Minutes of the

SPECIAL MEETING OF THE METROPOLITAN PARKS AND OPEN SPACE COMMISSION

Tuesday, May 6, 2014

Committee Members Present:

Dean Johnston, Rick Theisen, Tony Yarusso, William Weber, Carrie Wasley, Barbara Schmidt, Robert Moeller, Wendy Wulff, Council Liaison

Committee Members Absent:

Sarah Hietpas, Anthony Taylor

CALL TO ORDER

A quorum being present, Committee Chair Johnston called the meeting of the Council's Metropolitan Parks and Open Space Commission to order at 4:03 p.m. on Tuesday, May 6, 2014.

APPROVAL OF AGENDA AND MINUTES

It was moved by Moeller, seconded by Weber to approve the agenda of the May 6, 2014 meeting of the Metropolitan Parks and Open Space Commission. **Motion carried.**

Wulff asked for an amendment to the minutes in the first full paragraph on page 5. She clarified that the Thrive Workgroup provided feedback on the ideas but did not order any particular action by the MPOSC.

It was moved by Schmidt, seconded by Yarusso to approve the amended minutes of the April 22, 2014 special meeting of the Metropolitan Parks and Open Space Commission. **Motion carried.** Wasley abstained.

PUBLIC INVITATION

Invitation to interested person(s) to address the Commission on matters not on the agenda.

Laura Hedlan, a resident from Eagan spoke to the benefits of kids in green spaces. She believes microbes in the body need to interact with microbes in the trees/plants. She encouraged the group to be thinking about interaction with natural surfaces as opposed to asphalt surfaces. She references a website: www.naturallearning.org as well as an article: *Benefits of Connecting Children with Nature.*

BUSINESS

Park Acquisition Opportunity Fund Grant Request for Intercity Regional Trail, Two Easements, Three Rivers Park District - Tori Dupre, Senior Planner

Dupre gave a presentation outlining the request from Three Rivers Park District for a Park Acquisition Opportunity Fund Grant for two easements for the Intercity Regional Trails as described in the staff report provided.

Weber stated that the second aerial map of the proposed easement in the packet may be incorrect. Dupre stated she will check on this and swap this out if it is incorrect.

Yarusso asked if the Community Development Director is someone at the Met Council and have we always had him sign off on grants? Dupre confirmed and stated that they used to be signed by the Regional Administrator.

Weber made the motion and it was seconded by Wasley to recommend that the Metropolitan Council:

METROPOLITAN COUNCIL

1. Authorize a grant of up to $25,071 from the Parks and Trails Legacy Fund Acquisition Account to Three Rivers Park District to finance up to 75% of the costs to acquire two permanent public trailway easements for the Intercity Regional Trail described in Attachment 2. The grant will be financed as follows:

   - $15,043 from the FY2014 Parks and Trails Legacy Fund appropriation, and
   - $10,028 from Metropolitan Council bonds

   Three Rivers Park District will match the grant with up to $8,357, its 25% share of the total acquisition cost.

2. Authorize the Community Development Director to sign the grant agreement and accompanying documents including the restrictive covenant.

Johnston called for a vote. **Motion carried unanimously.**

Park Acquisition Opportunity Fund Grant Request for Hyland Bush Anderson Lakes Park Reserve (7501 Izaak Walton Road), City of Bloomington - Tori Dupre, Senior Planner

Dupre gave a presentation outlining the request from the City of Bloomington for a Park Acquisition Opportunity Fund Grant to acquire a parcel for Hyland Bush Anderson Lakes Park Reserve. She noted that they plan to demolish the existing structures.

Wasley asked if the City has thought about having the house moved. Randy Quale, City of Bloomington stated that they have looked at moving it, however it does not seem to be viable to move it. He noted that they will look at reusing materials within it – cabinets, etc.

Wasley asked if the City has considered using it for other purposes such as a maintenance building. Quale responded it would not be needed at this location. He noted that they have talked to the City police about using it for training.

Moeller encouraged Quale to talk to Hennepin County Land Trust and/or make every effort to reuse the structure.

Weber commented this land is expensive. He discussed the expense involved to complete this process.

Wasley asked if there has been any thought given to restructuring the road. Quale responded that the road is already non-conforming with a very narrow right of way. He stated that their options are very limited and noted that with the structure remaining there isn't room for a trail.

Weber stated that the value of the property seems to be in the land. He felt this, being higher than the appraised value, is very expensive. Yarusso stated he would like to see appraisals broken down showing the value of the land and the structure separately in the future.

Steve Sullivan, Dakota County Parks shared a perspective that they've had similar situations. He noted that these homes tend to be the exceptions where most inholdings within master plans do not include structures. He discussed the value of what it will bring to the bigger vision.

Theisen discussed the total number of acquisitions needed for this park reserve and how many have been acquired so far. He asked Quale to bring back information outlining this information including the total amount invested.

Wulff noted that some of these acquisitions get very expensive. She noted how Scott County realigned a trail master plan to avoid several acquisitions. Quale stated that they are doing their best to be judicial in their expenses. He discussed how acquisitions are weighted in the master plan as critical or significant.

Wasley discussed the situation in Washington County where a land owner did not want to sell. She noted that sometimes master plans may need to be 'rethought'.

Dupre noted that there was a general cost breakdown for this acquisition on page 3 of the staff report.

Quale responded to an earlier question that the value of the home was $113 thousand noting that the real value in this acquisition is in the land.

Weber made the motion and it was seconded by Moeller to recommend that the Metropolitan Council:

1. Authorize a grant of up to $420,000 from the Parks and Trails Legacy Fund Acquisition Account to the City of Bloomington to finance up to 75% of the costs to acquire 0.3 acres at 7501 Izaak Walton Road in Bloomington for the Hyland-Bush-Anderson Lakes Park Reserve. The grant is financed as follows:
   - $252,000 from the FY2014 Parks and Trails Legacy Fund appropriation, and
   - $168,000 from Metropolitan Council bonds

   The City will match the grant with up to $140,000 for its 25% share of the total acquisition costs.
2. Consider reimbursing the City of Bloomington up to $140,000, its 25% share of the total acquisition costs, from a future Regional Park Capital Improvement Program. 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.
3. Authorize the Community Development Director to sign the grant agreement and accompanying documents including the restrictive covenant.

Johnston called for a vote. **Motion carried unanimously.**

Regional Parks Policy Plan Discussion and Confirmation: Recommendations for Promoting Multi-Modal Access - Jan Youngquist, Planning Analyst and Raintry Salk Senior Parks Researcher

Youngquist reviewed the presentation given at the last MPOSC meeting regarding multi-modal access promotion as outlined in the materials provided. She discussed work sessions held and idea themes including three categories: 1) awareness; 2) collaboration; and 3) planning.

Youngquist reviewed policy concepts listed in Attachment B of the materials provided staring with awareness.

Wasley asked if part of the concept would be to work with the Highway Department for wayfinding signage. Youngquist stated that would be more of a local issue however this will be discussed more under project idea presentation later in this meeting.

Moeller asked if the 'game plan' includes a regional website. Youngquist responded that this too will be discussed further during the project idea presentation.

Youngquist next reviewed collaboration.

Wasley asked if we have any information on Nice Ride MN regarding how much it is used. Youngquist stated that she can research this and send out an email to commission members.

Wulff stated it would also be helpful to know what the cost to the IA's would be.

Weber suggested having County Highways build shoulders at least 6 feet wide where they lead to a regional park. Youngquist stated that we can talk about the importance of this idea and will share with our transportation staff, however we cannot mandate. Weber stated that he is advocating for best practices.

Wulff shared that she is on the Transportation Policy Plan (TPP) Workgroup and there is much discussion regarding bike trails, so this sort of thing is being advocated.

Yarusso discussed survey done by MnDOT regarding bike facilities on roads and asked if this is something the TPP Workgroup will see. Wulff noted there are MnDOT folks on the Workgroup.

Youngquist next discussed planning.

Salk discussed work plan project ideas and began with awareness.

Wulff noted that the Council just approved an Iphone and Android App for 2015 for Metro Transit.

Salk next discussed ideas related to collaboration.

Yarusso stated he would like to see exploration of moving routes to be closer to regional parks and trails. Youngquist responded that transit was very clear that language stated 'along existing routes'.

Wulff felt sighting regional parks near park and rides did not seem feasible.

Moeller suggested linking dollars for promoting passes on buses to regional parks and large events. Wulff stated that currently Metro Transit does budget for some of these free passes.

Moeller stated we want to build awareness of our parks and we want to build transit usage so it seems like they go together.

Yarusso stated he has heard the suggestion from folks regarding putting park and rides near parks or vice versa.

Marty Walsh, Carver County Parks offered that under the planning section adding 'or planned' to the following statement: 'identify any existing <u>or planned</u> local trail connections to sites'. He also discussed dealing with bike rack and/or lockers (not both). He stated bike trails, where appropriate, should be added.

Jennifer Ringold, Minneapolis Parks discussed Nice Ride MN and suggested focusing support of bike share and car share, not necessarily Nice Ride MN.

Weber asked why you would want car share at regional parks. Ringold discussed 'go cars' that are being widely used and this would be smart long term as a way to get to a park. Salk noted that she often sees many of these cars at a regional park near her residence in Minneapolis.

Steve Sullivan, Dakota County Parks noted that they lack transit to their parks. He discussed local connections. He felt there is a need, in terms of awareness, of how people can connect to our parks. Under collaboration, it is beyond local jurisdictions. He felt we should include regional/state agencies as well. He discussed how our current system fits in these policies.

Theisen discussed recreational and commuting purposes of trail use and asked if there are conflicts with these two uses. Youngquist stated this could be a long discussion and agreed that there are regional trails that are used for both commuting and recreating and noted that they are in discussions with the transit folks regarding this issue.

Mark Themig, Scott County suggested promotions on busses and trains as well as just bus stops. He also discussed capitalizing on equipment available and discussed the Mystic Lake buses he sees. He suggested that the Met Council use busses not in service during the day or on weekends for school groups, etc.

Youngquist suggested investigating further under park plan projects.

Wasley asked that the shuttle costs at Como be looked at.

Yarusso made the motion and it was seconded by Weber to recommend that the Metropolitan Council incorporate the policy concepts identified in Attachment B into the 2040 Regional Parks Policy Plan and the project ideas into a future Regional Parks and Natural Resources Work Plan.

Moeller stated if in the 2040 plan there's a goal of park usage equitability we're going to have to put dollars in different places. He wants to make sure we're increasing awareness funding as a goal.

Stefferud noted that under projects it discussed building web base. Moeller wants to ensure the dollars are set aside.

Salk stated that she is hearing that this will be a high priority in our work plan and therefore it will need to be budgeted for.

Wasley discussed grants and how we get to the under-represented people. She likes the idea that this will be elevated on staff's workplan.

Johnston called for a vote. **Motion carried unanimously.**

Salk discussed next steps.

Stefferud commended the work of Jan Youngquist and Raintry Salk.

Park Acquisition Opportunity Fund Grant Rule Changes as Amendment to 2030 Regional Parks Policy Plan - Arne Stefferud, Manager Parks and Natural Resources

Stefferud gave a presentation of the proposed amendment as outlined in the materials provided. He reviewed CDC's questions for MPOSC. He then discussed the Whitepaper on Eminent Domain – what and why. He discussed the condemnation process (3 phases). He discussed soft costs that a park agency pays for negotiated purchase.

Stefferud reviewed the conclusions listed in the materials provided and discussed the recommended action.

Schmidt clarified that this is what will go to the Council and asked that 'occasionally' be changed to 'rarely' on the first page.

Weber stated he was encouraged by the low soft costs. He asked why the Met Council doesn't just pay for land and not any condemnation costs. Stefferud responded to include costs related to acquiring land and discussed 'friendly condemnations' because land owners pursue this negotiation process. He reiterated that 'soft costs' are comparable to 'negotiated costs.'

Weber asked should there be a limit on the amount of 'soft costs' that could be covered. Stefferud reviewed the analysis done and stated he has no basis to recommend a limit on soft costs as a percentage of the total costs.

Theisen stated the only reason to put a limit on legal costs would be to force the IA's to be reasonable with negotiating. He feels they would be reasonable.

Wulff discussed example #4 and noted in this case a percentage limit wouldn't have made a difference. She commented if this case had not settled, she feared it would have compromised future funding for parks noting this made national news.

Stefferud discussed grants of $1.7 million that didn't fund entire acquisitions. He discussed rules – 'x' amount per agency per fiscal year. He noted that this is a difficult recommendation to make a limitation on however this is the Commission's prerogative.

Steve Sullivan, Dakota County Parks spoke to recent condemnations done and noted that this is the first time Dakota County has used condemnation. He discussed Federal dollars available to build the greenway system. He noted that even when they've got willing sellers, a percentage of soft costs can be high, so it's hard to pick a percentage. He noted that Dakota County supports the work of staff.

Sullivan discussed an additional change he'd like to suggest regarding the use of parks dedication in development areas and suggested that jurisdictions be asked to seek the land dedication and allow IA's to pay the cash value to the local jurisdiction. He felt that local jurisdictions prefer the cash and that the land can then be acquired at a much lower rate to the IA's through this process.

Stefferud clarified the language Sullivan is looking for.

Wasley stated that she is frustrated with changes being proposed in the 11th hour.

Stefferud noted that this was not brought up in the hearing process.

Wasley asked if this suggestion could be brought back to the next meeting. Stefferud stated yes, but the next meeting has an extensive agenda already.

Theisen stated his previous proposed amendment was coming from current MPOSC members and also came from a Council liaison and he now regrets making the amendment. He would feel comfortable voting for the recommendation as presented at this time.

Yarusso clarified what has changed with the amendment. Stefferud clarified the language.

Wasley suggested bringing this back. Stefferud explained that if this is brought back, then not taking action today would make more sense.

Wulff clarified that concerns were raised and under discussion for some time.

Theisen stated that his issue, as a new person on the Commission, is he had the impression that this was coming from staff.

Jonathan Vlaming, Three Rivers Park District stated he supports the language in regards to eminent domain. He suggested bringing Sullivan's requested changes back as a discussion as part of the policy plan update.

Wasley motioned and it was seconded by Theisen to recommend that the Metropolitan Council adopt an amendment to the *2030 Regional Parks Policy Plan* to replace the Park Acquisition Opportunity Fund Grant Rules currently found in Chapter 4 with rules that were considered through the February 18, 2014 public hearing with additional language to the rules as shown below:

Qualifying Land Acquisition Costs:

The following items are eligible in calculating the total costs of the acquisition:

a. Appraisal cost for the acquiring regional park implementing agency or as part of a condemnation settlement/award consistent with applicable provisions of Minnesota Statute Chapter 117; **…**

e. Legal services and closing costs to the park agency for costs associated with the purchase or condemnation settlement/award including attorney's fees, litigation expenses, appraisal fees and other expert fees consistent with Minn. Stat. § 117.031 that the park agency must pay as part of a condemnation action; …

j. Negotiated purchase price for the parcel or condemnation settlement/award consistent with applicable provisions of Minnesota Statute Chapter 117; …

k. Relocation costs to the seller consistent with Minn. Stat. § 117.52 and Minn. Stat. § 473.315; …

Eminent domain.

Occasionally a park agency may need to acquire land by exercising its power of eminent domain through the initiation of a condemnation proceeding. When land is acquired through the condemnation process, a Park Acquisition Opportunity Fund grant may be awarded; however, a grant is awarded at the end of the condemnation proceeding that is based on 75% of the final settlement/award and associated grant-eligible costs under applicable provisions of Minnesota Statute Chapter 117 to acquire the land and within the agency maximum for the fiscal year when the grant is awarded. The park agency should notify the Metropolitan Council prior to filing its petition in condemnation with the district court that it is acquiring land through

Condemnation and will be requesting a Park Acquisition Opportunity Fund grant when the final award is determined. The notification to the Metropolitan Council should be in a letter that contains the park agency's authorization to file its petition and the accompanying documents containing its appraisal of the land. In condemnation matters, the final settlement/award and final certificate should be submitted to the Council in lieu of a signed purchase agreement.

(The complete set of rules with this language is shown in Attachment 1)

Yarusso proposed a motion to amend striking litigation expenses from (e.). There was no second to the motion to amend. **The motion to amend failed.**

Johnston called for a vote. **Motion carried unanimously.**

INFORMATION

None.

REPORTS

Chair: None.

Staff: Stefferud reported that there will be a Special MPOSC meeting on 5/20. He proposed offering a 'boxed dinner' as this is likely to be another long meeting. Wasley asked how long staff anticipates the meeting to be and asked if we could just set an adjournment time. Stefferud stated that the object would be to complete all the agenda items due to the tight time constraints of staff to complete the draft of the plan. Theisen suggested a break at 6pm to eat and then resume the meeting at 6:20pm to complete work. The Commission agreed.

Commissioners: Yarusso noted that he is in the process of buying a house outside of his district and if all goes well anticipates needing to resign his position in August 2014.

ADJOURNMENT

6:40 p.m.

Respectfully submitted,

Sandi Dingle
Recording Secretary

Attachment 1:
Revised Rules for Park Acquisition Opportunity Fund Grants

Proposed for Adoption based on White Paper (Attachment 2)

Language that is different from February 18, 2014 public hearing version of the rules [pages 23-28] is underlined

Overview:

In 2001, the Metropolitan Council established a Park Acquisition Opportunity Fund grant program to assist regional park agencies in acquiring land for the Metropolitan Regional Park System.

The Park Acquisition Opportunity Fund is comprised of two accounts:

- The Environment and Natural Resources Trust Fund (ENRTF) acquisition account, which is financed with 60% State appropriations from the ENRTF as recommended by the Legislative Citizen Commission on Minnesota Resources. The remaining 40% of the account is financed with bonds issued by the Metropolitan Council.
- The Parks and Trails Legacy Fund (PTLF) acquisition account, which is financed with 60% Parks and Trails Fund appropriations from the Land and Legacy Amendment. The remaining 40% is financed with Metropolitan Council bonds.

Qualifying Lands:

All properties to be acquired must be within Metropolitan Council-approved master plan boundaries.

ENRTF acquisition requests must be for acquisitions of undeveloped land with high natural resource values to comply with Minnesota Constitution Art. XI, Sec. 14 and Minn. Stat. Chapter 116P.

PTLF acquisition requests do not have any restrictions on the condition of lands within Metropolitan Council-approved master plan boundaries.

Qualifying Land Acquisition Costs:

The following items are eligible in calculating the total costs of the acquisition:

a. Appraisal cost for the acquiring regional park implementing agency or as part of a condemnation settlement/award consistent with applicable provisions of Minnesota Statute Chapter 117;

b. Appraisal review cost needed to verify the value of a land donation, or the value of land obtained via parkland dedication ordinance and subsequently transferred to the regional park implementing agency when other land is obtained from the same landowner;

c. Phase 1 environmental site assessment;

d. Environmental contamination remediation costs if consistent with the conditions specified in the special circumstances section below;

e. Legal services and closing costs to the park agency for costs associated with the purchase or condemnation settlement/award including attorney's fees, litigation expenses, appraisal fees and other expert fees consistent with Minn. Stat. § 117.031 that the park agency must pay as part of a condemnation action;

f. State deed tax/Conservation Fee;

g. Title Insurance;

h. Pro-rated share of all property taxes/assessments due on the parcel at the time of closing that is borne by the park agency;

i. 1.8 times the city or township property tax due on the parcel in the year the land is acquired. This is the property tax equivalency payment, which is paid to the city or township at closing pursuant to Minn. Stat. § 473.341;

j. Negotiated purchase price for the parcel or condemnation settlement/award consistent with applicable provisions of Minnesota Statute Chapter 117;

k. Relocation costs to the seller consistent with Minn. Stat. § 117.52 and Minn. Stat. § 473.315;

l. Land stewardship costs defined as follows: costs for boundary fencing or marking; stabilizing or rehabilitating natural resources to aid in the reestablishment of threatened natural resources or to prevent non-natural deterioration thereof; preventing the deterioration of structures that will be re-used for park purposes; removal of unneeded structures, dangerous land forms or attractive nuisances including capping abandoned wells as required under Minn. Stat. § 103I.301; and closing unneeded road(s) which provided access to the acquired land;

m. Development of the land to provide minimal access to it for public recreational use as reviewed and approved by the Metropolitan Council in consideration of the grant. Such development must be consistent with the applicable Metropolitan Council approved master plan and may include the cost of an access road and/or trail, parking lot, and signage;

n. Interest costs to acquire the land can be counted as part of the park agency's 25% match to the grant. However, the interest costs are not eligible for reimbursement as part of that park agency's share of a future regional parks capital improvement program;

o. Holding costs incurred by outside third party who purchased the property to hold on behalf of the park implementing agency; and

p. Other expenses not listed above that are directly related to the land acquisition.

All costs shall be documented with appropriate information/data and submitted to the Metropolitan Council with the grant request.

Grant Request Finance Amounts:

The Park Acquisition Opportunity Fund grant may finance up to 75% of the costs to acquire land and related costs or up to $1.7 million per acquisition account (ENRTF and PTLF acquisition accounts) per State fiscal year (July 1 to June 30). The regional park implementing agency must finance at least 25% of the acquisition costs as a local match to the Park Acquisition Opportunity Fund grant.

Special circumstances may apply that could alter the amounts delineated above and the section below related to special circumstances should be consulted.

Park Implementing Agency 25% Local Match:

The park implementing agency local match may be one or a combination of the following:

a. Non-State funds and non-Metro Council funds provided by the regional park implementing agency. If the cash contribution is financed with regional park implementing agency money (i.e. the agency's general fund or other account), but not a grant from another entity such as a watershed district or local government aid provided by the State of Minnesota, that contribution is eligible for reimbursement as part of that park agency's share of a future regional parks capital improvement program. Based on this rule, if the maximum grant of $1.7 million was awarded and the park agency provided a match of $566,667, any costs incurred by the park agency above the $566,667 and paid for with park agency funds for grant-eligible expenses, is also eligible for reimbursement consideration from that park agency's share of future metropolitan regional parks capital improvement programs.

b. The value of a land donation by the seller. The value of the donation is the difference between the agreed upon purchase price based on a certified appraised value of the property and the lower amount the seller agrees to accept as payment for the land. The certification of the appraised value of the property will be based on a third party review appraisal, where the third party appraiser will perform a field review of the appraisal and determine if the appraisal met the requirements of the Uniform Standards of Professional Appraising Practice (USPAP). Both the appraisal and the review appraisal must be submitted to the Metropolitan Council as part of the grant request. The cost of the third party appraisal review is a grant-eligible item.

c. The value of land that is obtained by a municipality under its park land dedication ordinance and transferred to a regional park implementing agency under a fee title or permanent easement agreement at the same time that the regional park implementing agency acquires additional land for that park or trail from the same landowner. The value of the dedicated land is based on a certified appraisal of the property. The certification of the appraised value will be based on a third party review appraisal, where the third party appraiser will perform a field review of the appraisal and determine if the appraisal met the USPAP requirements. Both the appraisal and the review appraisal must be submitted to the Metropolitan Council as part of the grant request. The cost of the third party appraisal review is a grant-eligible item.

Grant Term:

The effective term of the Park Acquisition Opportunity Fund grant is no more than 12 months or the expiration date of the State appropriation which finances the grant, whichever is less. A grant may be extended beyond the initial term of 12 months for cause. However the length of the extension cannot exceed the availability of the State funds financing the grant.

Special Circumstances:

Lack of available acquisition opportunity funds.

If funds are not available to fully fund a grant during a given fiscal year, up to 60% of the next fiscal year appropriation and matching Metro Council bonds for Park Acquisition Opportunity Fund accounts will to be used to reimburse park agencies for up to 75% of the grant-eligible acquisition costs or $1.7 million--whichever is less-- the park agency incurred to buy land that would have qualified for a Park Acquisition Opportunity Fund grant under the rules. The park agency must request reimbursement consideration from the Metro Council by providing all data required for a Park Acquisition Opportunity Fund grant required by the rules and obtain Metro Council approval before it acquires the land. The 25% match is not grant-eligible for reimbursement from the Park Acquisition Opportunity Fund accounts. However, the park agency may request reimbursement of that match as part of its share of future park capital improvement programs.

Third party acquisitions.

When funds are not available in the Acquisition Opportunity Fund accounts, park implementing agencies may opt to work with third parties to acquire Metropolitan Council-approved master plan acquisitions, for which reimbursement from the Metropolitan Council would be pursued when funds are available. In this instance, the Metropolitan Council may consider acquisition with a bonafide deferred closing.

Excess of available acquisition opportunity funds.

One year prior to the expiration of the State appropriation to each Park Acquisition Opportunity Fund Grant account (i.e. PTLF and ENRTF), the Metropolitan Council in consultation with the Regional Park Implementing Agencies and the Metropolitan Parks and Open Space Commission will conduct a review of these rules to determine if additional steps should be taken to increase the likelihood that the balance of the expiring State appropriation will be granted and spent before its expiration date. An example of such a step would be to allow a park agency which has received the maximum amount allowed [$1.7 million from the ENRTF account or $1.7 million from the PTLF account in a State Fiscal Year (July 1 to June 30)] to be eligible to receive an additional grant. Another step could be that 60 days prior to a State appropriation's expiration date, that grants are awarded to partially reimburse the local match of grants awarded from the applicable acquisition account that were initially financed with that State appropriation and matching Metro Council bonds. The total amount of these reimbursement grants would consume the remaining State appropriation and applicable Metro Council bond match. The amount of each reimbursement grant should be proportionate to the local match amount initially funded by each park agency—not with other funding sources the park agency used as their match. And these reimbursement grants would only be for grants initially financed from that soon-to-expire State appropriation and applicable Metro Council bond match. If there was still funds remaining, reimbursement grants for the local matches on other acquisitions could be considered that were initially financed from that acquisition account, but from an earlier appropriation.

Such variances to the rules for these situations would be considered by the Metropolitan Council without undertaking a public hearing process since the vetting of the changes is made by the park agencies affected by the proposed change, and the change is only in effect until the expiration of the applicable appropriation for that account.

Acquisition funds delineated in Capital Improvement Fund.

The requesting regional park implementing agency must use any available acquisition funds from its share of a regional parks capital improvement program provided by the Metropolitan Council or a line item appropriation of State funds to buy land for a regional park/trail before it can request a grant from the Park Acquisition Opportunity Fund. A park agency's capital improvement program share that finances a reimbursement grant for the 25% local match to a previous Park Acquisition Opportunity Fund grant is excluded. The Park Acquisition Opportunity Fund grant may finance 75% of the gap between the total cost of an acquisition and the amount financed by the park agency's available acquisition funds from its share of a regional parks capital improvement program and/or a line item appropriation of State funds used for that parcel's acquisition.

Eminent domain.

Occasionally a park agency may need to acquire land by exercising its power of eminent domain through the initiation of a condemnation proceeding. When land is acquired through the condemnation process, a Park Acquisition Opportunity Fund grant may be awarded; however, a grant is awarded at the end of the condemnation proceeding that is based on 75% of the final settlement/award and associated grant-eligible costs under applicable provisions of Minnesota Statute Chapter 117 to acquire the land and within the agency maximum for the fiscal year when the grant is awarded. The park agency should notify the Metropolitan Council prior to filing its petition in condemnation with the district court that it is acquiring land through condemnation and will be requesting a Park Acquisition Opportunity Fund grant when the final award is determined. The notification to the Metropolitan Council should be in a letter that contains the park agency's authorization to file its petition and the accompanying documents containing its appraisal of the land. In condemnation matters, the final settlement/award and final certificate should be submitted to the Council in lieu of a signed purchase agreement.

Environmental contamination.

Soil contamination remediation necessary to correct pre-existing environmental contamination known at the time of purchase, the remediation effort to the level needed to allow the land to be used for park and recreation purposes, and/or capping abandoned wells that have contaminated their groundwater aquifer are grant-eligible land acquisition expenses under the following conditions:

1) The aggregate cost of acquiring the land and remediation does not exceed the certified appraised value of the land at the time of purchase. The certification of the market value of the property will be based on a third party field review of the appraisal. The appraisal review must determine that the appraisal followed USPAP. The appraisal review must be submitted to the Metropolitan Council. The cost of the third party appraisal review is a grant-eligible item. In addition to the certification of the market value of the parcel, the park agency must submit documentation of the costs for remediation as listed below. The difference between the actual acquisition and remediation costs compared to the certified market value of the land prior to clean up may be applied towards the park agency's local match requirement.

2) The regional park implementing agency has an agreement with the party that will remediate/clean up the contamination or cap an abandoned well. The agreement will include mutually agreed upon environmental assurances from the Minnesota Pollution Control Agency limiting future liability for pollution caused by the contaminated soil or contaminated groundwater and follow guidance set by the Minnesota Department of Health for sealing unused wells, if appropriate.

Grant-eligible expenses for soil remediation and well capping include:

a. Costs to prepare Phase 1 and Phase 2 Environmental Site Assessments, the Quality Assurance Project Plan, Remediation Action Plan and the Environmental Engineer's Estimate;

b. Minnesota Pollution Control Agency (MPCA) Voluntary Investigation Cleanup (VIC) service charges;

c. Costs to implement the remediation action plan and secure appropriate assurances from the MPCA, and;

d. Other costs not listed above which are directly related to soil remediation or well capping.

Documentation of these remediation costs plus other costs associated with the acquisition must be submitted to the Metropolitan Council as part of the grant request.

Subdivision of lots.

For parcels that can be subdivided into lots and the value of those lots is used to determine the fair market value of the parcel, such acquisitions may qualify for financing from both the ENRTF account and PTLF account. For example, lot(s) must contain high quality natural resources without structures to qualify for ENRTF financing, and lot(s) that do not contain high quality natural resources or have structures on them qualify for PTLF financing. The amount from each account shall be proportional to the appraised market value of the lots. However, the Metropolitan Council may grant additional funds from the PTLF account to finance a portion of the costs of land that qualifies for financing from the ENRTF account if there is not sufficient money in the ENRTF account to fully fund the grant.