

## **Memorandum**

Date: September 16, 2009

To: Policy Board Members and Alternates

From: Robert D. Miller, Director

Subject: Governing NRP Funds After 2009

At the Policy Board meeting on June 22, I proposed that discussions begin about the future of NRP after the revenue stream from the Common Project and the maturing Brookfield loan ends in 2009. The big issues relate to the relationship between the 2008 Special Law that allows Minneapolis to establish a Consolidated Redevelopment Tax Increment Financing District and NRP and the responsibility for management of the funds NRP received, and contracted out, in Phases I and II.

At that meeting the Board adopted a resolution directing that I request a legal opinion from NRP's external counsel on the impact of the creation of the Minneapolis Neighborhood and Community Relations Department on the NRP program that addresses, at a minimum, the:

- Impact of the 2008 Special Law on the funding sources for, and status of, NRP after 2009; and
- Who has responsibility for, and what is the status of, NRP funds from Phase I and Phase II after 2009.

As a result of this action, I provided the following questions to NRP's external counsel and requested that a formal opinion be issued for the Board:

1. What is the status of the NRP after 2009?
2. What authority does the City of Minneapolis and specifically the new Neighborhood and Community Relations Department (NCRD) and Neighborhood and Community Engagement Commission (NCEC) have under the 2008 Special Law over NRP funds received between 1990 and 2009 or appropriated to implement a Phase I or Phase II NRP Neighborhood Action Plan?
3. What is the impact of the 2008 Special Law on tax increment financing districts in the "Common Project" and the other funding sources committed under the City's NRP ordinance to provide funding for the NRP through 2009?

4. What impact does the 2008 Special Law have on NRP funds and the program income retained by neighborhoods after 2009?
5. Who has responsibility for managing the NRP funds after 2009?

Counsel has reviewed these questions and consulted with other legal authorities in order to provide an opinion on these questions to the Board. The opinion is attached.

Mr. Michael Norton will be at the Board meeting on Monday to review his findings with the Board and respond to any questions that members have.



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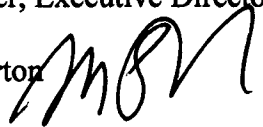


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**MEMORANDUM**

TO: Robert D. Miller, Executive Director  
FROM: Michael T. Norton   
DATE: September 16, 2009  
RE: Legal Requirements Governing NRP Expenditures Beyond 2011

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**BACKGROUND**

The Neighborhood Revitalization Board (“NRP” and the “Board”) adopted the following action at its meeting of June 22, 2009:

**RESOLVED**, That the NRP Director begin an assessment and develop a plan for conducting or ensuring the successful continuity of NRP activities through the end of 2011 and beyond to meet legal requirements governing the expenditure of NRP Funds, for discussion and action by the Policy Board; and

**BE IT FURTHER RESOLVED**, That this plan be provided to the Board as part of the discussion of the 2010 NRP Budget in October, 2009; and

**BE IT FURTHER RESOLVED**, That the NRP Director begin this assessment by requesting a legal opinion from NRP’s external counsel on the impact of the creation of the Minneapolis Neighborhood and Community Relations Department on the NRP program that addresses, at a minimum, the:

- Impact of the 2008 Special Law on the funding sources for, and status of, NRP after 2009; and
- Who has responsibility for, and what is the status of, NRP funds from Phase I and Phase II after 2009.

In reviewing this direction the following are the questions suggested initially by the Board’s direction:

1. What is the status of the NRP after 2009?
2. What authority does the City of Minneapolis and specifically the new Neighborhood and Community Relations Department (NCRD) and Neighborhood and Community Engagement Commission (NCEC) have under the 2008 Special Law over NRP funds received between 1990 and 2009 or appropriated to implement a Phase I or Phase II NRP Neighborhood Action Plan?
3. What is the impact of the 2008 Special Law on tax increment financing districts in the "Common Project" and the other funding sources committed under the City's NRP ordinance to provide funding for the NRP through 2009?
4. What impact does the 2008 Special Law have on NRP funds and the program income retained by neighborhoods after 2009?
5. Who has responsibility for managing the NRP funds after 2009?

In order to comply with the Board's direction and address the questions, it is important to address the legal foundation of the NRP, including the sources and uses of NRP Funds, and recent actions taken by the Minnesota Legislature relating to neighborhood revitalization.

### **EXECUTIVE SUMMARY**

The 2008 Special Law has no legal impact on the treatment of NRP Funds. NRP Funds are derived initially from tax increment revenues from the Common Project. Such funds must continue to be spent by the neighborhoods pursuant to the NRP Law. In order for NRP Funds to be spent, the NRP Law mandates that there be an NRP Program with all the required indicia, that is, neighborhoods creating and implementing neighborhood action plans, a multi-jurisdictional NRP Board to address program issues and approve neighborhood action plans and the City approving qualified expenditures.

### **LEGAL ANALYSIS**

#### **I. Sources and Uses of NRP Revenue.**

##### **A. Sources of Revenues.**

Certain neighborhood revitalization program funds ("NRP Funds") are defined and authorized under State law. The City can not authorize use of such funds for purposes that are precluded by State law. The City can, however, authorize the use of revenues of the City for neighborhood revitalization purposes, if not otherwise limited by State law or by the City's charter.

There are three sources of "*city neighborhood revitalization program funds*", as currently defined in the Minneapolis Code of Ordinances ("MCO"), Title 16, Chapter 419, as amended (the "NRP Ordinance") at section 419.20 (a). The sources listed in the NRP Ordinance include both (i) State authorized funds and (ii) City authorized funds. They are as follows:

1. Program money (“Program Money”), as the term is defined in Minnesota Statutes, Section 469.1781 (“Section 469.1781”);
2. Tax increment and other revenues from the Common Project as set forth in Laws 1990, Chapter 604, Article VII, Section 29, as amended by Laws 1991, Chapter 291, Article X, Section 20 (“Chapter 604 Revenues”); and
3. Tax increment and other revenues from the MCDA’s [now CPED] Common Project to fulfill the City’s obligations under the NRP Ordinance, less the legislatively-mandated property tax/local government aid reduction payments to Hennepin County (the “County”) and School District No. 1 (the “School District”).

**B. Uses of NRP Funds.**

1. Program Money. Program Money is defined in Section 469.1781 (b) as follows:

*b) For calendar years 1990 to 2001, in each year the city must expend for a neighborhood revitalization program, as established under section 469.1831, an amount of revenue derived from tax increments equal to at least:*

- (1) the amount of the additional principal and interest payments that would have been due for the year on the refunded bonds, if the bonds had not been refunded; and*
- (2) the amount of money which would have been distributed as excess increments under the city ordinance had it not been modified.*

The additional principal and interest payments referred to in section 469.1781 (b) (1) above means the amount of tax increment revenues equal to (i) the principal and interest savings created by the issuance of the Tax Increment Revenue Bonds of 1990 which refunded the City’s General Obligation Redevelopment Bonds of 1985 and 1986 and the City’s Tax Increment Revenue Refunding Bonds of 1984.

The amount of money that would have been distributed as excess increments pursuant to section 469.1781 (b) (2) above is the tax increment revenues of the MCDA that would have been distributed as excess increment (also referred to as county/city sharing), under Minneapolis Code of Ordinances (“MCO”), Title 16, Chapter 421 (“Chapter 421”), had the provision not been repealed. Chapter 421 was amended in 1989 to eliminate the county/city sharing provision and was repealed in total in March of 2001.

Program Money must be expended for a neighborhood revitalization program, established under general law as Minnesota Statutes, section 469.1831, as amended (the “NRP Law”). Program Money is defined as “*neighborhood revitalization program money*” at section 469.1821, subdivision 1 (d) of the NRP Law. The NRP Law, at subdivision 4 (a), provides that “*neighborhood revitalization program money may only be expended in accordance with the program for a purpose listed in subdivision 3 or this subdivision*”. Therefore, Program Money can be expended only for the purposes listed in subdivisions 3 and 4 of the NRP Law.

*Subdivision 3 Qualifying Costs.* Subdivision 3 of the NRP Law provides the main body of qualifying costs for which Program Money can be expended. The costs authorized in subdivision 3 are primarily capital reinvestment expenditures relating to the development,

redevelopment, rehabilitation, and improvement of real property, which can be expended for the following purposes:

***Subd. 3 [PURPOSES; QUALIFYING COSTS.]***

*(a) A neighborhood revitalization program may provide for expenditure of program money for the following purposes:*

*(1) to eliminate blighting influences by acquiring and clearing or rehabilitating properties that the city finds have caused or will cause a decline in the value of properties in the area or will increase the probability that properties in the area will be allowed to physically deteriorate;*

*(2) to assist in the development of industrial properties that provide employment opportunities paying a livable income to the residents of the neighborhood and that will not adversely affect the overall character of the neighborhood;*

*(3) to acquire, develop, construct, physically maintain, rehabilitate, renovate, or replace neighborhood commercial and retail facilities necessary to maintain neighborhood vitality;*

*(4) to eliminate health hazards through the removal of hazardous waste and pollution and return of land to productive use, if the responsible party is unavailable or unable to pay for the cost;*

*(5) to rehabilitate existing housing and encourage home-ownership;*

*(6) to construct new housing, where appropriate;*

*(7) to rehabilitate and construct new low-income, affordable rental housing;*

*(8) to remove vacant and boarded up houses; and*

*(9) to rehabilitate or construct community-based nonprofit and public facilities necessary to carry out the purpose of the program.*

***Subdivision 4 Qualifying Costs.*** Subdivision 4 (a) of the NRP Law provides a certain percentage of Program Money can be expended for (i) education programs and services of the School District, and (ii) social services of the County. Subdivision 4 (d) expands this authority to provide that Program Money “*may be expended anywhere within the city by the authority for a purpose permitted by this section for any political subdivision*”. The expenditure of Program Money under Subdivision 4 is a departure from the requirements of Subdivision 3 that such funds be used for capital improvements to real property. Subdivision 4 (d) authorized any political subdivision that is a part of the policy board of the NRP (the “Policy Board”) to expend Program Money for qualified education programs and services like those of the School District and social services like those of the County.

2. **Chapter 604 Revenues.** Chapter 604 was passed as a special law on behalf of the City in tandem with the NRP Law in 1990 and was amended in 1991 to provide as follows:

***Subdivision 1. [EXPENDITURE.]*** *The city of Minneapolis and the Minneapolis community development agency shall reserve \$10,000,000 in 1990 and \$20,000,000 each year from 1991 to 2009 from tax increment and other revenues generated from the Minneapolis community development agency common project, adopted December 30, 1989, to be expended in neighborhood revitalization anywhere within the city of Minneapolis by the Minneapolis community development agency for any purpose permitted by Minnesota Statutes, section 469.1831, for any political subdivision, except that at least 52.5 percent of the money must be expended on housing programs and related purposes. None of these revenues shall be expended in 1990. [Emphasis added.]*

Chapter 604 requires that the City and Agency reserve \$10,000,000 in 1990 and \$20,000,000 from 1991 to 2009, for a total of \$390,000,000 for the life of the program. Chapter 604 required that the \$390,000,000 in revenues over the life of the program be (i) generated from the MCDA common project, adopted December 30, 1989 (the "Common Project"); (ii) expended for neighborhood revitalization for purposes authorized in the NRP Law; and (iii) expended anywhere within the City by the Authority.

The revenues reserved under Chapter 604 can be expended for any purpose permitted in the NRP Law as long as at least 52.5 percent of the \$390,000,000 in tax increment and non tax increment revenues from the Common Project are expended on housing and related purposes, which are authorized expenditures under subdivision 3 of the NRP Law. Subdivision 4 (d) provides that Chapter 604 can be used for "*a purpose permitted by this section for any political subdivision*". The operative word in the phrase is the term "*section*". Whereas the expenditure of Program Money is limited in subdivision 4 (a) of the NRP Law to purposes given in subdivisions 3 and 4 of the law, Chapter 604 Revenues can be expended for the purposes of the section. The NRP Law is a section within Chapter 469 of Minnesota Statutes. Whereas Program Money could be expended only for purposes of subdivisions 3 and 4, Chapter 604 Revenues can be expended for purposes of the entire NRP Law. Although the distinction is slight because the purposes are found in subdivisions 3 and 4, this permits the expenditure of Chapter 604 Revenues for the costs of neighborhood organizations, development of neighborhood action plans, and policy board administration found in subdivision 6, as well as the safety and related expenditures associated with carrying out the purposes of Subdivisions 3 and 4 of the NRP Law.

The NRP Law, as general law, and Chapter 604, as special law, were enacted in tandem by the 1990 Legislature. The tax increment revenues authorized by Section 469.1781 to be expended as Program Money are generated from the same MCDA tax increment revenues in the Common Project as the tax increment revenues reserved by the City and MCDA pursuant to Chapter 604. Inasmuch as the two laws were created in tandem and came from the same Common Project source, Program Money is included within the \$390,000,000 authorized by Chapter 604, with one exception. The amount of Program Money over \$10,000,000 paid in 1990 to the School District for school aid reduction and to the County for property tax relief pursuant to subdivision 4 of the NRP Law is not included in the \$390,000,000.00.

3. NRP Funds Authorized in the NRP Ordinance. The NRP Ordinance at Section 419.20 provides a third category, not authorized under State law, within the available sources of NRP Funds as follows:

*c. Other tax increment and non tax increment revenues from the agency's common project necessary to fulfill a twenty million dollar (\$20,000,000.00) annual commitment to the neighborhood revitalization program. The twenty million dollar (\$20,000,000.00) annual commitment shall not include, and shall be in addition to, the amounts required to be transferred to the school district for school aid reduction and to the county for property tax relief pursuant to subdivision 4 of the neighborhood revitalization program law.*

Section 419.20 (a) (c) of the NRP Ordinance commits \$20,000,000 annually to the neighborhood revitalization program, or \$400,000,000 over the life of the program. Conversely, Chapter 604 authorized the reservation of \$390,000,000 for the neighborhood revitalization program for expenditure of qualifying NRP costs over the same period of time. *Therefore, the NRP*

*Ordinance authorizes an additional \$10,000,000 over the amount authorized by the NRP Law and Chapter 604 for neighborhood revitalization purposes for the life of the program (the "Ordinance Funds"). This additional \$10,000,000 is to come from the Common Project as well, and would be generated from redevelopment revenues, lease arrangements within the Common Project Area and other repayments of MCDA and City commitments.*

Program Money and Chapter 604 Revenues come from tax increment and other revenues generated from the Common Project but such revenues must be expended pursuant to the purposes permitted in the NRP Law. Subdivision 4 (d) deems the expenditure of Program Money and Chapter 604 Revenues for neighborhood revitalization purposes to comply with the qualifying use provisions of Minnesota Statutes, sections 469.174 to 469.1799, as amended (the Tax Increment Act) as follows:

*[P]rogram money and money described in Laws 1990, chapter 604, article 7, section 29, as amended [Chapter 604 Revenues], may be expended anywhere within the city by the authority for a purpose permitted by this section for any political subdivision without compliance with section 469.175, subdivision 4, and such money shall be deemed to be expended for a purpose that is a permitted project under section 469.176 [of the Tax Increment Act] and for a purpose that is permitted under section 469.176 for the district from which the increment was received." [Emphasis added.]*

Any tax increment revenues not expended under the NRP Law remain subject to the requirements of the Tax Increment Act. Therefore, any tax increment revenues from the Common Project that are authorized by the NRP Ordinance must comply with the requirements of the Tax Increment Act. This requires expending such revenues (i) within the applicable project area (ii) for a purpose permitted under Section 469.176 of the Tax Increment Act for the district from which the increment was received.

4. **NRP Funds Derived From Expenditures of Program Money, Chapter 604 Revenues and NRP Funds Authorized In the NRP Ordinance.** Many neighborhoods have an approved neighborhood action plan (a "NAP" or collectively, the "NAPs") which include a loan program for qualified purposes. Once a NAP is approved for a neighborhood loan program and the funds have been disbursed as required by the NRP program process, it has long been understood that these funds continue to meet the definition of *tax increment* found in Minn. Stat. § 469.174, subd. 25, and are then considered to be NRP Funds upon disbursement.

However, these *loan repayments* are still NRP funds which must be spent by the respective neighborhood for purposes authorized by the NRP Law, even though the neighborhoods may understand these recycled NRP Funds to be "neighborhood funds" to be used for purposes determined by the neighborhood. The City holds some neighborhoods' loan repayment funds, but many neighborhoods have these funds in private accounts managed by the respective neighborhood with oversight from the NRP.

## **II. Recent Legislation**

The Property Tax Reform Act of 2001 substantially reduced the tax increment revenues generated by the Common Project now available for neighborhood revitalization purposes.

At the end of the 2008 legislative session, the Legislature enacted laws of Minnesota 2008, Chapter 366, Article 5, Section 37 ("2008 Special Law"), which in brief authorized the City to



create a redevelopment TIF District for the purposes of funding Target Center debt and neighborhood revitalization. The 2008 Special Law did not define *neighborhood revitalization*. The City recently created the “Neighborhood and Community Relations Department” (NCRD), in part for the stated purposes of providing for community participation, promoting resident involvement in neighborhood and community organizations and linking neighborhood and community organizations, including overseeing programming details and funding for neighborhood revitalization work. The City is still in the process of implementing this authority with the result that the NCRD is not yet a fully functioning department of the City.

### **III. Analysis of the Impact of the NCRD on the NRP**

As a general conclusion, the creation of NCRD has no direct legal impact on the NRP Program. A review of the relevant statutory framework provided in the 2008 Special Law and the statutory framework of the NRP is important to an understanding of the conclusions reached.

In brief, the Program is commonly understood to include the process by which the joint power entities, the neighborhoods, and other public partners interact for the purpose of creating and approving a NAP or the NAPs, and approving the expenditure of NRP Funds (which include Chapter 604 Revenues and income from neighborhood loan repayments as discussed above and hereafter). The support for this conclusion is found in the following analysis which addresses questions related to the legal requirements relating to the NRP and the 2008 Special Law.

#### **1. What is the status of the NRP in 2009 and beyond 2009?**

Since it appears that the City will be able to implement NCRD as it relates to the financing mechanism of the 2008 Special Law in 2010, the initial issue concerns the status of the NRP in subsequent years.

As discussed above in Section I. A., the City is required to use tax increment funds (“TIF”) from the 1989 refunded TIF bonds of the City (“Chapter 604 Revenues”) for NRP activities. In addition, the City is also required to “reserve” these funds from the “Common Project” through 2009. The original reservation was for \$10 million in 1990 and \$20 million per year through 2009 for NRP purposes. However, the 2001 Minnesota Legislature in addressing changes in the property tax system caused a subsequent substantial reduction in the tax income and revenues that could be reserved through 2009 for NRP from the Common Project. The Program Money as the term is defined in Minnesota Statutes, Section 469.1781 (“Section 469.1781”) was completely expended in Phase 1 of the Program. Therefore, only the reserved but reduced Chapter 604 Revenues (also called commonly referred to as “Common Project Revenues”) are presently available for the NRP program.

Minn. Stat. §469.1831 authorizes “a city of the first class” (Minneapolis) to establish a neighborhood revitalization program (the “NRP Law”). The clear intent of this legislation was that establishment of the NRP program (the Program as defined above) was a discretionary action of the City.

While the “reservation” required in Section 29 seems to be a mandatory requirement, an August 17, 1998 opinion concerning “Common Project Tax Increment Payment Priorities” by attorney John Utley concluded that the reservation was to be understood in light of additional obligations which also had to be paid out of the Common Project (the “Utley Opinion”). The Utley Opinion identified bond obligations, developer note obligations, contract obligations, administrative costs

of the then-MCDA, and agency discretionary activities as the obligations which were subject to prioritization along with NRP expenditures, given the legislative changes in 2001 which drastically reduced the Common Project revenues. *See*, Utley Opinion, pp. 4, 5. The City later codified the priorities of the Common Project. *See*, MCO § 419.35.

Section 29 requires only that the identified revenues be “reserved” by the City from 1991 to 2009. There is no discussion in Chapter 604, Section 29, the NRP Law, or the NRP Ordinance describing the status of the NRP Program subsequent to 2009. The NRP Joint Powers Agreement (the “JPA”) provides for the establishment of the NRP Policy Board (the “Board”), and further provides that the Board is terminated at the end of 2011. However, neither the aforementioned statutory or ordinance authority, nor the JPA, precludes extending the life of the NRP Board. Moreover, aside from termination of the Board after 2011, there is no discussion in the applicable authority concerning the status of the NRP Program after 2011. Indeed, as discussed below, in order for the funds which are reserved and allocated pursuant to a NAP, but as yet unspent, and the funds derived from sources such as recycled loan repayments, to be spent for NRP purposes, the requirements of the NRP Law must be followed. In order for there to be a valid expenditure, the City of Minneapolis and the Board must follow the NRP Law, which mandates that there be an NRP Program with all the required indicia--that is, neighborhoods creating and implementing action plans, a multi-jurisdictional NRP Board to address program issues and approving NAPs, and the City approving qualified NRP Fund expenditures.

NRP Funds subsequent to 2009 have the same status as prior to 2009—that is, Chapter 604 Revenues derived from qualified expenditures of tax increment pursuant to a valid NAP authorized by the NRP Law remain NRP Funds and can *only* be used for qualifying purposes under and pursuant to the NRP Law. Therefore, it is clear that NCRD has no jurisdiction over NRP Funds subsequent to 2009.

**2. What is the impact of the 2008 Special Law on tax increment financing districts in the “Common Project” which must provide reserve funding for the NRP through 2009?**

As discussed above, “program money” was completely expended in Phase I of the NRP Program, with the result that only the reserved but reduced “Common Project” or Chapter 604 Revenues are available from the City through 2009 for the NRP Program. The City has already determined the 2009 reservation from the Common Project, and presumably will follow the requirements in Minneapolis Code of Ordinances (MCO) 419.35, as amended by 2003-OR-111 which provides that the funding commitments of the Common Project are: 1) debt obligations; 2) administrative costs of the MCDA (now CPED); 3) NRP funding; 4) general development purposes. Presumably, there will be no amendment of the NRP Ordinance in connection with the implementation of the NCRD, given the limited subject matter of the NRP Ordinance which is based ultimately on the NRP Law.

The Special Law is prospective in application of its authority. Subdivision 1 of the 2008 Special Law provides in part that “the district created under this section may be certified after January 1, 2010. . .” As a result, there should not be any direct conflict among or between the NRP Law, the NRP Ordinance or the 2008 Special Law, since all Chapter 604 Revenues will have been reserved prior to the certification of the new TIF District in 2010, regardless of overlap of parcels in TIF districts between the Common Project and the Consolidated Tax Increment Financing District authorized by the 2008 Special Law, and all Chapter 604 Revenues will have to be administered pursuant to the NRP Law and NRP Ordinance.

### **3. What is the status of NRP Funds subsequent to 2010?**

As indicated above, there is no direct conflict between the 2008 Special Law and the NRP Law since all actions will have been taken under the NRP Law to reserve and allocate Chapter 604 Revenues to the respective neighborhoods. Presumably, the City will adhere to the requirements of the NRP Law and the NRP Ordinance, and required Program activities will proceed until the NRP Funds (the Chapter 604 Revenues) are spent pursuant to the NRP Law. That is, for such funds to be expended, the City of Minneapolis and the NRP Board must follow the NRP Law which mandates that there be an NRP Program with all the required indicia, that is, neighborhoods creating and implementing NAPs, a multi-jurisdictional NRP Board to address program issues and approving NAPs and the City approving qualified expenditures.

Allocated Chapter 604 Revenues must be spent by the respective neighborhood pursuant to the approved Phase II Plan. This will require some level of NRP staffing to provide support and administrative oversight. The *unallocated* tax increment in the NRP reserve for NRP activities must be allocated and spent pursuant to the NRP Law subsequent to 2009, as well as the unallocated NRP Funds derived from recycled loan payments. The NRP Law mandates both a legal process and a legal *structure* for the expenditure of Chapter 604 Revenues. NAPs will need to be approved or amended after 2011. Oversight of this process will continue to be required. Therefore, the NRP Program must legally continue to function as required by the NRP Law *indefinitely* until all Chapter 604 Revenues and NRP Funds have been expended.

It is clear that NCRD has no authority to spend NRP Funds after 2009, or after 2011 if the JPA expires on its own terms.

### **4. What impact does the 2008 Special Law have on NRP funds and the program income retained by neighborhoods after 2009.**

The 2008 Special Law has no legal impact on the expenditure of NRP Funds and NRP Funds which consist of recycled loan funds. Chapter 604 Revenues derived from TIF allocated to neighborhoods through the NRP Program and then used for loans remain NRP Funds when paid back. Since these funds are derived from TIF from the Common Project, such funds must be spent by the neighborhoods pursuant to the NRP Law. That is, for such funds to be expended, the City of Minneapolis and the NRP Board must follow the NRP Law which mandates that there be an NRP Program with all the required indicia, that is, neighborhoods creating and implementing NAPs, a multi-jurisdictional NRP Board to address program issues and approving NAPs and the City approving qualified expenditures, which may include Neighborhood Funds.

### **5. Who has responsibility for managing the NRP Funds after 2009?**

Historically, many of the Neighborhoods have managed NRP Funds comprised of recycled loan funds, with oversight and assistance from the NRP Program to provide advice and auditing of the neighborhoods by the State Auditor or other auditing firms. These funds are not controlled by the City, but are controlled through the NRP Program, even though the City may be the “custodian” of such funds for some neighborhoods. NCRD has no authority over these funds so the NRP Board will continue to have the legal responsibility to assist neighborhoods in the management of all NRP Funds.

As discussed above, unallocated Chapter 604 Revenues must be managed pursuant to the NRP Law.

## **CONCLUSION**

The NCRD will be implemented pursuant to the 2008 Special Law. The 2008 Special Law is prospective in operation and neither the 2008 Special Law on its face, nor the NCRD as a City department has any legal authority over the treatment of NRP Funds. In order for NRP Funds to be spent now or in the future, the NRP Law mandates that there be an *NRP Program* with all the required indicia, that is, neighborhoods creating and implementing neighborhood action plans, a multi-jurisdictional NRP Board addressing program issues and approving neighborhood action plans, and the City approving qualified expenditures.