

# CITY OF NORTH BRANCH

## Parks, Trails & Open Space Commission

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MEETING: REGULAR SESSION  
PLACE: NORTH BRANCH CITY HALL - 6408 ELM ST  
DATE: MONDAY DECEMBER 1, 2014  
TIME: 7:00 P.M.

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1. CALL TO ORDER
2. ROLL CALL  
Novlan, Dahlberg, Heinzl, Pantelis, Bernier and City Staff
3. APPROVAL OF MINUTES  
3.1 November 3, 2014 Regular Meeting
4. PUBLIC COMMENT
5. ADDITIONS TO AGENDA
6. STAFF REPORTS  
6.1 Park Dedication Fund  
6.2 Project Updates
7. OLD BUSINESS  
7.1 Ability to sell Parkland
8. NEW BUSINESS NONE
  
- 8:00 PM 10. ADJOURN

**MINUTES OF THE PROCEEDINGS  
OF THE PARK, TRAILS AND OPEN SPACE COMMISSION OF THE CITY OF  
NORTH BRANCH IN THE COUNTY OF CHISAGO  
AND IN THE STATE OF MINNESOTA**

**REGULAR SESSION**

**November 3, 2014**

CALL TO ORDER:

The North Branch Park, Trails and Open Space Commission met in regular session and was called to order at 7:00 p.m. by Charles Heinzl.

ROLL CALL:

Commissioners present were Michael Novlan, Charles Heinzl, John Pantelis and Bob Bernier. Commissioners absent Mic Dahlberg. Also present was Council GIS Planning Specialist Nathan Sondrol and Public Works Director Shawn Williams.

APPROVAL OF MINUTES:

Motion by Pantelis, seconded by Novlan to approve the October 6, 2014 Regular Session Minutes. All voted AYE. Motion carried.

PUBLIC COMMENT:        NONE

ADDITIONS TO AGENDA:        NONE

STAFF REPORTS:

- 6.1    Park Dedication Fund**  
Sondrol reported the current fund balances.
  
- 6.2    Project Updates**  
Sondrol provided the latest project updates for the Commission.

OLD BUSINESS:

- 7.1    Wildridge Park Skating Rink**  
Sondrol informed the commission that the City Council approved up to \$2,500 for the installation of lights for the Wildridge Park skating rink and for the PTOS Commission and the Wildridge Home Owners Association to identify a solution for a warming house at the Oct 27, 2014 meeting.

He noted that he had received a quote of \$1,000 to rent a construction office trailer for this season to be used as a warming house.

Heinzel inquired if staffing would need to be hired for the warming house. Sondrol felt that staffing should be provided on the weekends at a minimum and options such as volunteers could be looked into for the week days.

Bernier inquired about the use of the lights during non-warming hours. Sondrol noted that a timer would be installed to have the lights on during regular skating hours.

Robin Bultman, 38250 Everett Ave, inquired who would be responsible for the electric bill for the lights and shelter and if the association would still be responsible for the cost of the satellite restroom. Sondrol noted the City would pay for the electric billing and the association would cover the cost of the portable restrooms.

Pantelis felt there were 2 separate issues, the cost of the warming house itself and then staffing for it. He inquired what funding the association would be willing to contribute. Bultman stated the association could provide up to \$2,000 for the rink. Bernier noted that if a permanent structure were to be built that the neighborhood would provide volunteer labor.

The commission discussed the use of volunteers to provide additional hours of use of the warming house. The association noted that they had not identified any volunteers at this point. Sondrol noted that background checks would be needed on volunteers.

Bernier noted that the funding from the association would be a one-time funding as they are not in a position to commit to this annually, other than the portable restroom.

Bultman inquired to the frequency of the rink maintenance. Sondrol noted that public works makes their best effort to maintain the rink, however the streets are the first priority.

Tom Terbilcox, 38116 Everton Ave, felt the rink attendants should be responsible for shoveling the rink off. Sondrol noted that it is a requirement of the attendant if they are paid.

Motion by Novlan, seconded by Pantelis, to use the \$500 from the North Branch Lions and for the City of North Branch to provide

\$500 for the rental of the construction trailer for a warming house at the Wildridge Park skating rink. All voted AYE. Motion carried.

Motion by Pantelis, seconded by Novlan, to prioritize the staffing for the warming house on weekends and holidays with the funds coming from the \$2,000 from the Wildridge Homeowners Association and possible additional hours covered by volunteers. All voted AYE. Motion carried.

OLD BUSINESS:

NONE

**8.1 Sledding Hill Discussion – North Branch Rotary**

Sondrol presented the North Branch Rotary's concept of building a sledding hill in one of the City's parks.

Novlan noted that there is an existing hill on the north side of Harder Park and felt that would be a good location to build upon. He noted the biggest issue would be accessibility.

The consensus of the commission was that there was strong support for a sledding hill and suggested the Rotary look into Harder Park as a location for the hill.

**8.2 Special Event – North Branch Chamber Winter Fest**

Sondrol presented the North Branch Chamber of Commerce's special event request for the use of Central Park and the skating rink on February 13-14, 2014 for Winter Fest.

Motion by Novlan, seconded by Bernier, to approve the North Branch Chamber of Commerce special event request for the use of Central Park and skating rink on February 13-14, 2014 for Winter Fest. All voted AYE. Motion carried.

Motion by Bernier, seconded by Novlan, to adjourn. All voted AYE. Motion carried.

ADJOURNED at 7:45 p.m. by Charles Heinzl.

APPROVED \_\_\_\_\_ ATTEST \_\_\_\_\_

Respectfully submitted,  
Nathan Sondrol, GIS Specialist  
NMS

# Memo

To: Park, Trails, & Open Space Commission  
From: Nathan Sondrol, GIS Planning Specialist  
Date: November 18, 2014  
Re: Park Dedication Fund

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The following are the balances of the respective funds as of 11/18/14:

**Park Dedication Fund Balances:**

*Funds received through Park Dedication that can only be used for the acquisition and development of parks. The Park Dedication Fee is \$1800 per lot. The Park Dedication Fund receives \$1500 and Recreation Center receives \$300.*

Recreation Center/Park Dedication Fund...\$36,629.54

**Capital Improvement Fund Balances:**

*Funds in the Capital Improvement Funds are generated through levies from tax payer dollars.*

*The City Council started to levy funds for the Library and Community Center in 2003 with the anticipation of constructing a library with community meeting rooms.*

*In 2003 the City Council also started levying funds for Park Improvements with the anticipation of not having to increase taxes for costs associated with a bond referendum for the completion of Williams and Wildridge Park or land acquisition. Both of These funds can be used at the discretion of the City Council.*

Community Center Fund.....\$160,260.51  
Park Improvement Fund.....\$89,147.97

## North Branch Parks, Trails & Open Space Commission Project Updates

<b>Current Projects</b>	<b>Progress and Next Steps</b>	<b>Approval Date</b>	<b>Estimated Completion Date</b>
Wildridge Park Skating Rink	The City Council approved using the \$500 from the Lions Club and approving \$500 to be placed towards the cost of the rental of a construction office for a warming house at the 11/3/14 meeting and for the staffing costs (\$2,000) to come from the Wildridge Homeowners Association.	10/6/14	December 2014
Comprehensive Parks, Trails & Open Space Plan Review – Legal opinion on selling city lands	The PTOS Commission reviewed existing city owned park, trails and open space lands over the past few meetings and identified a few sites that could possibly be sold with potential revenues being placed to help improve the existing park system. The City Council approved obtaining a formal opinion from the City Attorney on the ability to sell existing city owned park lands at the 5/27/14 meeting. Staff has received a legal opinion from the City Attorney. This is an agenda item.	5/27/14	Dec 2014
Donations, Fundraising and Acknowledgement Policy	The Beautification Committee has identified the “Heritage” Series bench for their bench program. They are working on developing the cost for the benches. The committee is also working on getting hanging flower baskets back on Main Street.	3/7/13	Winter 2014
North Branch Rotary Sledding Hill	The commission discussed the North Branch Rotary’s concept of a sledding hill at the Oct 6, 2014 meeting. There was a consensus of strong support and suggested looking into Harder Park as a potential site. The Rotary is working on obtaining site development costs and will come back to the commission when a formal plan is completed.		
DNR Park and Trail Legacy Grant – Sunrise Prairie Trail Phase II	The City Council approved the resolution to apply for the grant and to accept it if awarded at the Sept 22, 2014 meeting. Allina Clinic, Andersen Corporation and Chisago County both provided funding support for the application.	6/2/14	Grant Award Notices Winter 2015
<b>Long-term Planning and Goals</b>	<b>Progress and Next Steps</b>		
Trail Development and Maintenance	Trail corridors through the City have been identified in the Park Master Plan. The next step is to determine a plan that establishes criteria for when the trail gets installed through each section, who pays the cost or what the funding mechanism is and to establish a timeline for installation. Routing and crack sealing will		Annual

	be conducted on the trail system, starting with the oldest and highest priority trail system.		
Northwood Park	Tennis Court Resurfacing		2015
Central Park	Basketball Court Resurfacing		2016
Tower/Harder	Infield Expansion		2016
Tower Fields	Ball field fencing		2016
Central Park	Playground Equipment		2017
Harder Park	Ball field fencing		2017
Tower Fields	Parking Lot Paving		2017
Northwood Park	Irrigation System		2018
Tower Fields	Irrigation System		2018
Wildridge Park	The feasibility report was accepted on May 9, 2005 by the City Council. We will wait for the bonding of the projects to begin work or until other funding is received. (Soccer Fields, Parking Lot, Ice Skating Rink and Warming House)	5/9/2005	2018
Carlson Property	Acquisition and Development		2019
Williams Park	The feasibility report was accepted on May 9, 2005 by the City Council. We will wait for the bonding of the projects to begin work or until other funding is received. (3 Ballfields, Playground, Parking Lot, Ice Skating and Hockey Rink)	5/9/2005	2019
Riverwalk Park	Grand Ave Pedestrian Bridge. The Transportation Plan will address the type of bridge is needed at that location.		2023

# City of North Branch Staff Report



**Prepared By: Nate Sondrol, GIS Planning Specialist**

**Date: December 1, 2014**

**Subject: Sale of City Owned Park lands - Formal Opinion**

**Background Information:**

The City Council recommended the PTOS Commission to review the existing City owned park land facilities and to prioritize the development of them in August 2013. The PTOS Commission reviewed the existing city owned park land sites and identified a list of park improvements and other sites to further explore the possibility of selling to generate additional revenue to improve other park sites. See Attached. Note that some of the city owned park lands may serve as storm water retention areas. The PTOS Commission also recommended contacting the City Attorney to research whether or not the city has the ability to sell the lands, based on how they were acquired at the February 2, 2014 meeting.

The City Council approved having the City Attorney to provide a formal opinion on the ability to sell existing city owned park lands in May 2014. Below is an overview of the findings from the City Attorney. The full report is attached.

How Acquired	Able to sell	Additional Info
Statutory Dedication	No	Land would need to go through vacation process and revert back to original dedicator
Purchased with Park Dedication Funds	Yes	Williams Park - Funds used to purchase would need to go back into park dedication fund. Surplus funds could go into general fund
Purchased with General Funds	Yes	Central Park and Chilson Lot
Acquired through Tax Forfeiture	No	Kates Preserve - A public use restriction has been placed on this preventing the ability to sell

**Other Pertinent Information:**

- **Advantages** – None
- **Disadvantages** – None

**Financial/Budget Impacts (If Any):**

- **Funding Sources** – None



➤ **Long-Term & Short-Term Costs** - None

**Deadline:** None

**Requested Action:**

Staff is requesting the Commission discuss the legal opinion from the City Attorney on the ability to sell existing city park lands and to make a recommendation to the city council.

**Staff Recommendation:**

Staff recommends the Commission prioritize park improvements and make a recommendation to the City Council if there are park lands that they would like to further explore.

**Voting Requirements:**

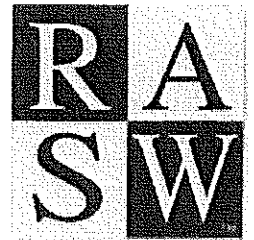
State Law or City Code requires a simple majority, of those present.

**Attachments:**

- 1) Attorney Opinion on sale of City Lands
- 2) Existing City Owned Park lands

Kevin J. Rupp  
Scott T. Anderson  
Jay T. Squires\*†  
Michael J. Waldspurger\*  
Amy E. Mace  
Trevor S. Helmers\*  
Tessa S. Wagner  
John P. Edison  
Liz J. Vieira  
Abby M. Novak  
Kristin C. Nierengarten  
Kelly J. Burns

**RUPP, ANDERSON, SQUIRES  
& WALDSPURGER, P. A.**



\*Also Admitted in Wisconsin

†Real Property Specialist Certified by  
the MN State Bar Association

November 10, 2014

Nathan Sondrol  
GIS Planning Specialist  
City of North Branch  
P.O. Box 910  
6408 Elm Street  
North Branch, MN 55056

RE: Ability to Sell Parkland  
Our File No. 4041-0022

Dear Nate:

The Council requested that I provide a general analysis concerning the City's ability to sell or convey any of the present City parks to a third party. You assembled and transmitted to me very helpful information concerning how the City "acquired" the various park parcels. This is important because it bears directly on the ability of the City to sell or convey any given park parcel.

In the aggregate, the City has acquired parkland through subdivision park dedication, purchase (both using dedicated park funds and general fund dollars), and through the tax forfeiture process. Following is a discussion of the City's ability to sell or convey based on how the parks were acquired.

Parks Obtained By Statutory Dedication

Under Minn. Stat. §462.358, a City has the authority to acquire a subdivider to dedicate a certain portion of land within a proposed subdivision to be used and maintained as parkland. The following city parks were obtained in this manner:

1. Branch Acres;
2. Chain Lake;
3. Lucht's Preserve;

4. Wildridge Preserve;
5. Casselberg Preserve
6. Duck Creek;
7. North Branch Acres;
8. Northwood;
9. Roger Johnson;
10. Tower Fields;
11. Wildridge; and
12. Marketplace Preserve.

When subdivided property is dedicated to the public for a particular purpose, here parkland, the public (the City) only holds the land, as a trustee of sorts, to be able to use and maintain the land for the dedicated purpose. *Headley v. City of Northfield*, 227 Minn. 458 (1949). Any use by the City for purposes contrary to the dedication would be improper. *Id.* Consequently, the City would lack the authority to convey any dedicated parkland to a third party, at least in so far as the third party would use the property for other purposes.

If a City determines dedicated parkland is no longer needed for park purposes, there is a process for the City to divest itself of the land. The process involves vacation of the public interest, and, when vacation occurs, the property reverts to the original dedicator(s).

#### Parkland Purchased with Dedicated Park Funds

Under State law, a City may elect to take cash from a subdivider in lieu of the dedication of actual parkland. If cash is taken, it must be placed in a special account to be used only for the purpose for which it was paid. Minn. Stat. §462.358.

Willams Park is the only City park that was acquired through the use of funds paid in lieu of dedication. While nothing in statute or caselaw, as in the case of actually dedicated land, prohibits conveyance of land acquired by park funds, arguably the City would need to deposit back into the park fund at least the funds used to acquire the park. Any surplus funds could likely be deposited into the City's general fund.

#### Parkland Purchased with General Funds

Chilson and Central parks were acquired by the City by direct purchase through the use of general funds. As such, the City would not be prohibited from conveying these properties to a third party. Previously, I reviewed the deeds of conveyance concerning

Nathan Sondrol  
November 10, 2014  
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Central Park, and found no deed-based "restriction" on conveyance or use, and I understand the same is true for Chilson Park.

#### Parkland Acquired Through Tax Forfeiture

When property is tax forfeited, local government entities have the ability to acquire the property. Forfeited properties can be acquired both as "conservation" and "non-conservation" lands. When acquired as "conservation" land, the City does not pay for the forfeited property. However, the tax deed limits the use of the property to public use. When land is acquired as "non-conservation land" the City pays for the land, as any other party would, and there is no public use restriction.


Here, Kates Preserve park as acquired by the City as conservation land, and there is consequently a public use restriction on it. The City would not be able to sell it to a third party for non-public use.

#### Other Acquisition

The remaining two City parks, Riverwalk and Harder, were acquired through multiple parcel acquisition. You have had some difficulty in pulling all the information together relative to these parks, which is a larger effort. If there is any interest in analyzing these two parks further, let me know.

I hope this has been helpful. Let me know if you have questions.

Very Truly Yours,



Jay T. Squires

JTS/mv

RASW: 23423

7-104

Site	Name	Address	How Acquired	Date Acquired	Subdivision/Seller	Further Review	Review Considerations	Future Improvements	Ability to sell
1	Branch Acres Park	7451 394th Street	Subdivision Park Dedication	3/23/1979	Branch Acres 3rd	Yes	Contact Adjacent Property Owners		No - Vacation Process revert to original dedicatior
2	Chain Lake Park	5200 412th Street	Subdivision Park Dedication	6/8/1972	Sherwood Forest Burlington Northern Railroad	Yes	Contact Adjacent Property Owners		No - Vacation Process revert to original dedicatior
3	Chilton Park		Purchased	9/6/96		Yes	Existing Trail/ Parking lot, Stormwater Retention Area		Yes
4	Kate's Preserve	37080 Hill Avenue	Tax Forfeit/Dedication	6/9/88		Yes	L7 & L8 - B7 - Buildable?		No - Public Use restriction - and Vacation Process
5	Lucht's Preserve	7925 384th Trail	Subdivision Park Dedication	8/21/06		Yes	Portion of Outlot F	Trail Development, Playground	No - Vacation Process revert to original dedicatior
6	Wildridge Preserve	5005 382nd Drive	Subdivision Park Dedication	5/21/04		Yes	Contact Adjacent Property Owners		No - Vacation Process revert to original dedicatior
7	Cassellberry Preserve	38577 Farmworth Ave	Subdivision Park Dedication	12/25/2000		No	NA	Trail Development	No - Vacation Process revert to original dedicatior
8	Central Park	6250 Main Street	Purchased	9/6/96		No	NA	Playground Equipment, Restroom, Conversion?	Ability to sell
9	Duck Creek Park	4552 392nd Street	Dedication	10/20/78		No	NA	Shelter	No - Vacation Process revert to original dedicatior
10	North Branch Oaks Park	5035 366th Street	Dedication	7/18/78		No	NA	Trail Development	No - Vacation Process revert to original dedicatior
11	Northwood Park	39581 Cherokee Ave	Subdivision Park Dedication	1/20/77		No	NA	Tennis Court resurfacing, irrigation, Shelter, Maintenance	No - Vacation Process revert to original dedicatior
12	Riverwalk Park	39181 Forest Blvd	Multiple easels Subdivision Park Dedication	Multiple		No	NA	Trail Development, Amphitheatre, Campground Sites, Parking Lot, Bridge	Not identified to look into. Further research would be needed. Majority of lands received thru Park Dedication and would need to be vacated
13	Roger Johnson Memorial Park	6547 410th Street	Subdivision Park Dedication	9/5/00		No	NA	Parking Lot, Additional Soccer Fields, Trail reconstruction	Vacation process revert to original dedicatior
14	Skateboard Park	38175 Grand Ave	School Property MOU	Do not own		No	NA	Expansion	Land owned by School District - Cannot sell
15	Tower Fields	6211 Cougar Trail	Purchased			No	NA	Ball field fencing, parking lot, shelter, irrigation, trail development	Yes - Possible deed restriction
16	Willridge Park	4840 382nd Drive	Subdivision Park Dedication	5/21/04		No	NA	2 soccer fields, parking lot, shelter, rink with warming house	No - Vacation Process revert to original dedicatior
17	Williams Park	6400 379th Street	Purchased with Park Dedication Funds			No	NA	Ball fields, playground, skating and hockey rink w/warming house, parking lot, community center	Yes - Funds used to acquire park would need to be placed back in park dedication fund
18	Harbor Park	39260 Harder Pkwy	Combination of Purchased & Donated Dedication	4/21/70 - 10/12/83- 5/2/72		No	NA	Parking Lot Expansion, Trail Development, Ball field Development, Expansion - Carlson Property	Not identified to look into. Purchased lands and donated lands could be sold assuming no deed restrictions
19	Marketplace Preserve					No	NA	Trail Development	No - Vacation Process revert to original dedicatior