be repaid to ENRTF will be \$347,620.

Appraised value of property	\$1,271,000 or \$245,841.40 per acre
Value of 5.05 acres	\$1,241,499 (\$245,841.40 x 5.05)
Proportionate value to be refunded to ENRTF	\$ 347,620 (\$1,241,499 x 0.28)

The Metropolitan Council also authorized Grant SG 2009-075 (December 9, 2009) that was used to acquire 1.28 acres of the Country Store Garden and Floral parcel. Funding was provided through the Park Acquisition Opportunity Fund and consisted of Council Bonds and Parks and Trails Legacy Funds. Within this parcel, 0.12 acres would be sold to the DNR for the boat access. Since 45% of the funding was provided by Parks and Trails Legacy Fund (PTLF) for this parcel, Carver County will repay the PTLF account of the Park Acquisition Opportunity Fund 45% of the appraised land value on 0.12 acres. The amount to be repaid is \$13,276.

Appraised value of property	\$1,271,000 or \$245,841.40 per acre
Value of 0.12 acres	\$ 29,501 (\$245,841.40 x 0.12)
Proportionate value to be refunded to PTLF	\$ 13,276 (\$29,501 x 0.45)

The below summary is provided.

Carver County is selling 5.17 acres to the DNR, which consists of 0.12 acres from the former Country Store parcel at a value equal to \$29,501, and 5.05 acres from the Pauls parcel at value equal to \$1,241,499 for a total of \$1,271,000.

Sale of Land to DNR:	\$1,100,000
Refund PTLF:	\$ -13,276 (45% of appraised value of \$29,501)
Refund of ENRTF:	\$ - 347,620 (28% of appraised value of \$1,241,499)
Refund to Carver County:	\$ 739,104

Carver County is currently eligible to receive \$1,929,240 in a future Capital Improvement Program (CIP) of the Metropolitan Council for acquisition of the 19.29 acre parcel. The County proposes to reduce its eligible expense on this parcel by \$739,104 upon the sale of land to the DNR, and the County would be eligible for reimbursement in a future CIP of the Metropolitan Council on the remaining balance of \$1,190,136.

Further, an easement area consisting of 1.64 acres over the existing roadway of Paradise Lane is to be provided to the DNR for access to the property.

The Metropolitan Council took the following action on October 28, 2015.

1. Direct staff to work with Carver County to request approval from the Legislative-Citizen Commission on Minnesota Resources (LCCMR) for the sale of 5.05 acres and for the 1.64-acre access easement to the DNR on land acquired using Environment and Natural Resources Trust Fund dollars.
2. Contingent upon approval by the (LCCMR):
 - a. Consent to the sale of 5.17 acres of land by Carver County to the Minnesota Department of Natural Resources (DNR) for development of a boat access site at Lake Waconia Regional Park, as described in Attachment A and shown in Attachment B.
 - b. Release the restrictive covenants on the 5.17 acres of land to be sold to the DNR.
 - c. Consent to the 1.64 acre access easement to be granted by Carver County to the DNR as described in Attachment C and shown in Attachment D.

- d. Require Carver County to reimburse \$13,276 to the Metropolitan Council's Park Acquisition Opportunity Fund to account for the sale of 0.12 acres of land acquired with Minnesota Parks and Trails Fund dollars.
 - e. Revise the amount the Council will consider reimbursing Carver County from its share of future Regional Parks Capital Improvement Programs for acquisition of 19.29 acres at Lake Waconia Regional Park to be up to \$1,190,136 in order to account for the sale of 5.17 acres to the DNR.
3. Inform Carver County that the Council does not under any circumstances represent or guarantee that reimbursement will be granted, and expenditure of local funds never entitles a park agency to reimbursement.

Carver County will repay the Environmental and Natural Resources Trust Fund the amount of \$347,620 and the Park Acquisition Opportunity Fund \$13,276 of Parks and Trails Legacy Funds. The net proceeds from the sale of land at \$739,104 are used to reimburse Carver County for acquisition for the public water access site.

The Metropolitan Council and Carver County respectfully request that the LCCMR consent to the sale of the property and conveyance of the access easement to the DNR. Additionally, in accordance with ENRTF requirements and Minnesota Statutes 116P.15, the Metropolitan Council and Carver County will place a restrictive covenant on the remaining area of the 19.29 acre site not sold the DNR.

Attached please see supporting information of DNR Cooperative Agreement, DNR Option Agreement and Notice of Election of Purchase, exhibit of the boat access area, location of the boat access area within Lake Waconia Regional Park, legal description of the property and Attachment H of the Metropolitan Parks and Open Space Commission Staff Report: Timeline of Boat Launch and Associated Financial Transactions.

The Metropolitan Council and Carver County are excited to work with the DNR on this project which has created win-win situations for Metropolitan Council, Carver County, DNR and the public.

Sincerely,





Martin Walsh
Parks Director

Lake Waconia

5.17 acres ±
Note: Parcel includes
a water boundary
therefore calculated
area is approximate.

Paradise Lane

Trunk Highway 5

-  Proposed Boat Launch Parcel
-  Proposed 66-foot Ingress/Egress Easement Center Line



Lake Waconia Regional Park
Proposed Boat Launch Parcel





Minnesota Department of Natural Resources

500 Lafayette Road • St. Paul, MN • 55155-4039

November 30, 2015

LCCMR Director Susan Thornton
100 Rev. Dr. Martin Luther King Jr. Blvd.
State Office Building – Room 65
St. Paul, MN 55155

Dear Susan:

The Minnesota Department of Natural Resources (MN DNR) is writing this letter to support the Metropolitan Council's request to allow Carver County to sell land it purchased, in part, with LCCMR funds to the MN DNR. The Metropolitan Council received the LCCMR appropriation, and then sub-granted the funds to Carver County to acquire land for the development of a new regional park in the city of Waconia.

For the past 10 years, the MN DNR has been in regular, on-going discussions with Carver County regarding the proposed Lake Waconia Regional Park. The MN DNR's role in this partnership is to acquire land and develop a public boat access within the proposed park boundary. Due to other financial obligations, the MN DNR was not able to purchase the 5 acres of land needed for the boat access at the time the private landowner was willing to sell. Instead, Carver County acquired the land for the park and for the public boat access, with the intent of selling the boat access land to the MN DNR at some later point in time. In March 2015, Carver County signed an option to sell the public boat access lands to the MN DNR. The Metropolitan Council decided in October to approve the proposal, contingent on LCCMR approval. The MN DNR cannot complete this land acquisition from Carver County until the LCCMR agrees to allow the sale of these lands to MN DNR.

Carver County provided helpful partnership support by acquiring the boat access lands when the MN DNR was unable to do so. Obtaining the necessary approval from LCCMR will allow the MN DNR to uphold its partnership obligations in the development of Lake Waconia Regional Park. The MN DNR will have staff present at the upcoming LCCMR meeting on December 2, 2015, to address MN DNR's partnership role in this project should questions arise.

Sincerely,

Dana Vanderbosch
State Parks and Trails Acquisition and Development Manager
MN DNR, Division of Parks and Trails



**M.L. 2016 LCCMR RECOMMENDATIONS
POTENTIAL TECHNICAL CHANGES TO DRAFT LANGUAGE FOR CONSIDERATION**

Subd. 3. Foundational Natural Resource Data and Information

(d) A Statewide Monitoring Network for Changing Habitats in Minnesota (ID: 004-A – Bruce Carlson, \$645,821)

\$500,000 the second year is from the trust fund to the commissioner of natural resources to develop a consolidated statewide network of permanent habitat monitoring sites in prairies, forests, and wetlands to help guide and prioritize habitats for protection and management decisions in response to environmental change. The monitoring of plots ~~will include the design and testing of methodologies to address the status of pollinators and pollination must include determining if seeds are being set on plants through pollination or if a lack of pollinators is negatively affecting plant regeneration.~~ This appropriation is available until June 30, 2019, by which time the project must be completed and final products delivered.

Subd. 4. Water Resources

(b) Assessing the Increasing Harmful Algal Blooms in Minnesota Lakes (ID: 038-B - Miki Hondzo, \$395,249)

\$270,000 the second year is from the trust fund to the Board of Regents of the University of Minnesota for the Saint Anthony Falls Laboratory to investigate lake processes and meteorological conditions triggering algal blooms and toxin production, develop ~~an internet based infrastructure models~~ for tracking blooms, and provide outreach on the prediction, detection, and impacts of mitigation of algal bloom events. This work must be done in cooperation with the St. Croix Watershed Station of the Science Museum of Minnesota and the Minnesota Pollution Control Agency. This appropriation is available until June 30, 2019, by which time the project must be completed and final products delivered.

Subd. 5. Environmental Education

(b) School Forests Outdoor Classrooms (ID: 091-C - Amy Kay Kerber, \$766,563)

\$440,000 the second year is from the trust fund to the commissioner of natural resources in cooperation with the Conservation Corps of Minnesota and Iowa to renovate and restore sixty school forests and train students, teachers, ~~and~~ school district facility staff, ~~and~~ community volunteers to be long-term stewards of the school forests and provide education and ~~service learning outdoor recreation~~ experiences at school forest sites. This appropriation is available until June 30, 2019, by which time the project must be completed and final products delivered.

Subd. 8. Methods to Protect, Restore, and Enhance Land, Water, and Habitat

(g) Mesabi Trail Segment from Highway 135 to the CityTown of Embarrass (ID: 178-G - Robert Manzoline, \$1,200,000)

\$1,200,000 the second year is from the trust fund to the commissioner of natural resources for an agreement with the St. Louis and Lake Counties Regional Railroad Authority for engineering and construction of segments of the Mesabi Trail, totaling approximately six miles between Highway 135 and the CityTown of Embarrass. This appropriation is available until June 30, 2019, by which time the project must be completed and final products delivered.