

METROPOLITAN COUNCIL
390 N. Robert Street, St. Paul, MN 55101

SPECIAL MEETING OF
METROPOLITAN PARKS AND OPEN SPACE COMMISSION

December 11, 2012

COMMISSION MEMBERS PRESENT: Dean Johnston, Daniel Shlaferman, Seyon Nyanwleh, Tony Yarusso, Barb Schmidt, Emily Johnson Piper, Carrie Wasley

ABSENT: Jeff Lee, Bob Moeller, Wendy Wulff, Metropolitan Council Liaison to the Commission

CALL TO ORDER

Chair Johnston called the special meeting of the Metropolitan Parks and Open Space Commission to order at 4:06 p.m. Thursday, December 11, 2012.

APPROVAL OF AGENDA/MINUTES

Piper made a motion and it was seconded by Schmidt to approve the December 11, 2012 agenda. **The motion was approved.** Shlaferman made a motion and it was seconded by Wasley to approve the November 8, 2012 minutes. **The motion was approved.**

PUBLIC INVITATION

None.

BUSINESS

Public Hearing Report and Recommendations to Adopt Amendment to 2030 Regional Parks Policy Plan regarding changes to Park Acquisition Opportunity Fund grant rules and System Protection Strategy 3 - Arne Stefferud, Manager—Regional Parks and Natural Resources Unit

Stefferud gave a PowerPoint presentation on the hearing report summary and discussed written and oral testimony presented from the implementing agencies including Dakota County, Three Rivers Park District, Scott County, Ramsey County, and Anoka County.

Wasley made a motion to recommend and it was seconded by Piper that the Metropolitan Council adopt the changes to Park Acquisition Opportunity Fund grant rules and System Protection Strategy 3 depicted in Attachment 2 as an amendment to the *2030 Regional Parks Policy Plan*.

Chair Johnston called for a vote. **The motion carried unanimously.**

Reimbursement consideration for the East Anoka County and Central Anoka County Regional Trails from future Parks and Trails Legacy Fund appropriation, Anoka County - Jan Youngquist, Planning Analyst—Regional Parks and Natural Resources Unit

Youngquist discussed a request from Anoka County for a couple of trail projects as outlined in the staff report provided. She discussed Finance Strategy 6: Reimbursement, conclusions, and staff's recommendation.

Shlaferman stated that it would be helpful to see where trails go beyond the map. He asked about costs per mile. Youngquist stated that it includes acquisition costs as well.

Piper asked for clarification on reimbursement. Youngquist stated that they are starting before the funds are available but by approving, we are recommending consideration for funding in a future CIP.

Nyanwleh asked if we can recommend approving less than \$250k. Youngquist stated that this request is for estimated costs. Stefferud explained that this is the maximum the Council would reimburse based upon their estimate. If it costs more, it's on their dime. If it costs less, less will be granted.

Wasley stated that this is 'due diligence' on the County's part.

Schmidt asked if they would be able to ask for more if the costs were higher. Stefferud stated that if costs were higher and they have it in their allocation within the CIP, they could potentially get more.

Nyanwleh asked if this has been done before. Stefferud stated it has, many times.

Shlaferman made a motion to recommend and it was seconded by Schmidt that the Metropolitan Council consider reimbursing Anoka County up to \$250,000 from its share of a future Regional Park Capital Improvement Program, funded through the Parks and Trails Legacy Fund, for construction of segments of the Central Anoka County and East Anoka County Regional Trails. However, the Council does not under any circumstances represent or guarantee that reimbursement will be granted, and expenditure of local funds never entitles a park agency to reimbursement.

Chair Johnston called for a vote. **The motion carried unanimously.**

Park Acquisition Opportunity Fund grant request for Lebanon Hills Regional Park, Dakota County - Arne Stefferud, Manager—Regional Parks and Natural Resources Unit

Stefferud discussed a request from Dakota County as described in the staff report provided. He discussed the costs for acquisition and explained the revenue sources. Because there is a house on the land, Parks and Trails Legacy Funds must be used along with Metropolitan Council Bonds.

Nyanwleh asked about a decision to use the house and why we would grant money when the decision for the use of the house hasn't been made yet. Steve Sullivan, Dakota County Parks stated this property has been an in-holding in the master plan of the park since the park's inception. He noted that the master plan was approved ten years ago therefore looking at reuse of the home is part of their due diligence. If it can't be reused, or relocated, it is not just demolished; materials are reused wherever possible.

Schmidt stated that Dakota County Parks has been waiting for this property for 35 years. They need to act when there is a willing seller.

Nyanwleh asked what the county would lose by not acting. Sullivan stated that it is an in-holding within the master plan. He stated that the boundary was reviewed and it was found to be valuable. It is on lakefront, provides contiguous park, and also with this acquisition they will be better able to manage a trail on the far side of the lake.

Shlaferman asked how many more in-holdings within the park are there. Sullivan stated he is not sure, possibly five smaller in-holdings. Shlaferman asked how active the contact with the other in-holding owners is. Sullivan stated that they meet with the in-holders as part of their marketing strategies and master planning process. They have contact with them at least once a year.

Schmidt made a motion to recommend and it was seconded by Piper that the Metropolitan Council authorize a grant of up to \$413,120 from the Parks and Trails Legacy Fund Acquisition Account in the Park Acquisition Opportunity Fund to Dakota County to finance 75% of the acquisition costs to acquire the 4.49 acre Andrews parcel as depicted in Figure 1 and Figure 2 for Lebanon Hills Regional Park. The grant should be financed with:

\$247,872 from the FY 2013 Parks and Trails Legacy Fund appropriation
\$165,248 from Metropolitan Council bonds

Chair Johnston called for a vote. **The motion carried 6:0, with Nyanwleh abstaining.**

INFORMATION ITEM: Reimbursable Expenses for Metropolitan Parks and Open Space Commission Activities - Arne Stefferud, Manager—Regional Parks and Natural Resources Unit
Stefferud discussed, in follow up from the November meeting, reimbursement expenses for MPOSC activities outlined in the memorandum provided.

Piper asked what the MPOSC budget is and what the approval process is. Stefferud stated that if a member is interested in attending a conference, the request is reviewed by the MPOSC Chair and the Council's Regional Administrator. He further clarified that the department (Regional Parks and Natural Resources Unit) has a budget but there is no line item for MPOSC.

Nyanwleh raised the issue of park permits and asked what this commission can do to revisit the issue. Stefferud stated that the issue distinguishes MPOSC use versus personal use. Commissioners can be reimbursed for any MPOSC use.

Piper stated that the policy is consistent with all other units of government policies.

Nyanwleh stated that he understands there is a law but asked what if this commission wants that law changed so they may receive annual permits. Stefferud stated that with an annual permit there is no way to track and pay members for commission business. It would not likely be approved by the Council to be submitted to the Legislature.

Piper stated that we would need to motion to the Metropolitan Council to add it to their Legislative agenda to allow permits.

Johnston stated that he personally feels the current system protects tax payer dollars and he feels we've spent enough time on this issue. Nyanwleh asked that if this committee decides the issue should be discussed is the Chair saying we can't because he doesn't support it. Johnston stated that it can be discussed however, he would speak against it. Nyanwleh stated that he feels if we want to build rapport and are here to recommend millions of dollars, we should be allowed to freely visit these parks.

Shlaferman asked if it is a tool or compensation. As a supporter of parks he simply buys an annual pass.

REPORTS

- **Chair** – Johnston shared that he recently visited many parks in Australia and New Zealand. He saw many parks with exercising equipment and also a library where you could 'check out' toys.
- **Commissioners** – Piper mentioned that the River Road is an amenity that we are so fortunate to have and thanked the implementing agencies responsible for the maintenance of the linear parks/trails that run along this road.
- **Staff** – None.

NEXT MEETING

The next meeting will be held on Tuesday, January 8, 2012 (note date change due to New Years Day Holiday) at 4:00p.m. in Room LLA at the Metropolitan Council.

ADJOURNMENT

Meeting adjourned at 5:05 p.m.

Respectfully submitted,

Sandi Dingle
Principal Administrative Specialist
Community Development

ATTACHMENT 2—Recommended for Adoption as amendment to *2030 Regional Parks Policy Plan*

Park Acquisition Opportunity Fund Grant Rules

Rule 1: The Park Acquisition Opportunity Fund grant may finance up to 75% of the costs to acquire land and related costs as described in Rule 2. The land must be within Metropolitan Council approved master plan boundaries for regional parks, park reserves, regional trails and special recreation features. The cumulative amount a park agency could be granted in a State fiscal year (July 1 to June 30) is:

\$1.7 million from the Environment and Natural Resources Trust Fund Acquisition Account for acquisitions of undeveloped land with high natural resource values to comply with State law.

\$1.7 million from the Parks and Trails Legacy Fund Acquisition Account for acquisition of land that does not qualify for funding from the Environment and Natural Resources Trust Fund Acquisition Account.

The acquiring regional park implementing agency must finance up to 25% of the acquisition costs as a local match. The match may be one or a combination of the following:

- a. Non-State funds and non-Metro Council funds provided by the regional park implementing agency. If the cash contribution is financed with regional park implementing agency money (i.e. the agency's general fund or other account, but not a grant from another entity such as a watershed district or local government aid provided by the State of Minnesota), that contribution is eligible for reimbursement with Metro Council bonds as part of that park agency's share of a future regional parks capital improvement program. Based on this rule, if the maximum grant of \$1.7 million was awarded and the park agency provided a match of \$567,000 any costs incurred by the park agency above the \$567,000 and paid for with park agency funds for grant eligible expenses as defined in Rule 2 is also eligible for reimbursement consideration from that park agency's share of future metropolitan regional parks capital improvement programs.
- b. The value of a land donation by the seller. The value of the donation is the difference between the agreed upon purchase price based on a certified appraised value of the property and the lower amount the seller agrees to accept as payment for the land. The certification of the appraised value of the property will be based on a third party review appraisal, where the third party appraiser will perform a field review of the appraisal and determine if the

appraisal met the requirements of the Uniform Standards of Professional Appraising Practice (USPAP). Both the appraisal and the review appraisal must be submitted to the Metropolitan Council as part of the grant request. The cost of the third party appraisal review is a grant eligible item.

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

For example, the certified appraised value of the land and associated costs is \$1 million, but the seller donates \$50,000 of that value and thus the actual cost to obtain the land is \$950,000. The \$50,000 land value donation is credited towards the 25% match to the Park Acquisition Opportunity Fund grant. To be consistent in applying this policy regardless of a land value donation or not, the Park Acquisition Opportunity Fund grant and 25% match is calculated as follows:

\$1,000,000 purchase agreement price based on a certified appraised value of land and associated costs

Minus \$50,000 land donation by seller value, this is credited towards 25% match
Equals \$950,000 actual cost of acquisition

75% of \$1,000,000 total of purchase agreement price based on a certified appraised value of land and associated costs equals \$750,000 Park Acquisition Opportunity Fund Grant.

25% of \$1,000,000 purchase agreement price based on a certified appraised value of land and associated costs equals \$250,000 minus the \$50,000 documented land value donation equals \$200,000 cash match

Here's an example where land is obtained by a municipality via its park land dedication ordinance and transferred to the regional park implementing agency at the same time as the park agency obtains other land for that regional park or trail from the same landowner. Assume that the appraised value of the dedicated land is \$50,000 and the value and associated acquisition costs for other land is \$950,000 for a total of \$1 million. The \$50,000 appraised value of the dedicated land is credited towards the 25% match to the Park Acquisition Opportunity Fund grant. To be consistent in applying this policy regardless of a land dedication/transfer or not, the Park Acquisition Opportunity Fund grant and 25% match is calculated as follows:

\$1,000,000 total appraised value and associated costs of land obtained via parkland dedication ordinance and additional land purchased at the same time from the same landowner.

Minus \$50,000 certified appraised value land obtained via parkland dedication ordinance, which is credited towards 25% match.

Equals \$950,000 actual cost of acquisition

75% of \$1,000,000 total appraised value and associated costs of land obtained via parkland dedication ordinance and additional land purchased at the same time from the same landowner equals \$750,000 Park Acquisition Opportunity Fund Grant.

25% of \$1,000,000 total appraised value and associated costs of land obtained via parkland dedication ordinance and additional land purchased at the same time from the same landowner equals \$250,000 minus the \$50,000 documented land value of dedicated parkland equals \$200,000 cash match

Rationale for Rule 1: Allowing the cash match of regional park implementing agency money to be eligible for reimbursement with Metropolitan Council bonds from the park agency's share of future regional park capital improvement programs allows the park agency to recover its local cash contribution to the land acquisition. This is optional. Some park agencies may wish to seek reimbursement and some may not. Since the reimbursement is financed with a portion of that park agency's share of the regional parks capital improvement program, the reimbursement does not affect the amount granted to other park agencies.

Allowing the value of a land donation by the seller to be counted as part of the 25% local match to the Park Acquisition Opportunity Fund grant recognizes the donor's contribution, and treats that donation in the same way as a cash match to the grant. Land value donations are done voluntarily by sellers. Such donations provide tax benefits to the seller. Requiring a third party field appraisal review assures the Metropolitan Council that the purchase agreement price was determined at the highest standard of appraisal practice, and therefore the value of the land donation is legitimate. The cost of the appraisal review is a grant eligible expense because it helps the Metropolitan Council carry out due diligence in verifying the market value of the property and the value of the land donation as part of the 25% match.

Allowing the value of land obtained via parkland dedication and transferred to the regional park implementing agency at the same time other land is acquired by the park agency from the same landowner to be counted as part of the 25% local match to the Park Acquisition Opportunity Fund grant recognizes the dedicated land's value, and treats that dedicated land value in the same way as a cash match to the grant. Requiring a third party field appraisal review assures the Metropolitan Council that the value of the dedicated land was determined at the highest standard of appraisal practice, and therefore the value of the dedicated land is legitimate. The cost of the appraisal review is a grant eligible expense because it helps the Metropolitan Council carry out due diligence in verifying the market value of the property and the value of the dedicated land as part of the 25% match.

Rule 2: The following items are eligible in calculating the total costs of the acquisition:

- a. Appraisal cost for the acquiring regional park implementing agency
- b. Appraisal review cost needed to verify the value of a land donation, or the value of land obtained via parkland dedication ordinance and subsequently transferred to the regional park implementing agency when other land is obtained from the same landowner.
- c. Phase 1 environmental site assessment
- d. Environmental contamination remediation costs if consistent with the conditions in Rule 3.
- e. Legal services and closing costs to the park agency for costs associated with the purchase
- f. State deed tax/Conservation Fee
- g. Title Insurance
- h. Pro-rated share of all property taxes/assessments due on the parcel at the time of closing that is borne by the park agency
- i. 1.8 times the city or township property tax due on the parcel in the year the land is acquired. This is the property tax equivalency payment, which is paid to the city or township at closing (MS 473.341)
- j. Negotiated purchase price for the parcel
- k. Relocation costs to the seller under conditions of applicable State law
- l. Land stewardship costs as defined as follows: costs for boundary fencing or marking; stabilizing or rehabilitating natural resources to aid in the reestablishment of threatened natural resources or to prevent non-natural deterioration thereof; preventing the deterioration of structures that will be re-used for park purposes; removal of unneeded structures, dangerous land forms or attractive nuisances including capping abandoned wells as required under MS 103I.301; and closing unneeded road(s) which provided access to the acquired land.
- m. Development of the land to provide minimal access to it for public recreational use as reviewed and approved by the Metropolitan Council in consideration of the grant. Such development must be consistent with the applicable Metropolitan Council approved master plan and may include the cost of an access road and/or trail, parking lot, and signage.
- n. Other expenses not listed above that are directly related to the land acquisition.

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

Rationale for Rule 2: The minimal access development costs would be evaluated by the Metropolitan Council to determine what costs would be grant-eligible. The premise is to primarily use the Park Acquisition Opportunity Fund to buy land—not to develop it for recreational use that could be financed from other sources. But in cases where new parks or trails are being created, it is reasonable to provide some access to land as it is acquired.

Documenting the grant eligible costs with the grant request allows the Metropolitan Council to determine the accuracy of any calculations that went into determining the size of the grant, the size of the local match, and it provides a paper trail for any audit of the grant beyond the reimbursement expenditure reports used to document the justification to disburse grant proceeds.

Rule 3: Soil contamination remediation necessary to correct pre-existing environmental contamination known at the time of purchase, and the remediation effort is to the level needed to allow the land to be used for park and recreation purposes, and/or capping abandoned wells that have contaminated their groundwater aquifer are grant eligible land acquisition expense under the following conditions:

- 1) The aggregate cost of acquiring the land and remediation does not exceed the certified appraised value of the land at the time of purchase. The certification of the market value of the property will be based on a third party field review of the appraisal. The appraisal review must determine that the appraisal followed Uniform Standards of Professional Appraising Practice (USPAP). The appraisal review must be submitted to the Metropolitan Council. The cost of the third party appraisal review is a grant eligible item. In addition to the certification of the market value of the parcel, the park agency must submit documentation of the costs for remediation as listed below. The difference between the actual acquisition and remediation costs compared to the certified market value of the land prior to clean up may be applied towards the park agency's local match requirement.
- 2) The regional park implementing agency has an agreement with the party that will remediate/clean up the contamination or cap an abandoned well that absolves the regional park implementing agency from any future liability of pollution caused by the contaminated soil or contaminated groundwater.

Grant eligible expenses for soil remediation and well capping include:

- a. Costs to prepare Phase 1, and Phase 2 Environmental Site Assessments, the Quality Assurance Project Plan, Remediation Action Plan and the Environment Engineer's Estimate.
- b. Minnesota Pollution Control Agency (MPCA) Voluntary Investigation Cleanup (VIC) service charges.
- c. Costs to implement the remediation action plan and secure appropriate assurances from the Minnesota Pollution Control Agency.

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

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

For example, the certified appraised value of the land is \$1 million, but the actual costs to obtain the land and remediation is \$900,000. The \$100,000 difference is credited towards the 25% match to the park agency. The grant is calculated as follows:

\$1,000,000 certified appraised value of land
Minus \$100,000 difference between certified appraised value and actual costs of remediation and acquisition that is credited towards park agency's 25% match
Equals \$900,000 actual costs of acquisition and remediation

75% of \$1,000,000 certified appraised value of land equals \$750,000 Park Acquisition Opportunity Grant.

25% of \$1,000,000 certified appraised value of land equals \$250,000 minus \$100,000 difference between appraised value and actual remediation and acquisition costs equals \$150,000 local match by the park agency

Rationale for Rule 3: This rule recognizes that funding for environmental contamination remediation of park lands may not be available because those programs (e.g. Tax Base Revitalization Account) require the land to be put back on the tax rolls. But, this rule limits the use of Park Acquisition Opportunity Fund grants for cases where the remediation costs and acquisition costs are less than the certified market value of the land. These conditions will allow the grant to buy contaminated land in a comparable way to land that has no contamination.

Documenting the grant eligible costs with the grant request allows the Metropolitan Council to determine the accuracy of any calculations that went into determining the size of the grant, the size of the local match, and it provides a paper trail for any audit of the grant beyond the reimbursement expenditure reports used to document the justification to disburse grant proceeds.

Rule 4: For parcels that can be subdivided into lots **and** the value of those lots is used to determine the fair market value of the parcel, such acquisitions may qualify for financing from both the Environment and Natural Resources Trust Fund (ENRTF) Account and qualify for funding from the Parks and Trails Legacy Fund (PTLF) Account. For example, lot(s) must contain high quality natural resources with no structures on them to qualify for ENRTF financing, and lot(s) that do not contain high quality natural resources or they have structures on them qualify for PTLF financing. The amount from each account shall be proportional to the appraised market value of the lots. However, the Metropolitan Council may grant additional funds from the PTLF Account to finance a portion of the costs of land that qualifies for financing from the ENRTF Account if there is not sufficient money in the ENRTF Account to fully fund the grant.

For example, a 40 acre lakeshore parcel containing one home, and the rest of the land could be legally subdivided into other lots, is considered for acquisition. The appraisal determines the market value of each lot to determine the market value for the entire

parcel. The value of the lot with the house on it and related acquisition costs is \$600,000, and the value of the other undeveloped lots and related acquisitions costs is \$400,000 for a total of \$1 million. The Park Acquisition Opportunity Grant is calculated as follows:

75% of \$600,000 cost of house lot equals \$450,000 which is financed from the PTLF account.

75% of \$400,000 cost of the undeveloped lots equals \$300,000 which is financed from ENRTF account for a combined grant total of \$750,000. If there was less than \$300,000 of ENRTF account money available, the PTLF account could be used to finance the remainder to reach the \$300,000 level for that portion of the grant.

Rationale for Rule 4: Some parcels can be subdivided into lots. And to determine the fair market value of the land, the value of each lot is determined in the appraisal process. In those cases, the lots that qualify for funding from the ENRTF account should be purchased with that account and the lots that qualify for funding from the PTLF account should be purchased with that account. Since the PTLF account is about twice as large as the ENRTF account and the PTLF account can be used to acquire any land and structures, it is reasonable to use PTLF account money to help fully fund a grant. This was done in the acquisition of a 43 acre parcel for Grey Cloud Island Regional Park in 2010 that had a total acquisition cost of \$1.96 million. There was no formal rule in place at the time, but the conclusion of the Metropolitan Council and permission by the Legislative Citizens Commission on Minnesota Resources that recommends appropriations from the ENRTF was that it was a reasonable approach to take since it was consistent with the purposes of both accounts. Creating this rule provides guidance for future acquisitions that meet these conditions.

Rule 5: If requests from several regional park implementing agencies are submitted for consideration by the 15th day of the month preceding the next Metropolitan Parks and Open Space Commission meeting, and the total requests exceeds the amount of grant funds available at that time, award grants to all requests that are proportional to the amount requested. For example, three regional park implementing agencies submit requests that total \$1 million, but there is only \$800,000 available. Three grants would be awarded with the amount proportional to the request. For example, if Agency 1's request was \$500,000 out of the \$1 million total (50%), the grant would be 50% of the available funds—in this example the grant would be \$400,000.

Rationale for Rule 5: This rule guides the Metropolitan Council in determining how to fund multiple grants that are considered at the same time when the amount requested exceeds the grant funds available. The deadline of the 15th of the month for submitting a request allows Council staff time to fully analyze the requests to verify the accuracy of each, and in turn the proportional amount of available grant funds that should be awarded.

Rule 6: The effective term of the Park Acquisition Opportunity Fund grant is no more than 12 months or the expiration date of the State appropriation which finances the grant, whichever is less. A grant may be extended beyond the initial term of 12 months for cause. However the length of the extension cannot exceed the availability of the State funds financing the grant.

Rationale for Rule 6: The time limit on the grant is to insure that actions to acquire the land and carry out other grant eligible activities is done in a timely manner and definitely

before the expiration of the State appropriation that financed the grant. Since the grants are made on estimated as well as actual costs, and grant funds are not disbursed until actual costs are documented, there are situations where not all encumbered grant funds are needed. These remaining funds can then be unencumbered and used on other grants up until the applicable State appropriation expires. Since the grant is financing activities beyond the acquisition of land, there may be cases where additional time is needed to complete those activities. For example, if the grant is financing soil remediation costs and those remediation activities cannot be completed in 12 months due to bad weather, an extension to the grant's duration is appropriate. Consequently, the grant term may be extended for cause in these situations. However, the grant extension cannot exceed the availability of the State funds financing the grant.

Rule 7: One year prior to the expiration of the State appropriation to each Park Acquisition Opportunity Fund Grant account [i.e. the Park and Trails Legacy Fund Acquisition Account (PTLF) and the Environment and Natural Resources Trust Fund Acquisition Account (ENRTF)], the Metropolitan Council in consultation with the Regional Park Implementing Agencies and the Metropolitan Parks and Open Space Commission will conduct a review of these rules to determine if additional steps should be taken to increase the likelihood that the balance of the expiring State appropriation will be granted and spent before its expiration date. An example of such a step would be to allow a park agency which has received the maximum amount allowed [\$1.7 million from the ENRTF Account or \$1.7 million from the PTLF Account in a State Fiscal Year (July 1 to June 30)] to be eligible to receive an additional grant. Another step could be that 60 days prior to a State appropriation's expiration date, that grants are awarded to partially reimburse the local match of grants awarded from the applicable acquisition account that were initially financed with that State appropriation and matching Metro Council bonds. The total amount of these reimbursement grants would consume the remaining State appropriation and applicable Metro Council bond match. The amount of each reimbursement grant should be proportionate to the local match amount initially funded by each park agency—not with other funding sources the park agency used as their match. And these reimbursement grants would only be for grants initially financed from that soon-to-expire State appropriation and applicable Metro Council bond match. If there was still funds remaining, reimbursement grants for the local matches on other acquisitions could be considered that were initially financed from that acquisition account, but from an earlier appropriation.

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

Rationale for Rule 7: This rule allows the Metropolitan Council to collaborate with the regional park implementing agencies and Metropolitan Parks and Open Space Commission on proposing ways to spend the remaining State appropriations in each account before they expire. These variances to the rules would insure that the State appropriations that partially finance these accounts are fully utilized to meet the objective of acquiring as much land as possible with the funds available.

System Protection Strategy 3

System Protection Strategy 3: The Council will reimburse implementing agencies for contamination cleanup under certain conditions.

The Metropolitan Council will consider funding soil contamination cleanup (remediation) or capping abandoned wells that have contaminated their ground water aquifer on regional park land if the following criteria are met:

For lands already under regional park implementing agency control:

A regional park implementing agency may use its share of regional park capital improvement funds for financing soil contamination remediation or capping abandoned wells that have contaminated their ground water aquifer on regional park land if the following conditions are met:

1. The land is already under regional park implementing agency ownership or control via a joint powers agreement or lease, and was acquired or was under the park implementing agency's control before Phase 1 environmental audits were required.
2. The land is essential to make the regional park or trail function as intended according to a Council-approved master plan, and no reasonable alternative exists to relocate the park or trail facilities elsewhere.
3. The park or trail is essential in contributing to strengthening neighborhood vitality consistent with the *2030 Regional Development Framework*. The cost of cleanup is not eligible to receive federal or state soil contamination cleanup funds or abandoned well-capping funds from any other program, or funding has been denied.
4. The regional park implementing agency has an agreement with the party that will remediate/clean up the contamination or cap an abandoned well that absolves the regional park implementing agency from any future liability of pollution caused by the contaminated soil or contaminated groundwater.

For lands proposed to be acquired by a regional park implementing agency:

A regional park implementing agency may request a Park Acquisition Opportunity Fund grant to partially finance soil contamination clean up (remediation) or capping abandoned wells that have contaminated their ground water aquifer on land that is proposed for acquisition if the following conditions are met:

1. Soil remediation necessary to correct pre-existing environmental contamination known at the time of purchase, and the remediation effort is to the level needed to allow the land to be used for park and recreation purposes, and capping abandoned wells that have contaminated their groundwater aquifer are grant eligible land acquisition expense under the following condition: The aggregate cost of acquiring the land and remediation does not exceed the certified appraised value of the land at the time of purchase. The certification of the market value of the property will be based on a third

party field review of the appraisal. The appraisal review must determine that the appraisal followed Uniform Standards of Professional Appraising Practice (USPAP). The appraisal review must be submitted to the Metropolitan Council. The cost of the third party appraisal review is a grant eligible item. In addition to the certification of the market value of the parcel, the park agency must submit documentation of the costs for remediation as listed below. The difference between the actual acquisition and remediation costs compared to the certified market value of the land prior to clean up may be applied towards the park agency's local match requirement.

Grant eligible expenses for soil remediation and well capping include:

- a. Costs to prepare Phase 1, and Phase 2 Environmental Site Assessments, the Quality Assurance Project Plan, Remediation Action Plan and the Environment Engineer's Estimate.
- b. Minnesota Pollution Control Agency (MPCA) Voluntary Investigation Cleanup (VIC) service charges.
- c. Costs to implement the remediation action plan and secure appropriate assurances from the Minnesota Pollution Control Agency.

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

2. The regional park implementing agency has an agreement with the party that will remediate/clean up the contamination or cap an abandoned well that absolves the regional park implementing agency from any future liability of pollution caused by the contaminated soil or contaminated groundwater.

For example, the certified appraised value of the land is \$1 million, but the actual costs to obtain the land and remediation is \$900,000. The \$100,000 difference is credited towards the 25% match to the park agency. The grant is calculated as follows:

\$1,000,000 certified appraised value of land
Minus \$100,000 discounted value credit towards park agency's 25% match
Equals \$900,000 actual costs of acquisition and remediation

75% of \$1,000,000 certified appraised value of land equals \$750,000 Park Acquisition Opportunity Grant.

25% of \$1,000,000 certified appraised value of land equals \$250,000 minus \$100,000 difference between appraised value and actual remediation and acquisition costs equals \$150,000 local match by the park agency