

**LEGISLATIVE-CITIZEN COMMISSION ON MINNESOTA RESOURCES**

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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.**

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(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.
	<b>Total Acquisition Costs</b> <span style="float: right;"><b>\$876,763</b></span>
	<b>Total Grant</b> <span style="float: right;"><b>\$657,572</b></span>
	Parks and Trails Fund (45% of costs) <span style="float: right;">\$394,543</span>
	Met Council Bonds (30% of costs) <span style="float: right;">\$263,029</span>
	Carver County (25% of costs) <span style="float: right;">\$219,191</span>
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.
	<b>Total Acquisition Costs</b> <span style="float: right;"><b>\$3,629,240</b></span>
	<b>Total Grant</b> <span style="float: right;"><b>\$1,700,000</b></span>
	ENRTF (28% of costs) <span style="float: right;">\$1,020,000</span>
	Met Council Bonds (19% of costs) <span style="float: right;">\$680,000</span>
	Carver County (53% of costs) <span style="float: right;">\$1,929,240</span>
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
	<b>Appraised Value of 5.17 acres to be sold to DNR</b> <span style="float: right;"><b>\$1,271,000</b></span>
	Value of 5.05 (proportionate to appraisal) <span style="float: right;">\$1,241,499</span>
	Proposed amount to be refunded to LCCMR (28% of \$1,241,499) <span style="float: right;">\$347,620</span>
	Value of 0.12 acres (proportionate to appraisal) <span style="float: right;">\$29,501</span>
	Proposed amount to be refunded to Met Council's Park Acquisition Opportunity Fund (45% of \$29,503) <span style="float: right;">\$13,276</span>





# 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](http://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

