

COUNTY OF MILWAUKEE
INTER-OFFICE COMMUNICATION

Parks



Date : August 31, 2000
To : Supervisor Karen Ordinans, County Board Chairman
From : Susan L. Baldwin, Director of Parks, Recreation and Culture

Subject : **Amendment of the General Policy on Use of Park Land in Cooperation
With Other Governmental Units (Exemption from Storm Water Utility
Fees Requirement)**

SEP 28 2000

FILE NO. 00-191(a)(a)

In May of this year the County Board adopted the General Policy on Use of Park Land in Cooperation With Other Governmental Units (County Board File No. 00-191). The Parks Department is recommending a modification to that Policy to reflect a requirement that Municipalities that enter into agreements under that Policy exempt Milwaukee County Park Facilities from any Storm Water Utility Fees.

BACKGROUND

State law permits municipalities to establish Storm Water Utility Fees. The purpose of those fees is to help municipalities deal with the increasingly difficult problem of storm water management. The general position of the County in regard to these fees has been that the fees tend to be more of a tax than a fee (typically, a fee means that the user has at least some control over the charge by regulating the amount of use, which does not appear to be the case in this instance), that the County actually participates substantially in the reduction of storm water management by maintaining large tracks of land (including ownership of flood plains), that the County has and continues to cooperate with municipalities and the Milwaukee Metropolitan Sewerage District in flood abatement projects and that in many cases water that comes onto County land is not discharged into a municipal system, but rather discharged directly into rivers or dissipated in the land owned by the County. The City of Glendale has recognized this contribution of the County by exempting the Parks from the charge and the City of Milwaukee has agreed not to impose this charge on Parks in the future. The City of West Allis imposed this charge on the Parks Department several years ago and the City of Wauwatosa recently imposed the charge on the Parks Department. Other municipalities have not yet adopted a Storm Water Utility Fee.

The General Policy on Use of Park Land in Cooperation With Other Governmental Units ("Policy") establishes guidelines and conditions for entering into agreements for use of park land with other governmental units. Use of park land includes leases, rentals, easements, permits, contracts and other agreements. These uses often include cooperation for utility related work, including storm water management. The Policy deals with issues such as preservation of park land and environmentally sensitive areas, disruption of programmed activities, compensation and protection of investment. The Policy permits specific terms to be

negotiated into agreements which are then subject to the review and approval of the County Executive and the County Board.

REVIEW AND ANALYSIS

The issue of Storm Water Utility Fees is very serious for both the County as a whole and also for the Parks Department specifically from the standpoint of the operating budget. In many cases it is either impractical or not possible to pass increased costs for Storm Water Utility Fees on to park users through user fees. This means that the increased costs are then actually passed on to tax payers, not specific park users who are benefiting from the park activity. It also means that municipalities that impose the charges are passing their Storm Water Utility costs on to tax payers in other municipalities that do not impose the charges on the Parks Department since the County allocates the tax levy based on equalized value of each municipality. When it is considered that Glendale does not impose the Storm Water Utility Fee on the Parks Department and the City of Milwaukee has agreed not to impose any future Storm Water Utility Fee on the Parks Department, it becomes apparent that, all other issues aside, an inequity exists between those municipalities that impose the charge and those that do not. While the County is challenging the West Allis Storm Water Utility Fee through legal means and is resisting the Wauwatosa Storm Water Utility Fee, it appears that an option available to the County as it relates to Storm Water Utility Fees is to simply require any municipality that wishes to enter into an agreement covered under the Policy to exempt the County from these charges. In addition, it is noted that most municipalities have not implemented the fee as of this time and are not charging the Parks Department or anyone else.

Accordingly, we have developed and propose a modification to the Policy that will require any municipality that wishes to enter into an agreement under the Policy to first have on file with the County an irrevocable agreement that the municipality will not impose this fee on the Parks Department for park facilities located within the municipality. We believe that this action should be taken in addition to any legal challenges to Storm Water Utility Fees. We propose that the exact language of the agreement itself be drawn up by Corporation Counsel in a proper form. In addition, we propose that the County Executive be authorized to execute these standard agreements on behalf of the County when they are submitted from time to time. The Policy would be modified as follows (changes both underlined and in bold):

Section 9. There is a clear benefit to the County, either through compensation or other consideration, or through service to the residents of the County, or a combination of the preceding. **In recognition of the County contribution to storm water management efforts within the various municipalities, an irrevocable agreement that the municipality or other governmental unit that is requesting the agreement will not impose storm water utility fees on Parks Department facilities, sites and/or locations now or in the future must be on file with the Parks Department. The irrevocable agreement must be in a form which is approved by Corporation Counsel and must be on file prior to the Parks Department or any other County Department or Agency entering into negotiations for the use of park land as provided elsewhere in this Policy. This Section also applies specifically to Section 3, which provides that multiple governmental**

units that benefit from an agreement may be required to be a party to that agreement. It is clarified that the storm water utility fee exemption agreement is required regardless of the agreement that is requested by the other governmental unit as long as the requested agreement is covered under this Policy. It is further clarified that this requirement (for the storm water utility exemption) only applies to "Other Units of Government" as provided under Definitions and does not apply to the public, business or other non-governmental entities.

Implementation of the proposed change will recognize the County's contribution to storm water management in the municipalities. Municipalities that agree to exempt the County from any storm water utility charges will not incur increased costs. Rather, the charges to users will more accurately reflect the benefits and costs in the specific municipality, rather than spread the costs to other communities, some of which do not have such a fee and others of which have already exempted the County from the fee.

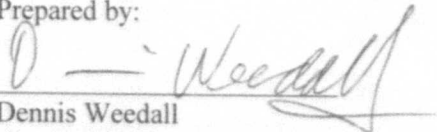
RECOMMENDATION

In order to encourage and provide for equity in the matter of storm water utility charges, it is recommended that the General Policy on Use of Park Land in Cooperation With Other Governmental Units be amended as provided above. Adoption of the attached proposed resolution will accomplish the amendment of the Policy.

FISCAL NOTE

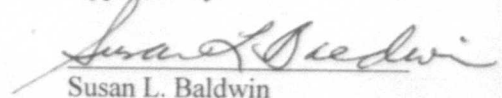
Adoption of this resolution has no direct tax levy effect but may avoid future Storm Water Utility Fees.

Prepared by:



Dennis Weedall
Deputy Director of Parks (F/A)

Approved by:



Susan L. Baldwin
Director of Parks, Recreation
and Culture

CC: F. Thomas Ament, County Executive
Supervisor Sheila Aldrich, Chairman, Parks, Energy and Environment Committee
Tom Mollan, County Executive Chief of Staff
Maureen Murphy, County Executive Legislative Liaison
Robert G. Ott, Corporation Counsel
Paul Hathaway, Associate Director of Parks (Facilities)
Terry Kocourek, Fiscal and Budget Administrator
JoAnn Dobberful, Fiscal and Management Analyst III
Anne Spray Kinney, Executive Director, MMSD
Kevin Shafer, Director of Technical Services, MMSD

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File No.
(Journal,)

(ITEM NO.) **Amendment of the General Policy on Use of Park Land in Cooperation With Other Governmental Units (Exemption from Storm Water Utility Fees Requirement)**, by recommending adoption of the following:

A RESOLUTION

WHEREAS, the County has adopted a General Policy on Use of Park Land in Cooperation With Other Governmental ("Policy") which establishes guidelines and general conditions to be used when developing proposed agreements with other governmental units for the use of County owned parkland; and

WHEREAS, the Director of Parks, Recreation and Culture has indicated that County parkland has and continues to provide inherent flood control benefits to the various municipalities, that the County has been cooperating with the Milwaukee Metropolitan Sewerage District on numerous flood control projects, that only two of the nineteen municipalities have imposed such a fee on the Parks Department and those fees are contested by the County; and

WHEREAS, the Director of Parks, Recreation and Culture has recommended that a permanent exemption from storm water utility charges for Parks Department facilities should be a prerequisite to be met before entering into discussions on the use of parkland and/or facilities (for agreements as defined under the Policy) with any governmental unit (as defined under the Policy) and has developed a recommended amendment to the Policy to accomplish this; now, therefore

BE IT RESOLVED, that the General Policy on Use of Park Land in Cooperation With Other Governmental Units is hereby modified as follows (changes are underlined):

Section 9. There is a clear benefit to the County, either through compensation or other consideration, or through service to the residents of the County, or a combination of the preceding. In recognition of the County contribution to storm water management efforts within the various municipalities, an irrevocable agreement that the municipality or other governmental unit that is requesting the agreement will not impose storm water utility fees on Parks Department facilities, sites and/or locations now or in the future must be on file with the Parks Department. The irrevocable

39 agreement must be in a form which is approved by Corporation
40 Counsel and must be on file prior to the Parks Department or any
41 other County Department or Agency entering into negotiations for
42 the use of park land as provided elsewhere in this Policy. This
43 Section also applies specifically to Section 3, which provides that
44 multiple governmental units that benefit from an agreement may
45 be required to be a party to that agreement. It is clarified that the
46 storm water utility fee exemption agreement is required regardless
47 of the agreement that is requested by the other governmental unit
48 as long as the requested agreement is covered under this Policy. It
49 is further clarified that this requirement (for the storm water utility
50 exemption) only applies to "Other Units of Government" as
51 provided under Definitions and does not apply to the public,
52 business or other non-governmental entities.
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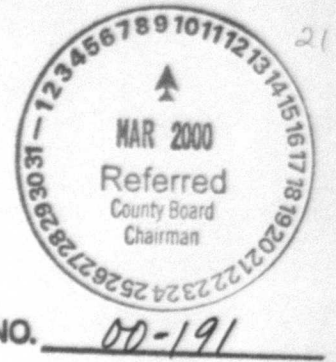
54 ; and

55 BE IT FURTHER RESOLVED, that this amendment to the Policy shall become
56 effective upon adoption.

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58 **FISCAL NOTE:** There is no direct fiscal effect related to adoption of this
59 resolution since it only modifies a policy and any agreements arising out of this
60 policy as amended will continue to require review and approval by the County
61 Executive and County Board.

COUNTY OF MILWAUKEE
INTER-OFFICE COMMUNICATION



Date : March 4, 2000
To : Supervisor Karen Ordinans, County Board Chairman
From : Susan L. Baldwin, Director of Parks, Recreation and Culture
Subject : **Recommended Policy on the Use of Park Land by Other Governmental Units**

Over the years a number of governmental units have requested to use Milwaukee County land which is under the jurisdiction of the Parks Department. The uses have varied substantially and range from actual transfer or sale of land to cooperative ventures. Invariably the objective of the governmental unit is for improved public service. However, increasingly, other governmental units appear to desire to use park land. In order to responsibly address these requests, establish an orderly process, protect park land and County resources and inform other governmental units what is required in order to successfully establish these arrangements and partnerships, the Parks Department has developed a recommended Policy on the Use of Park Land by Other Governmental Units. This recommended Policy is attached as Exhibit A to this report.

REVIEW AND ANALYSIS

The Parks Department has an established policy for disposition of land through sale which is very comprehensive and protects park land while at the same time balancing community needs. Similarly, the County has established a policy on construction of communications towers on park land. The County has also supported the activities of a large number of governmental units by addressing requests on an individual basis using general guidelines obtained from other policies such as obtained from lease and easement procedures. However, typically considerations are different for governmental units since they serve a public purpose by definition. Based on the increasing number of these requests, we believe that the other governmental units have a need to understand what is needed and expected from them when they wish or need to utilize park land.

We have prepared a recommended policy to assist not only the other governmental units but the Parks Department as well in dealing with requests of this nature. This policy would also assist the County Executive and the County Board in evaluating the various agreements that are increasingly being submitted for review since items of importance are established and any recommended exclusions or exceptions to the policy will be identified as well as the reason for the exception or exclusion.

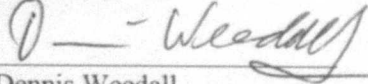
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The recommended policy differentiates between incidental routine easements and more substantial commitments. The policy also provides more flexibility for joint ventures where the other governmental unit's mission is similar to a County mission (for example, providing recreational activities). The policy also focuses on fiscal requirements and is intended to limit the net loss of any park land and park activities. Finally, the policy provides a basis for recognition of the value of the use of park land by other governmental units.

RECOMMENDATION


It is respectfully requested that the attached recommended policy be adopted to provide the County and other governmental units with an additional tool to use in negotiations for the use of park land. Parks Department staff is available to address any concerns and answer any questions.

Prepared by:



Dennis Weedall
Deputy Director of Parks (F/A)

Approved by:



Susan L. Baldwin
Director of Parks, Recreation
and Culture

- CC: F. Thomas Ament, County Executive
- Supervisor Sheila Aldrich, Chairman, Parks, Energy and Environment Committee
- Tom Mollan, County Executive Chief of Staff
- Maureen Murphy, County Executive Legislative Liaison
- Robert G. Ott, Corporation Counsel
- Greg Youngs, Deputy Director of Parks (Operations)
- Paul Hathaway, Associate Director of Parks (Facilities)
- Mike Raap, Landscape Architect
- Robert Andrews, Deputy Corporation Counsel
- John Rath, Risk Manager

EXHIBIT A

COUNTY OF MILWAUKEE
MILWAUKEE COUNTY PARK LAND

General Policy on Use of Park Land in
Cooperation With Other Governmental Units

This Policy establishes guidelines for use of Park Land ("Use") in cooperation with other governmental units for extended terms. This Policy shall be used by the Parks Department for direction, guidance and authority in the formulation of agreements regarding Use with other governmental units.

Intention:

This Policy is intended to protect and preserve Park Land and to provide a means to assist other governmental units in the discharge of their responsibilities. It is also intended to establish financial responsibility based on the mission of the unit of government and recognize the value of the provided Use.

Definitions:

Other Governmental Units: Other units of government authorized by applicable Federal, State or Local Law. This includes, but is not limited to the Federal Government and its Agencies, the State Government and its Agencies, Municipal Governments and their Agencies, School Districts, Sewerage Districts, Vocational and Technical Districts, Special Taxing Units, Special Taxing Districts, Authorities and any and all other Entities authorized by Federal, State or Local Law, Judicial Regulation or Order or Constitutional Authority.

Park Land Use ("Use"): Use of Park Land which requires an agreement, contract, lease, easement or other legal instrument which binds either Party to specific terms, conditions, obligations or liabilities, or which grants special privileges, rights, preferential treatment, exclusive use, or the expectation of some consideration.

Park Land: Land owned or under the control of Milwaukee County which is under the jurisdiction of the Milwaukee County Parks Department.

Intrusive Uses: These are Uses where green space, wooded areas, environmentally sensitive areas, activity areas, structures and/or infrastructure are lost, diminished or changed in a significant way.

Non-Intrusive Uses: These are changes which do not impact green space, wooded areas, environmentally sensitive areas, activity areas, structures and/or infrastructure in a

permanent manner (that is, anything effected will be restored to original or better condition within two years or less).

Continued and Compatible Uses: These are uses where the County and another unit of government wish to continue, enhance or initiate a specific use or activity which is a normal Park activity but there is mutual agreement that it is in the interest of both units of government to cooperate to enhance services to the public.

Dedicated Uses: A use that displaces all or most other uses that would be normally be available at a site in favor of the specific use, or where the other governmental unit take essentially full control of the site and the use is restricted either in terms of activities and environment, or in terms of who may use the site or how the site may be used.

Applicability:

The intention of this Policy is to apply to long term and permanent uses. A long term use shall be a use of five years or more, or any shorter term use which may be extended by the other governmental unit at its sole discretion for a cumulative period of more than five years. It shall also apply to short term and temporary uses at the sole discretion of Milwaukee County acting through its Director of Parks, Recreation and Culture. This Policy shall be effective upon adoption by Milwaukee County but will not apply to existing agreements unless those agreements are renegotiated (in which case it shall apply). This Policy shall apply in addition to other adopted Policies regarding Use and may further limit those policies, but will not reduce any limits or guidelines established in those Policies. This Policy does not apply to cooperation between the various internal Departments, Divisions, Agencies and Units of Milwaukee County Government, but does apply if outside units of government are involved. The Parks Department is advised to review this Policy and utilize applicable portions if the sale of surplus land is involved or if land is being considered for transfer to another governmental unit.

All Park Land is included under this policy.

Long term agreements on Use may only be approved (and construction commenced if applicable) when the following conditions are met:

1. Dedicated Uses and Intrusive Uses require a demonstration of Public benefit which may be improved services to the Public and/or good and sufficient economic impact on the community. The governmental unit requesting the use must provide clear and convincing evidence which includes a clear statement of the benefit(s), statistics to support the position, a clear analysis of factors involved in arriving at the decision to request to use Park Land and sufficient reasons that no other approach is feasible and/or desirable, including the fiscal effect to the governmental unit of using other approaches. At least one other viable alternative must be provided, including the fiscal effect to the government unit of the alternative. The Director of Parks, Recreation and Culture may REQUIRE that

additional alternatives be evaluated and may identify the specific alternatives to be evaluated.

2. Dedicated Uses and Intrusive Uses shall not increase County costs for maintenance, repair, upkeep, and/or major maintenance. Any standards of maintenance, repair, upkeep, and/or major maintenance shall be set by the County and the County may at its sole discretion change those standards from time to time with or without notice to the other governmental unit. In any situation where the other governmental unit must set standards of maintenance, repair, upkeep, and/or major maintenance, that governmental unit shall provide the maintenance, repair, upkeep, and/or major maintenance at its cost. If the other governmental unit desires the County to provide these services to the other governmental unit's specifications, the County's full cost plus ten percent for administration shall be charged to the other governmental unit. In addition, even if the other governmental unit does not establish specific standards as provided above, if the Director of Parks, Recreation and Culture has reason to believe that the County will incur additional costs as a result of the Use, recovery of that cost by the County shall be included in the agreement.
3. Multiple governmental units that benefit from an agreement may be REQUIRED by the Director of Parks, Recreation and Culture to become a Party to the development of and part of the agreement, even if only a single governmental unit is requesting the agreement. If so required by the Director of Parks, Recreation and Culture, those governmental units shall be included as Parties to the recommended agreement submitted to the County Executive and County Board. If the other governmental units affected refuse to become a Party to the agreement when so required by the Director of Parks, Recreation and Culture, no further work shall be done on the agreement by the County and no agreement shall be submitted to the County Executive and County Board for review until such time as the required cooperation is obtained by the Director of Parks, Recreation and Culture.
4. The Director of Parks, Recreation and Culture is granted broad powers to negotiate agreements subject to the review and approval of the County Executive and County Board for Non-Intrusive Uses and Compatible and Continuing Uses of Park Land as herein defined and include such provisions of this Policy as are necessary to insure a successful agreement.
5. It is the position of Milwaukee County that County Policy shall prevail where another unit of government desires to utilize Park Land.
6. Any construction of improvements should conform to then current County standards of Disadvantaged Business Enterprise (DBE) and Women Business Enterprise (WBE) as formulated by the County Board and administered by the Disadvantaged Business Division (DBD). In addition, the entity(s) in the agreement shall have an Affirmative Action Program in place. These provisions may only be waived by specific provision in the agreement that is approved by the

County Executive and the County Board. It is anticipated that the provisions may be waived when the other governmental unit has similar but not identical (to Milwaukee County) provisions in place and the other governmental unit's (similar) provisions will apply.

7. The Use can only be utilized for the specific purpose(s) as stated in each original agreement. As an example, if an agreement is for constructed of a passive flood control facility of a specific dimension, any change to that dimension or making the facility active in nature would require approval in advance by the County. In addition, any other use whatsoever must be approved in advance by the County. However, the agreement, lease or easement governing any Use may anticipate such usage or change and include terms to cover such additional usage or change.
8. Additional usage of Park Land as indicated in item 7 above must be approved in advance and additional rental fees, easement fees, royalty fees and/or other considerations as appropriate may be required for such usage. If language specifying specific compensation for additional usage is not included in the executed agreement, then additional usage will require either amendment or a separate agreement for the additional usage. The County is under no obligation to approve any further usage of any Park Land beyond that expressly permitted under the agreement(s) in force.
9. There is a clear benefit to the County, either through compensation or other consideration, or through service to the residents of the County, or a combination of the preceding.
10. There must be a suitable site available. The Use should not disrupt any endangered ecosystem or area where irreplaceable trees or other vegetation exists. If any ecosystem is disrupted, the County has the option of requiring that an ecologically similar system designed to the County's specifications be reestablished at a site of the County's choosing. The County may at times also require land be acquired for the reestablishment of the ecosystem or set such other conditions as may be appropriate.
11. The use of a site for the specified purpose may not negatively impact or displace any activity within the Park area without the other governmental unit(s) providing startup costs for an offsetting equivalent activity acceptable to the County which serves essentially the same population.
12. In addition to consideration of ecosystems and activities, protection must also be afforded to Park aesthetics. The Use must blend into Park surroundings to the greatest extent possible. To that end the Parks Department must review and approve all site, construction and landscaping plans associated with the use prior to any construction. In addition, the County reserves the right to do any needed landscaping or site restoration and charge the cost to the other governmental unit(s) except as otherwise provided by mutual agreement. The County reserves the right on major projects to require the other governmental unit(s) to fund a

County employee to be assigned oversight of the project while it is under development. Such provision, if required, will be specified in detail in the agreement.

13. The County will not provide funding for repair, restoration or modifications needed to accommodate Intrusive Uses and Dedicated Uses requested by another governmental unit.
14. All site restoration shall be accomplished by the other governmental unit(s) according to a plan approved by and subject to the review of the Director of Parks, Recreation and Culture. It is the position of Milwaukee County that major damage to structures, including but not limited to buildings, roads, playgrounds and bridges shall be restored not to preexisting condition, but rather to new condition by the governmental unit(s) at their sole cost according to specifications provided by Milwaukee County. If the structure was scheduled to be repaired or replaced in the near future, the County may elect to share in the cost at its sole discretion. A bond in the appropriate amount (which will be determined in the sole discretion of the Director of Parks, Recreation and Culture) shall be posted by the government unit(s) to insure compliance with this section.
15. The County's out of pocket costs of consultants, feasibility studies, research, testing, site evaluations (including evaluation of ecosystems, surveys, appraisals and other directly related activities), monitoring construction (including site preparation, restoration, and other required services such as filing permits, easements, etc.) must be reimbursed by the other governmental unit(s). Any other arrangement must be specified in the agreement.
16. Provision must be made for site restoration and structure removal, if applicable, by the other governmental unit(s) under the following conditions: (1) if the Use is abandoned; (2) if the agreement is not renewed or extended at term; or (3) if the governmental unit is found to be in default of any terms of the agreement. The agreement may provide that the County may, at the County's option, take title to any constructed structures upon termination of the agreement, if applicable.
17. Appropriate insurance and indemnity as determined by the County's Risk Manager and set forth in the agreement must be maintained throughout the agreement.
18. Uses may not pose a health hazard and must conform to any and all Federal, State and Local laws, regulations and zoning.
19. Environmental Considerations. Whenever any other governmental unit uses County Park Land under this Policy, such governmental unit shall be fully responsible for any environmental remediation necessary to achieve the use. However, such governmental unit may pursue any third responsible Party, excluding Milwaukee County, to recover such costs.

20. Suitability of land for a specific use. All agreements shall include a provision that the County does not represent the suitability of the Park Land for a particular use and will not be responsible for any costs to make the Park Land suitable for the use. The County will not be responsible for achieving compliance with any Federal, State or Local law or zoning, or obtaining any required permit. However, the County may specifically include negotiated provisions that address these items when it is in the interest of the County.
21. The Director of Parks, Recreation and Culture may negotiate specific provisions of this Policy when it is in the best interest of the County and it achieves specific County objectives. Such negotiated provisions being subject to the review of the County Executive and the County Board when the agreement is submitted for review and approval.
22. The County may require compensation for the loss of use of Park Land. The County may use replacement cost as a basis for determining value. The County may also use other generally accepted methodologies to determine the value as may be in the best interest of the County.

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File No.
(Journal,)

(ITEM NO.) ***Recommended Policy on the Use of Park Land by Other Governmental Units***), by recommending adoption of the following:

A RESOLUTION

WHEREAS, the Director of Parks, Recreation and Culture has reported an ever increasing interest by other governmental units in utilizing park land for specific purposes and the Director has indicated that it would be advantageous for the County and the other governmental units to have specific guidelines to use when these requests are made; and

WHEREAS, the Director of Parks, Recreation and Culture has analyzed the situation and has suggested that the level of impact on park land, the fiscal effect and the term of the use are critical factors in the review of any request for such use; and

WHEREAS, the Director of Parks, Recreation and Culture has formulated such a recommended policy which would complement other policies and procedures already in place; and

WHEREAS, the Committee on Parks Energy and Environment has reviewed this policy; now, therefore

BE IT RESOLVED, that the following is the General Policy on Use of Park Land in Cooperation With Other Governmental Units:

COUNTY OF MILWAUKEE
MILWAUKEE COUNTY PARK LAND

General Policy on Use of Park Land in
Cooperation With Other Governmental Units

This Policy establishes guidelines for use of Park Land ("Use") in cooperation with other governmental units for extended terms. This Policy shall be used by the Parks Department for direction, guidance and authority in the formulation of agreements regarding Use with other governmental units.

Intention:

This Policy is intended to protect and preserve Park Land and to provide a means to assist other governmental units in the discharge of their responsibilities. It is also intended to establish financial responsibility based on the mission of the unit of government and recognize the value of the provided Use.

41 Definitions:

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43 Other Governmental Units: Other units of government authorized by applicable Federal, State or Local
44 Law. This includes, but is not limited to the Federal Government and its Agencies, the State Government
45 and its Agencies, Municipal Governments and their Agencies, School Districts, Sewerage Districts,
46 Vocational and Technical Districts, Special Taxing Units, Special Taxing Districts, Authorities and any and
47 all other Entities authorized by Federal, State or Local Law, Judicial Regulation or Order or Constitutional
48 Authority.

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50 Park Land Use ("Use"): Use of Park Land which requires an agreement, contract, lease, easement or other
51 legal instrument which binds either Party to specific terms, conditions, obligations or liabilities, or which
52 grants special privileges, rights, preferential treatment, exclusive use, or the expectation of some
53 consideration.

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55 Park Land: Land owned or under the control of Milwaukee County which is under the jurisdiction of the
56 Milwaukee County Parks Department.

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58 Intrusive Uses: These are Uses where green space, wooded areas, environmentally sensitive areas, activity
59 areas, structures and/or infrastructure are lost, diminished or changed in a significant way.

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62 Non-Intrusive Uses: These are changes which do not impact green space, wooded areas, environmentally
63 sensitive areas, activity areas, structures and/or infrastructure in a permanent manner (that is, anything
64 effected will be restored to original or better condition within two years or less).

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67 Continued and Compatible Uses: These are uses where the County and another unit of government wish to
68 continue, enhance or initiate a specific use or activity which is a normal Park activity but there is mutual
69 agreement that it is in the interest of both units of government to cooperate to enhance services to the
70 public.

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72 Dedicated Uses: A use that displaces all or most other uses that would be normally be available at a site in
73 favor of the specific use, or where the other governmental unit take essentially full control of the site and
74 the use is restricted either in terms of activities and environment, or in terms of who may use the site or
75 how the site may be used.

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77 Applicability:

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79 The intention of this Policy is to apply to long term and permanent uses. A long term use shall be a use of
80 five years or more, or any shorter term use which may be extended by the other governmental unit at its
81 sole discretion for a cumulative period of more than five years. It shall also apply to short term and
82 temporary uses at the sole discretion of Milwaukee County acting through its Director of Parks, Recreation
83 and Culture. This Policy shall be effective upon adoption by Milwaukee County but will not apply to
84 existing agreements unless those agreements are renegotiated (in which case it shall apply). This Policy
85 shall apply in addition to other adopted Policies regarding Use and may further limit those policies, but will
86 not reduce any limits or guidelines established in those Policies. This Policy does not apply to cooperation
87 between the various internal Departments, Divisions, Agencies and Units of Milwaukee County
88 Government, but does apply if outside units of government are involved. The Parks Department is advised
89 to review this Policy and utilize applicable portions if the sale of surplus land is involved or if land is being
90 considered for transfer to another governmental unit.

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92 All Park Land is included under this policy.

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94 Long term agreements on Use may only be approved (and construction commenced if applicable) when the
95 following conditions are met:

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- 1915
- 97 1. Dedicated Uses and Intrusive Uses require a demonstration of Public benefit which may be
98 improved services to the Public and/or good and sufficient economic impact on the community.
99 The governmental unit requesting the use must provide clear and convincing evidence which
100 includes a clear statement of the benefit(s), statistics to support the position, a clear analysis of
101 factors involved in arriving at the decision to request to use Park Land and sufficient reasons that
102 no other approach is feasible and/or desirable, including the fiscal effect to the governmental unit
103 of using other approaches. At least one other viable alternative must be provided, including the
104 fiscal effect to the government unit of the alternative. The Director of Parks, Recreation and
105 Culture may REQUIRE that additional alternatives be evaluated and may identify the specific
106 alternatives to be evaluated.
107
- 108 2. Dedicated Uses and Intrusive Uses shall not increase County costs for maintenance, repair,
109 upkeep, and/or major maintenance. Any standards of maintenance, repair, upkeep, and/or major
110 maintenance shall be set by the County and the County may at its sole discretion change those
111 standards from time to time with or without notice to the other governmental unit. In any situation
112 where the other governmental unit must set standards of maintenance, repair, upkeep, and/or major
113 maintenance, that governmental unit shall provide the maintenance, repair, upkeep, and/or major
114 maintenance at its cost. If the other governmental unit desires the County to provide these
115 services to the other governmental unit's specifications, the County's full cost plus ten percent for
116 administration shall be charged to the other governmental unit. In addition, even if the other
117 governmental unit does not establish specific standards as provided above, if the Director of Parks,
118 Recreation and Culture has reason to believe that the County will incur additional costs as a result
119 of the Use, recovery of that cost by the County shall be included in the agreement.
120
- 121 3. Multiple governmental units that benefit from an agreement may be REQUIRED by the Director
122 of Parks, Recreation and Culture to become a Party to the development of and part of the
123 agreement, even if only a single governmental unit is requesting the agreement. If so required by
124 the Director of Parks, Recreation and Culture, those governmental units shall be included as
125 Parties to the recommended agreement submitted to the County Executive and County Board. If
126 the other governmental units affected refuse to become a Party to the agreement when so required
127 by the Director of Parks, Recreation and Culture, no further work shall be done on the agreement
128 by the County and no agreement shall be submitted to the County Executive and County Board for
129 review until such time as the required cooperation is obtained by the Director of Parks, Recreation
130 and Culture.
131
- 132 4. The Director of Parks, Recreation and Culture is granted broad powers to negotiate agreements
133 subject to the review and approval of the County Executive and County Board for Non-Intrusive
134 Uses and Compatible and Continuing Uses of Park Land as herein defined and include such
135 provisions of this Policy as are necessary to insure a successful agreement.
136
- 137 5. It is the position of Milwaukee County that County Policy shall prevail where another unit of
138 government desires to utilize Park Land.
139
- 140 6. Any construction of improvements should conform to then current County standards of
141 Disadvantaged Business Enterprise (DBE) and Women Business Enterprise (WBE) as formulated
142 by the County Board and administered by the Disadvantaged Business Division (DBD). In
143 addition, the entity(s) in the agreement shall have an Affirmative Action Program in place. These
144 provisions may only be waived by specific provision in the agreement that is approved by the
145 County Executive and the County Board. It is anticipated that the provisions may be waived when
146 the other governmental unit has similar but not identical (to Milwaukee County) provisions in
147 place and the other governmental unit's (similar) provisions will apply.
148
- 149 7. The Use can only be utilized for the specific purpose(s) as stated in each original agreement. As
150 an example, if an agreement is for constructed of a passive flood control facility of a specific
151 dimension, any change to that dimension or making the facility active in nature would require
152 approval in advance by the County. In addition, any other use whatsoever must be approved in

- 153 advance by the County. However, the agreement, lease or easement governing any Use may
- 154 anticipate such usage or change and include terms to cover such additional usage or change.
- 155
- 156 8. Additional usage of Park Land as indicated in item 7 above must be approved in advance and
- 157 additional rental fees, easement fees, royalty fees and/or other considerations as appropriate may
- 158 be required for such usage. If language specifying specific compensation for additional usage is
- 159 not included in the executed agreement, then additional usage will require either amendment or a
- 160 separate agreement for the additional usage. The County is under no obligation to approve any
- 161 further usage of any Park Land beyond that expressly permitted under the agreement(s) in force.
- 162
- 163 9. There is a clear benefit to the County, either through compensation or other consideration, or
- 164 through service to the residents of the County, or a combination of the preceding.
- 165
- 166 10. There must be a suitable site available. The Use should not disrupt any endangered ecosystem or
- 167 area where irreplaceable trees or other vegetation exists. If any ecosystem is disrupted, the County
- 168 has the option of requiring that an ecologically similar system designed to the County's
- 169 specifications be reestablished at a site of the County's choosing. The County may at times also
- 170 require land be acquired for the reestablishment of the ecosystem or set such other conditions as
- 171 may be appropriate.
- 172
- 173 11. The use of a site for the specified purpose may not negatively impact or displace any activity
- 174 within the Park area without the other governmental unit(s) providing startup costs for an
- 175 offsetting equivalent activity acceptable to the County which serves essentially the same
- 176 population.
- 177
- 178 12. In addition to consideration of ecosystems and activities, protection must also be afforded to Park
- 179 aesthetics. The Use must blend into Park surroundings to the greatest extent possible. To that end
- 180 the Parks Department must review and approve all site, construction and landscaping plans
- 181 associated with the use prior to any construction. In addition, the County reserves the right to do
- 182 any needed landscaping or site restoration and charge the cost to the other governmental unit(s)
- 183 except as otherwise provided by mutual agreement. The County reserves the right on major
- 184 projects to require the other governmental unit(s) to fund a County employee to be assigned
- 185 oversight of the project while it is under development. Such provision, if required, will be
- 186 specified in detail in the agreement.
- 187
- 188 13. The County will not provide funding for repair, restoration or modifications needed to
- 189 accommodate Intrusive Uses and Dedicated Uses requested by another governmental unit.
- 190
- 191 14. All site restoration shall be accomplished by the other governmental unit(s) according to a plan
- 192 approved by and subject to the review of the Director of Parks, Recreation and Culture. It is the
- 193 position of Milwaukee County that major damage to structures, including but not limited to
- 194 buildings, roads, playgrounds and bridges shall be restored not to preexisting condition, but rather
- 195 to new condition by the governmental unit(s) at their sole cost according to specifications
- 196 provided by Milwaukee County. If the structure was scheduled to be repaired or replaced in the
- 197 near future, the County may elect to share in the cost at its sole discretion. A bond in the
- 198 appropriate amount (which will be determined in the sole discretion of the Director of Parks,
- 199 Recreation and Culture) shall be posted by the government unit(s) to insure compliance with this
- 200 section.
- 201
- 202 15. The County's out of pocket costs of consultants, feasibility studies, research, testing, site
- 203 evaluations (including evaluation of ecosystems, surveys, appraisals and other directly related
- 204 activities), monitoring construction (including site preparation, restoration, and other required
- 205 services such as filing permits, easements, etc.) must be reimbursed by the other governmental
- 206 unit(s). Any other arrangement must be specified in the agreement.
- 207

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- 208 16. Provision must be made for site restoration and structure removal, if applicable, by the other
209 governmental unit(s) under the following conditions: (1) if the Use is abandoned; (2) if the
210 agreement is not renewed or extended at term; or (3) if the governmental unit is found to be in
211 default of any terms of the agreement. The agreement may provide that the County may, at the
212 County's option, take title to any constructed structures upon termination of the agreement, if
213 applicable.
214
- 215 17. Appropriate insurance and indemnity as determined by the County's Risk Manager and set forth in
216 the agreement must be maintained throughout the agreement.
217
- 218 18. Uses may not pose a health hazard and must conform to any and all Federal, State and Local laws,
219 regulations and zoning.
220
- 221 19. Environmental Considerations. Whenever any other governmental unit uses County Park Land
222 under this Policy, such governmental unit shall be fully responsible for any environmental
223 remediation necessary to achieve the use. However, such governmental unit may pursue any third
224 responsible Party, excluding Milwaukee County, to recover such costs.
225
- 226 20. Suitability of land for a specific use. All agreements shall include a provision that the County
227 does not represent the suitability of the Park Land for a particular use and will not be responsible
228 for any costs to make the Park Land suitable for the use. The County will not be responsible for
229 achieving compliance with any Federal, State or Local law or zoning, or obtaining any required
230 permit. However, the County may specifically include negotiated provisions that address these
231 items when it is in the interest of the County.
232
- 233 21. The Director of Parks, Recreation and Culture may negotiate specific provisions of this Policy
234 when it is in the best interest of the County and it achieves specific County objectives. Such
235 negotiated provisions being subject to the review of the County Executive and the County Board
236 when the agreement is submitted for review and approval.
237
- 238 22. The County may require compensation for the loss of use of Park Land. The County may use
239 replacement cost as a basis for determining value. The County may also use other generally
240 accepted methodologies to determine the value as may be in the best interest of the County.
241
- 242 ; and

243 BE IT FURTHER RESOLVED, that this Policy shall become effective upon
244 adoption.

245

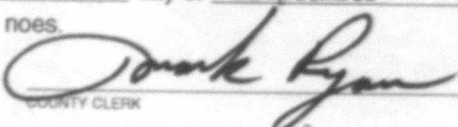
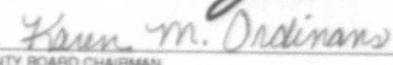
246 **FISCAL NOTE:** There is no direct fiscal effect related to adoption of this
247 resolution since it only establishes a policy and any agreements arising out of this
248 policy will require review and approval by the County Executive and County Board.

249

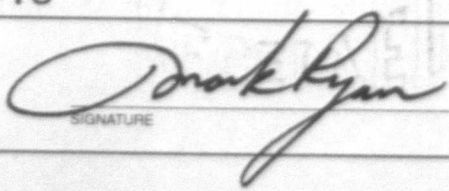
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Amended

RECORD OF COUNTY BOARD AND COUNTY EXECUTIVE ACTIONS 3327 R1		<input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Ordinance	COUNTY BOARD FILE NO. File No. 00-191(a)(a)
CERTIFICATION TO COUNTY BOARD PASSAGE	I certify that the attached resolution or ordinance was adopted by The Board of Supervisors of Milwaukee County at a meeting held on the <u>28th</u> day of <u>September</u> 19 <u>2000</u> by a vote of <u>24</u> ayes <u>0</u> noes.		
	DATE SIGNED <u>9-28-00</u>	 COUNTY CLERK	
DATE SIGNED <u>9-28-00</u>	 COUNTY BOARD CHAIRMAN		COUNTY EXECUTIVE'S ACTION I approve the attached resolution or ordinance. <u>October 16, 2000</u> DATE SIGNED
CERTIFICATION OF PUBLICATION	DATE PUBLISHED _____	DATE SIGNED _____	COUNTY EXECUTIVE _____

RECEIPTS

BY COUNTY CLERK'S OFFICE	<u>OCT 17 2000</u> DATE SIGNED	 SIGNATURE
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1919

SEP 28 2000

DeBruin

sub. amend

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File No. 00-191[a][a]
(Journal, September 28, 2000)

(ITEM 8) From the Director of the Department of Parks, Recreation and Culture, submitting amendment to adopted General Policy on Use of Park Land in Cooperation With Other Governmental Units (Exemption from Storm Water Utility Fees Requirement), by recommending adoption of the following:

A RESOLUTION

WHEREAS, the County has adopted a General Policy on Use of Park Land in Cooperation With Other Governmental ("Policy") (File No. 00-191, Journal, May 18, 2000) which establishes guidelines and general conditions to be used when developing proposed agreements with other governmental units for the use of County owned parkland; and

WHEREAS, the Director of Parks, Recreation and Culture has indicated that County parkland has and continues to provide inherent flood control benefits to the various municipalities, that the County has been cooperating with the Milwaukee Metropolitan Sewerage District on numerous flood control projects, that only two of the nineteen municipalities have imposed such a fee on the Parks Department and those fees are contested by the County; and

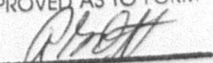
WHEREAS, in a communication dated August 31, 2000, the Director of Parks, Recreation and Culture has recommended that a permanent exemption from storm water utility charges for Parks Department facilities should be a prerequisite to be met before entering into discussions on the use of parkland and/or facilities (for agreements as defined under the Policy) with any governmental unit (as defined under the Policy) and has developed a recommended amendment to the Policy to accomplish this; and

WHEREAS, the Committee on Parks, Energy and Environment voted 7-0 on September 11, 2000 to recommend that the said amended policy be approved; now, therefore,

BE IT RESOLVED, that the General Policy on Use of Park Land in Cooperation With Other Governmental Units is hereby modified as follows (changes are underlined):

Section 9. There is a clear benefit to the County, either through compensation or other consideration, or through service to the residents of the County, or a combination of the preceding. In recognition of the County contribution to storm water management efforts within the various

APPROVED AS TO FORM



CORPORATION COUNSEL

19122

45 municipalities, an irrevocable agreement that the
46 municipality or other governmental unit that is requesting
47 the agreement will not impose storm water utility fees on
48 Parks Department facilities, sites and/or locations now or in
49 the future must be on file with the Parks Department. The
50 irrevocable agreement must be in a form which is approved
51 by Corporation Counsel and must be on file prior to the
52 Parks Department or any other County Department or
53 Agency entering into negotiations for the use of park land as
54 provided elsewhere in this Policy. This Section also applies
55 specifically to Section 3, which provides that multiple
56 governmental units that benefit from an agreement may be
57 required to be a party to that agreement. It is clarified that
58 the storm water utility fee exemption agreement is required
59 regardless of the agreement that is requested by the other
60 governmental unit as long as the requested agreement is
61 covered under this Policy. It is further clarified that this
62 requirement (for the storm water utility exemption) only
63 applies to "Other Units of Government" as provided under
64 Definitions and does not apply to the public, business or
65 other non-governmental entities unless waived by the
66 County Board.

67 ; and

68
69
70 BE IT FURTHER RESOLVED, that this amendment to the Policy shall
71 become effective upon adoption.

72
73 **FISCAL NOTE:** There is no direct fiscal effect related to adoption of this
74 resolution since it only modifies a policy and any agreements
75 arising out of this policy, as amended, will continue to require
76 review and approval by the County Executive and County
77 Board. This fiscal note was prepared by Department of Parks,
78 Recreation and Culture staff.

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81 PRC
82 jch:09/19/00
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84 Use[9].doc
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86 I:\NMUELLE\RSLTNS\00-191aa r Parks-amend GenPol on Pk Land Use[9].doc

19121

SEP 28 2000
Adopted
16-8

MILWAUKEE COUNTY BOARD OF SUPERVISORS

DATE: September 28, 2000

AMENDMENT NO. 1

Resolution File No. 00-191 [a][a]

COMMITTEE: Parks, Energy and Environment, Item 8

OFFERED BY SUPERVISOR(S): DeBruin and Schmitt

ADD at the end of line 63:

"unless waived by the County Board."

(ITEM 8) From the Director of the Department of Parks, Recreation and Culture, submitting amendment to adopted General Policy on Use of Park Land in Cooperation With Other Governmental Units (Exemption from Storm Water Utility Fees Requirement), by recommending adoption of the following:

A RESOLUTION

WHEREAS, the County has adopted a General Policy on Use of Park Land in Cooperation With Other Governmental ("Policy") (File No. 00-191, Journal, May 18, 2000) which establishes guidelines and general conditions to be used when developing proposed agreements with other governmental units for the use of County owned parkland; and

WHEREAS, the Director of Parks, Recreation and Culture has indicated that County parkland has and continues to provide inherent flood control benefits to the various municipalities, that the County has been cooperating with the Milwaukee Metropolitan Sewerage District on numerous flood control projects, that only two of the nineteen municipalities have imposed such a fee on the Parks Department and those fees are contested by the County; and

WHEREAS, in a communication dated August 31, 2000, the Director of Parks, Recreation and Culture has recommended that a permanent exemption from storm water utility charges for Parks Department facilities should be a prerequisite to be met before entering into discussions on the use of parkland and/or facilities (for agreements as defined under the Policy) with any governmental unit (as defined under the Policy) and has developed a recommended amendment to the Policy to accomplish this; and

WHEREAS, the Committee on Parks, Energy and Environment voted 7-0 on September 11, 2000 to recommend that the said amended policy be approved; now, therefore,

BE IT RESOLVED, that the General Policy on Use of Park Land in Cooperation With Other Governmental Units is hereby modified as follows (changes are underlined):

Section 9. There is a clear benefit to the County, either through compensation or other consideration, or through service to the residents of the County, or a combination of the preceding. In recognition of the County contribution to storm water management efforts within the various municipalities, an irrevocable agreement that the municipality or other governmental unit that is requesting the agreement will not

APPROVED AS TO FORM

CORPORATION COUNSEL

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impose storm water utility fees on Parks Department facilities, sites and/or locations now or in the future must be on file with the Parks Department. The irrevocable agreement must be in a form which is approved by Corporation Counsel and must be on file prior to the Parks Department or any other County Department or Agency entering into negotiations for the use of park land as provided elsewhere in this Policy. This Section also applies specifically to Section 3, which provides that multiple governmental units that benefit from an agreement may be required to be a party to that agreement. It is clarified that the storm water utility fee exemption agreement is required regardless of the agreement that is requested by the other governmental unit as long as the requested agreement is covered under this Policy. It is further clarified that this requirement (for the storm water utility exemption) only applies to "Other Units of Government" as provided under Definitions and does not apply to the public, business or other non-governmental entities.

; and

BE IT FURTHER RESOLVED, that this amendment to the Policy shall become effective upon adoption.

FISCAL NOTE: There is no direct fiscal effect related to adoption of this resolution since it only modifies a policy and any agreements arising out of this policy, as amended, will continue to require review and approval by the County Executive and County Board. This fiscal note was prepared by Department of Parks, Recreation and Culture staff.

PRC
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COMMITTEE ON PARKS, ENERGY AND ENVIRONMENT
Monday, September 11, 2000 – 1:30 P.M.
[Immediately following the meeting of the
Land Conservation Committee]
Milwaukee County Courthouse – Room 201-B

9. 00-191 From the Director of the Department of Parks, Recreation and Culture,
[a][a] submitting amendment to adopted General Policy on Use of Park Land in
Cooperation With Other Governmental Units (Exemption from Storm Water
Utility Fees Requirement).

APPEARANCE: Mr. Dennis Weedall, Deputy Director (Finance/Administration),
Department of Parks, Recreation and Culture.

#A-210

***ACTION: Supervisor Borkowski moved to recommend approval of the
said request. (Vote 7-0) MOTION CARRIED***

***AYES: Podell, Borkowski, Diliberti, Launstein, McGuigan, Davis, Aldrich
(Chairperson) - 7***

NOES: Noes.

11011

RECORD OF COUNTY BOARD AND COUNTY EXECUTIVE ACTIONS

3327 R1

Resolution
 Ordinance

COUNTY BOARD FILE NO.

File No. 00-191

CERTIFICATION TO COUNTY BOARD PASSAGE

I certify that the attached resolution or ordinance was adopted by The Board of Supervisors of Milwaukee County at a meeting held on the 18th day of May 18 2000 by a vote of 24 ayes 0 noes.

5-18-00

DATE SIGNED

5-18-00

DATE SIGNED

Donk Ryan
COUNTY CLERK

Karen M. Ordinance
COUNTY BOARD CHAIRMAN

COUNTY EXECUTIVE'S ACTION

I approve the attached resolution or ordinance.

May 24, 2000
DATE SIGNED

F. Thomas Amant
COUNTY EXECUTIVE

CERTIFICATION OF PUBLICATION

DATE PUBLISHED

DATE SIGNED

COUNTY EXECUTIVE

RECEIPTS

BY COUNTY CLERK'S OFFICE

MAY 24 2000
DATE SIGNED

Donk Ryan
SIGNATURE

MAY 18 2000

Adopted
240

File No. 00-191
(Journal, March 16, 2000)

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(ITEM 17) From the Director of the Department of Parks, Recreation and Culture, requesting approval of a policy regarding the use of park land in cooperation with other governmental units, by recommending adoption of the following:

A RESOLUTION

WHEREAS, the Director of Parks, Recreation and Culture has reported an ever-increasing interest by other governmental units in utilizing park land for specific purposes and the Director has indicated that it would be advantageous for the County and the other governmental units to have specific guidelines to use when these requests are made; and

WHEREAS, the Director of Parks, Recreation and Culture has analyzed the situation and has suggested that the level of impact on park land, the fiscal effect and the term of the use are critical factors in the review of any request for such use; and

WHEREAS, the Director of Parks, Recreation and Culture has formulated such a recommended policy which would complement other policies and procedures already in place and has requested approval of said policy; and

WHEREAS, on May 9, 2000, the Committee on Parks Energy and Environment has reviewed this policy and voted 7-0 to recommend that the said policy be approved; now, therefore

BE IT RESOLVED, that the County Board of Supervisors does hereby approve the following General Policy on Use of Park Land in Cooperation With Other Governmental Units and the Director of the Department of Parks, Recreation and Culture is hereby authorized and directed to implement said policy:

COUNTY OF MILWAUKEE
MILWAUKEE COUNTY PARK LAND

General Policy on Use of Park Land in
Cooperation With Other Governmental Units

This Policy establishes guidelines for use of Park Land ("Use") in cooperation with other governmental units for extended terms. This Policy shall be used by the Parks Department for direction, guidance and authority in the formulation of agreements regarding Use with other governmental units.

Intention:

This Policy is intended to protect and preserve Park Land and to provide a means to assist other governmental units in the discharge of their responsibilities. It is also intended to establish financial responsibility based on the mission of the unit of government and recognize the value of the provided Use.

APPROVED AS TO FORM


CORPORATION COUNSEL

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Definitions:

Other Governmental Units: Other units of government authorized by applicable Federal, State or Local Law. This includes, but is not limited to the Federal Government and its Agencies, the State Government and its Agencies, Municipal Governments and their Agencies, School Districts, Sewerage Districts, Vocational and Technical Districts, Special Taxing Units, Special Taxing Districts, Authorities and any and all other Entities authorized by Federal, State or Local Law, Judicial Regulation or Order or Constitutional Authority.

Park Land Use ("Use"): Use of Park Land which requires an agreement, contract, lease, easement or other legal instrument which binds either Party to specific terms, conditions, obligations or liabilities, or which grants special privileges, rights, preferential treatment, exclusive use, or the expectation of some consideration.

Park Land: Land owned or under the control of Milwaukee County which is under the jurisdiction of the Milwaukee County Parks Department.

Intrusive Uses: These are Uses where green space, wooded areas, environmentally sensitive areas, activity areas, structures and/or infrastructure are lost, diminished or changed in a significant way.

Non-Intrusive Uses: These are changes which do not impact green space, wooded areas, environmentally sensitive areas, activity areas, structures and/or infrastructure in a permanent manner (that is, anything effected will be restored to original or better condition within two years or less).

Continued and Compatible Uses: These are uses where the County and another unit of government wish to continue, enhance or initiate a specific use or activity which is a normal Park activity but there is mutual agreement that it is in the interest of both units of government to cooperate to enhance services to the public.

Dedicated Uses: A use that displaces all or most other uses that would be normally be available at a site in favor of the specific use, or where the other governmental unit take essentially full control of the site and the use is restricted either in terms of activities and environment, or in terms of who may use the site or how the site may be used.

Applicability:

The intention of this Policy is to apply to long term and permanent uses. A long term use shall be a use of five years or more, or any shorter term use which may be extended by the other governmental unit at its sole discretion for a cumulative period of more than five years. It shall also apply to short term and temporary uses at the sole discretion of Milwaukee County acting through its Director of Parks, Recreation and Culture. This Policy shall be effective upon adoption by Milwaukee County but will not apply to existing agreements unless those agreements are renegotiated (in which case it shall apply). This Policy shall apply in addition to other adopted Policies regarding Use and may further limit those policies, but will not reduce any limits or guidelines established in those Policies. This Policy does not apply to cooperation between the various internal Departments, Divisions, Agencies and Units of Milwaukee County Government, but does apply if outside units of government are involved. The Parks Department is advised to review this Policy and utilize applicable portions if the sale of surplus land is involved or if land is being considered for transfer to another governmental unit.

All Park Land is included under this policy.

- 98 Long term agreements on Use may only be approved (and construction commenced if applicable) when the
99 following conditions are met:
100
- 101 1. Dedicated Uses and Intrusive Uses require a demonstration of Public benefit which may be
102 improved services to the Public and/or good and sufficient economic impact on the community.
103 The governmental unit requesting the use must provide clear and convincing evidence which
104 includes a clear statement of the benefit(s), statistics to support the position, a clear analysis of
105 factors involved in arriving at the decision to request to use Park Land and sufficient reasons that
106 no other approach is feasible and/or desirable, including the fiscal effect to the governmental unit
107 of using other approaches. At least one other viable alternative must be provided, including the
108 fiscal effect to the government unit of the alternative. The Director of Parks, Recreation and
109 Culture may REQUIRE that additional alternatives be evaluated and may identify the specific
110 alternatives to be evaluated.
111
 - 112 2. Dedicated Uses and Intrusive Uses shall not increase County costs for maintenance, repair,
113 upkeep, and/or major maintenance. Any standards of maintenance, repair, upkeep, and/or major
114 maintenance shall be set by the County and the County may at its sole discretion change those
115 standards from time to time with or without notice to the other governmental unit. In any situation
116 where the other governmental unit must set standards of maintenance, repair, upkeep, and/or major
117 maintenance, that governmental unit shall provide the maintenance, repair, upkeep, and/or major
118 maintenance at its cost. If the other governmental unit desires the County to provide these
119 services to the other governmental unit's specifications, the County's full cost plus ten percent for
120 administration shall be charged to the other governmental unit. In addition, even if the other
121 governmental unit does not establish specific standards as provided above, if the Director of Parks,
122 Recreation and Culture has reason to believe that the County will incur additional costs as a result
123 of the Use, recovery of that cost by the County shall be included in the agreement.
124
 - 125 3. Multiple governmental units that benefit from an agreement may be REQUIRED by the Director
126 of Parks, Recreation and Culture to become a Party to the development of and part of the
127 agreement, even if only a single governmental unit is requesting the agreement. If so required by
128 the Director of Parks, Recreation and Culture, those governmental units shall be included as
129 Parties to the recommended agreement submitted to the County Executive and County Board. If
130 the other governmental units affected refuse to become a Party to the agreement when so required
131 by the Director of Parks, Recreation and Culture, no further work shall be done on the agreement
132 by the County and no agreement shall be submitted to the County Executive and County Board for
133 review until such time as the required cooperation is obtained by the Director of Parks, Recreation
134 and Culture.
135
 - 136 4. The Director of Parks, Recreation and Culture is granted broad powers to negotiate agreements
137 subject to the review and approval of the County Executive and County Board for Non-Intrusive
138 Uses and Compatible and Continuing Uses of Park Land as herein defined and include such
139 provisions of this Policy as are necessary to insure a successful agreement.
140
 - 141 5. It is the position of Milwaukee County that County Policy shall prevail where another unit of
142 government desires to utilize Park Land.
143
 - 144 6. Any construction of improvements should conform to then current County standards of
145 Disadvantaged Business Enterprise (DBE) and Women Business Enterprise (WBE) as formulated
146 by the County Board and administered by the Disadvantaged Business Division (DBD). In
147 addition, the entity(s) in the agreement shall have an Affirmative Action Program in place. These
148 provisions may only be waived by specific provision in the agreement that is approved by the
149 County Executive and the County Board. It is anticipated that the provisions may be waived when
150 the other governmental unit has similar but not identical (to Milwaukee County) provisions in
151 place and the other governmental unit's (similar) provisions will apply.
152

- 153 7. The Use can only be utilized for the specific purpose(s) as stated in each original agreement. As
154 an example, if an agreement is for constructed of a passive flood control facility of a specific
155 dimension, any change to that dimension or making the facility active in nature would require
156 approval in advance by the County. In addition, any other use whatsoever must be approved in
157 advance by the County. However, the agreement, lease or easement governing any Use may
158 anticipate such usage or change and include terms to cover such additional usage or change.
159
- 160 8. Additional usage of Park Land as indicated in item 7 above must be approved in advance and
161 additional rental fees, easement fees, royalty fees and/or other considerations as appropriate may
162 be required for such usage. If language specifying specific compensation for additional usage is
163 not included in the executed agreement, then additional usage will require either amendment or a
164 separate agreement for the additional usage. The County is under no obligation to approve any
165 further usage of any Park Land beyond that expressly permitted under the agreement(s) in force.
166
- 167 9. There is a clear benefit to the County, either through compensation or other consideration, or
168 through service to the residents of the County, or a combination of the preceding.
169
- 170 10. There must be a suitable site available. The Use should not disrupt any endangered ecosystem or
171 area where irreplaceable trees or other vegetation exists. If any ecosystem is disrupted, the County
172 has the option of requiring that an ecologically similar system designed to the County's
173 specifications be reestablished at a site of the County's choosing. The County may at times also
174 require land be acquired for the reestablishment of the ecosystem or set such other conditions as
175 may be appropriate.
176
- 177 11. The use of a site for the specified purpose may not negatively impact or displace any activity
178 within the Park area without the other governmental unit(s) providing startup costs for an
179 offsetting equivalent activity acceptable to the County which serves essentially the same
180 population.
181
- 182 12. In addition to consideration of ecosystems and activities, protection must also be afforded to Park
183 aesthetics. The Use must blend into Park surroundings to the greatest extent possible. To that end
184 the Parks Department must review and approve all site, construction and landscaping plans
185 associated with the use prior to any construction. In addition, the County reserves the right to do
186 any needed landscaping or site restoration and charge the cost to the other governmental unit(s)
187 except as otherwise provided by mutual agreement. The County reserves the right on major
188 projects to require the other governmental unit(s) to fund a County employee to be assigned
189 oversight of the project while it is under development. Such provision, if required, will be
190 specified in detail in the agreement.
191
- 192 13. The County will not provide funding for repair, restoration or modifications needed to
193 accommodate Intrusive Uses and Dedicated Uses requested by another governmental unit.
194
- 195 14. All site restoration shall be accomplished by the other governmental unit(s) according to a plan
196 approved by and subject to the review of the Director of Parks, Recreation and Culture. It is the
197 position of Milwaukee County that major damage to structures, including but not limited to
198 buildings, roads, playgrounds and bridges shall be restored not to preexisting condition, but rather
199 to new condition by the governmental unit(s) at their sole cost according to specifications
200 provided by Milwaukee County. If the structure was scheduled to be repaired or replaced in the
201 near future, the County may elect to share in the cost at its sole discretion. A bond in the
202 appropriate amount (which will be determined in the sole discretion of the Director of Parks,
203 Recreation and Culture) shall be posted by the government unit(s) to insure compliance with this
204 section.
205
- 206 15. The County's out of pocket costs of consultants, feasibility studies, research, testing, site
207 evaluations (including evaluation of ecosystems, surveys, appraisals and other directly related
208 activities), monitoring construction (including site preparation, restoration, and other required

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- 209 services such as filing permits, easements, etc.) must be reimbursed by the other governmental
- 210 unit(s). Any other arrangement must be specified in the agreement.
- 211
- 212 16. Provision must be made for site restoration and structure removal, if applicable, by the other
- 213 governmental unit(s) under the following conditions: (1) if the Use is abandoned; (2) if the
- 214 agreement is not renewed or extended at term; or (3) if the governmental unit is found to be in
- 215 default of any terms of the agreement. The agreement may provide that the County may, at the
- 216 County's option, take title to any constructed structures upon termination of the agreement, if
- 217 applicable.
- 218
- 219 17. Appropriate insurance and indemnity as determined by the County's Risk Manager and set forth in
- 220 the agreement must be maintained throughout the agreement.
- 221
- 222 18. Uses may not pose a health hazard and must conform to any and all Federal, State and Local laws,
- 223 regulations and zoning.
- 224
- 225 19. Environmental Considerations. Whenever any other governmental unit uses County Park Land
- 226 under this Policy, such governmental unit shall be fully responsible for any environmental
- 227 remediation necessary to achieve the use. However, such governmental unit may pursue any third
- 228 responsible Party, excluding Milwaukee County, to recover such costs.
- 229
- 230 20. Suitability of land for a specific use. All agreements shall include a provision that the County
- 231 does not represent the suitability of the Park Land for a particular use and will not be responsible
- 232 for any costs to make the Park Land suitable for the use. The County will not be responsible for
- 233 achieving compliance with any Federal, State or Local law or zoning, or obtaining any required
- 234 permit. However, the County may specifically include negotiated provisions that address these
- 235 items when it is in the interest of the County.
- 236
- 237 21. The Director of Parks, Recreation and Culture may negotiate specific provisions of this Policy
- 238 when it is in the best interest of the County and it achieves specific County objectives. Such
- 239 negotiated provisions being subject to the review of the County Executive and the County Board
- 240 when the agreement is submitted for review and approval.
- 241
- 242 22. The County may require compensation for the loss of use of Park Land. The County may use
- 243 replacement cost as a basis for determining value. The County may also use other generally
- 244 accepted methodologies to determine the value as may be in the best interest of the County.
- 245

246 and

247
248 BE IT FURTHER RESOLVED, that this Policy shall become effective upon
249 adoption.

250
251 **FISCAL NOTE:** There is no direct fiscal effect related to adoption of this
252 resolution since it only establishes a policy and any agreements
253 arising out of this policy will require review and approval by the
254 County Executive and County Board. This fiscal note was
255 prepared by Department of Parks, Recreation and Culture staff.

256
257 Parks
258 jch
259 May 15, 2000
260 C:\My Documents\Parks [Judy's, from 5-00]\Parks Current 2000 files\00-191[5]Parks-other Govts. Land Policy.doc
261

191

COMMITTEE ON PARKS, ENERGY AND ENVIRONMENT
Tuesday, May 9, 2000 – 9:00 A.M.
Milwaukee County Courthouse – Room 201-B

21. 00-191 From Director of Parks, Recreation and Culture, requesting approval of a policy regarding the use of park land in cooperation with other governmental entities. **(LAID OVER 3/7/00)**

APPEARANCES: In support and for information: Mrs. Susan L. Baldwin, Director, Department of Parks, Recreation and Culture; Mr. Dennis Weedall, Deputy Director (Finance/Administration), Department of Parks, Recreation and Culture.

#2A-81

ACTION BY: (Diliberti) Recommend approval, as recommended by the Parks Director. (Vote 7-0) MOTION CARRIED

AYES: Podell, Borkowski, Diliberti, Launstein, McGuigan,
Davis, Aldrich (Chairperson) -7.

NOES: None

COMMITTEE ON PARKS, ENERGY & ENVIRONMENT
Tuesday, March 7, 2000 – 9:00 A.M.

13. 00-191 From Director of Parks, Recreation and Culture, requesting the approval of a policy regarding the use of park land in cooperation with other governmental entities.

39A-300 APPEARANCES: Mrs. Susan Baldwin, Director, Department of Parks
Mr. Dennis Weedall, Deputy Director (Finance/Administration)
Department of Parks

MOTION BY: (DILIBERTI) Lay over until the next meeting.

Chairman Aldrich stated that the action should be considered as the Parks Committee receiving the report with favor and laying over until the next meeting and the Parks Director can use the policy as a guideline.

VOTE ON MOTION TO LAY OVER: (Vote 6-0)

AYES: Podell, Diliberti, Launstein, Quindel, Arciszewski, and Aldrich
(Chairman)

NOES: None

EXCUSED: Coggs-Jones