Land Acquisition Plan

2018-2022 NHBP STRATEGIC PLAN

April 19, 2018
Introduction
The NHBP Strategic Plan 2018-2022 is the result of our partnership, driven by leadership and community input. Our common goal was to create a strategic roadmap and decision-making guide to help lead your Tribal nation into its next stages of success. One element of the deliverables for this project was the development of a Land Acquisition Plan that would assist the Tribe in accomplishing its strategic priorities, goals and objectives.

Chief Strategy Group (CSG) has had the opportunity to work closely with Planning and Land Use Committee (PLUC), Tribal leadership, legal, planning and the finance staff. Our goal was to get a better understanding of the laws and policies that guide land purchases. Additionally, we sought to identify ways to improve the land purchase protocol to ensure compliance with laws, to satisfy all related environmental and compliance standards and to purchase lands relevant to the priorities established by the Tribal membership in the NHBP Strategic Plan. The overarching purpose of the plan will be to establish and implement appropriate standardized processes to offer transparency of the actions of leadership, while maximizing opportunities and minimizing risks.

The identification of properties meeting the Tribe’s current and future needs will be guided by the overriding goal of rebuilding a Reservation land base to provide a sustainable homeland for future generations of tribal citizens.

NHBP Code – Chapter 9.1, Section 9.1-4B

The Land Acquisition Plan will help fulfill the strategic priority area of Expressing Sovereignty, as identified in the 2018-2022 Strategic Plan. The Land Acquisition Plan, as a subcomponent of the Strategic Plan will result in more robust policy development, thereby addressing the primary concern of membership – transparency. Understanding that transparency can be challenging with negotiating land purchases, clearly articulating the process that is utilized for analyzing and completing the purchase will help create appropriate expectations for the community.

CSG has conducted a thorough environmental scan of the NHBP related to real property. It is our analysis that the Tribe is well-positioned to manage current holdings, as well as acquire more land in the future. Specific strengths include the existing Tribal Code, the Planning and Land Use Committee, financial resources, an engaged membership, involved leadership, and competent staff. As with any organization, there are also areas for improvement. Opportunities for enhancement primarily focus on clarification of roles, expansion of procedures and policies, more proactive management of the process, and communication with the membership. These have been further expanded within our Recommendations for Final Consideration.
Recommendations for Final Consideration

Chapter 9.1

NHBP has developed a robust, comprehensive and detailed section of their Tribal law surrounding land purchases. After detailed reviews and evaluating best practices, Chief Strategy Group determined that Chapter 9.1 – Real Property Acquisition of the Tribal Code is appropriately developed. Additional examination should focus on the areas that address procedures and requirements for land acquisition, § 9.1-4 and §9.1-5, respectively. Overall, the mission of NHBP related to land purchases and progress towards the strategic priority areas can be accomplished by following the current standards established in these sections.

Recommended edits to Chapter 9.1 focus on the clarification of the Planning and Land Use Committee (PLUC) versus the Planning Department. CSG advocates for the Planning Department to be the lead on all pre-purchase diligence and coordination for land acquisition. The Planning Department will coordinate a team possessing appropriate knowledge sets and capabilities specific to due diligence. For instance, the staff within Housing, Environmental, and Tribal Historic Preservation will significantly contribute to the work. Additionally, this change will provide better confidentiality related to potential acquisition targets. The PLUC is best suited to handle the highest-and-best use scenarios associated with the development of the land. This observation stems from the size and membership of the Committee, in addition to the historic role they have played in land use. The Integrated Resource Management Plan is an example of the appropriate role of PLUC in planning and management of existing real estate.

- § 9.1-4
  - C – incorporate the Planning and Land Use Committee into the annual prioritization process. The PLUC will have primary responsibility of post-planning activities related to real property held by the NHBP. As such, they should be consulted and involved in the discussion of potential use and needs.
  - D – replace “Planning and Land Use Committee” with “Planning Department”
  - D (7) - replace “Planning and Land Use Committee” with “Planning Department”

- § 9.1-6
  - A - replace “Planning and Land Use Committee” with “Planning Department”. Planning Department will have the responsibilities as defined on the following page including but not limited to, the responsibility to coordinate efforts in the property’s potential use during the pre-acquisition phase.

Policy and Procedure Development

Throughout interviews with departments and tribal leadership, as well as based upon an evaluation of best practices, CSG acknowledges that policies are a tool and resource for tribal nations. We feel strongly that policies and procedures should bring clarity and provide guidance, but not limit effectiveness nor curtail efficiency. As such, CSG is raising the following considerations for the NHBP. These should be taken into account as the Tribe develops appropriate policies around land acquisition.

1. Budget - Specify the origin and the annual budgetary allotment for land purchases with clear budgetary language that stipulates land acquisitions must be approved by Tribal Council in
2. Financial – Land acquisition has longer-term implications than just the immediate purchase. NHBP is encouraged to consider the following when defining their policies and processes for acquisition:
   - Development costs
   - Tax implications
   - Financial plan (short-term and long-term)

3. Standardizing Processes – While Chapter 9.1 brings forward the process, further definition and clarification of responsibilities may be necessary. Considerations to clarify responsibilities may include:
   - Defining who is the person or team responsible for each aspect of a land purchase
     - Who identifies land opportunities
     - Who determines if it fits the priorities of the community
     - Who is responsible for land planning prior to and subsequent to purchase
   - Role of Planning & Land Use Committee
   - Role and responsibilities of:
     - **Planning.** Responsible to be the central point of land acquisition activities for NHBP in facilitating the efforts of: Environmental; Housing; Tribal Historic Preservation Office (THPO); Legal; Finance; and Tribal Council. Responsible for preparing the internal land acquisition strategy whereby properties are identified according to key land characteristics found to be important to NHBP. Responsible for facilitating the potential land use of the potential property during the pre-acquisition phase. Responsible for preparing land acquisition update reports to Tribal Council.
     - **Environmental.** Responsible for conducting Phase I Environmental Site Assessments, research regarding the property’s natural features, as well as other environmental assessments including but not limited to, drone photographs and map preparation. Also responsible to participate in the development of the property’s potential use during the pre-acquisition phase.
     - **Housing.** Responsible for an overall analysis of the property value, assessment, and participation in the property’s potential use during the pre-acquisition phase.
     - **Tribal Historic Preservation Office (THPO).** Responsible for conducting archaeological, historic, and cultural investigative research according to the National Historic Preservation Act, Native American Graves Protection and Repatriation Act, American Indian Religious Freedom Act, Archaeological Resources Protection Act, Abandoned Shipwreck Act, Executive Order 13007, among others. The goal of a Phase I survey is to determine the presence or absence of archaeological resources or historic properties within a project area.
(or before a land purchase in this case). It initially includes an examination of archaeological site files, historic maps and photographs, consulting local historical societies and libraries, or interviewing individuals knowledgeable in the area's history and archaeology. It also frequently includes archaeological testing of an area via a pedestrian survey, shovel testing (subsurface testing), ground penetrating radar, or other survey techniques.

- **Legal.** Responsible for reviewing purchase agreements, as well as any legal implications from environmental or THPO findings. Also, responsible for the coordination of Tribal Law development in the areas of environmental, cultural, historic and archaeological.
- **Finance.** Responsible for processing payment transactions associated with authorized purchase agreements.
- **Waséyabek Development Company, LLC**
  - Economic Development was one of the highest listed priorities for new land acquisition. Based upon the strategic plan of WDC, they stand to have a prominent role in land acquisition. There are potential strengths and opportunities in building upon their expertise.
  - Acknowledge and differentiate approaches for land acquisition focused on economic development. Potential considerations may include:
    - Land and real estate associated with business acquisition target
    - Undeveloped land acquired for the Tribe or WDC to develop an enterprise.
    - Existing tenants within land acquisition targets
  - Establish qualifiers WDC taking lead versus the Tribe, respectful of tribal sovereignty and the independent nature of the business entity.

- **Development of Tribal Environmental, Cultural, Historic and Archaeological Law.** The Nottawaseppi Huron Band of the Potawatomi recognizes the need and is committed to the development of NHBP Law in which protections are placed on environmental, cultural, historic, and archaeological resources regardless of the funding source used for the acquisition of lands.
- **Time-Sensitive Acquisition.** In some instances, NHBP may identify lands that require acquisition inconsistent with the traditional methods as outlined in this document. In these extraordinary acquisition circumstances, Tribal Council is committed to the development of policies and procedures that outline these potential circumstances, the potential risk associated with these, and the alternative due diligence steps that must be employed during these times. Examples of these extraordinary circumstances include: auction sales, and parcels of land that are known to be culturally or historically significant.

4. **Land Into Trust** – Placing land into trust with the Department of Interior is a sovereign authority and ability of tribal nations. This process is lengthy and complicated, but can be successfully navigated with appropriate work and planning on the frontend.

- Desire to place land into trust
- Evaluate internal resources versus needs
- Identification of existing parcels
- Outline process and financial commitment to proceed

5. **Communication and Transparency** – Communication with membership regarding activities of the government is key. CSG recognizes that public information related to land acquisition can be
challenging, but recommends building communication into the process. Some key considerations are:

- Communicating the establishment and adherence to a process and policy
- Annual reporting of priorities
- Community involvement in planning

**Membership Priorities**

The 2018-2022 Strategic Planning process included significant engagement with the Tribal membership. Completed through in-person meetings, teleconferences, and survey instruments. NHBP members were very forthright with their thoughts, and offered well-justified opinions to substantiate their positions.

Those that answered “Yes” addressed additional questions to gauge specific aspects of the land the Tribe may have opportunities to acquire.
The survey results also indicate support for land acquisition greater than 15 miles from existing NHBP lands.

These responses indicate that the membership is in favor of land acquisition. It also begins to provide certain parameters and prioritization for the geographic proximity of acquisition targets. Utilizing this information to structure a clearly defined process for new acquisitions would prove beneficial. Tribal Council supports flexibility in considering land acquisition and therefore, agrees to consider land acquisitions geographically located in the Treaty areas and lands within the State of Michigan; within our aboriginal territory; or lands associated with the Potawatomi removal trail.

These respondents were further asked about the potential use of newly acquired land. Collectively, the answers provided by the membership may be useful in prioritizing land acquisitions.
The following points summarize the most desired characteristics of land acquisition based upon community input:

- Land within the 7-County Service Area
- Land adjacent to existing holdings
- Land that can be utilized for economic development and/or housing

**Evaluation Matrix**

An evaluation matrix is a tool that articulates characteristics of evaluation and assigns weighted scores to those aspects. These tools provide an unbiased evaluation that is based upon desired features of opportunities and should reduce subjectivity in decision-making. Included is a potential outline of an evaluation matrix for land acquisition for the NHBP. The specific considerations, and the importance of each of those, should be developed, and adjusted, in consultation with the annual budget process.

<table>
<thead>
<tr>
<th>Parcel</th>
<th>Adjacency</th>
<th>Use</th>
<th>Cost/Market Value</th>
<th>Trust Potential</th>
<th>Budgeted Resources</th>
<th>Development Cost</th>
<th>Weighted Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-A</td>
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<td>2-C</td>
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<td>4-B</td>
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</tbody>
</table>

**Scoring Guide**

<table>
<thead>
<tr>
<th>Factor</th>
<th>0</th>
<th>1</th>
<th>2</th>
<th>Percentage weight of total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is the parcel located within the 7-county service area?</td>
<td>No</td>
<td>N/A</td>
<td>Yes</td>
<td>15%</td>
</tr>
<tr>
<td>Is the parcel adjacent to current land holdings?</td>
<td>No</td>
<td>N/A</td>
<td>Yes</td>
<td>15%</td>
</tr>
<tr>
<td>Prioritization of potential use</td>
<td>No</td>
<td>N/A</td>
<td>Yes</td>
<td>15%</td>
</tr>
<tr>
<td>How does cost relate to Fair Market Value?</td>
<td>&gt;100%</td>
<td>85% - 99%</td>
<td>&lt;85%</td>
<td>10%</td>
</tr>
<tr>
<td>What is the potential of the parcel placed into Trust?</td>
<td>None</td>
<td>Low</td>
<td>High</td>
<td>10%</td>
</tr>
<tr>
<td>How does the price comply with budgeted resources?</td>
<td>&gt;75% of budgeted line item</td>
<td>20% - 75% of budgeted line item</td>
<td>&lt;20% of budgeted line item</td>
<td>15%</td>
</tr>
<tr>
<td>How does development cost comply with budgeted resources?</td>
<td>Not within current 5 year budget plan</td>
<td>Within 5 year budget plan</td>
<td>Within 2 year budget plan</td>
<td>10%</td>
</tr>
<tr>
<td>Does the parcel have historical/cultural significance (ex: Burial sites, former reservation lands, unceded territories, etc.)</td>
<td>No</td>
<td>N/A</td>
<td>Yes</td>
<td>10%</td>
</tr>
</tbody>
</table>
Process Flowchart

The following chart is a representation of a high-level overview of the land acquisition process, as proposed. It is recommended that more detailed tracking and flow-charts be established for each step. These will be contingent upon the further development of appropriate policies and procedures.