



# City of Chicago



O2017-916

Office of the City Clerk

## Document Tracking Sheet

**Meeting Date:** 2/22/2017

**Sponsor(s):** Emanuel (Mayor)

**Type:** Ordinance

**Title:** Expenditure of Open Space Impact Fee funds for Kil-Parker Community Garden and 42nd Street Garden projects

**Committee(s) Assignment:** Committee on Special Events, Cultural Affairs and Recreation

## ORDINANCE

WHEREAS, the City of Chicago (the "City"), is a home rule unit of government under Article VII, Section 6(a) of the Constitution of the State of Illinois, and as such may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the City is authorized under its home rule powers to regulate the use and development of land; and

WHEREAS, it is a reasonable condition of development approval to ensure that adequate open space and recreational facilities exist within the City; and

WHEREAS, on April 1, 1998, the City Council of the City (the "City Council") adopted the Open Space Impact Fee Ordinance codified at Chapter 18 of Title 16 (the "Open Space Ordinance") of the Municipal Code of Chicago (the "Code") to address the need for additional public space and recreational facilities for the benefit of the residents of newly created residential developments in the City; and

WHEREAS, the Open Space Ordinance authorizes, among other things, the collection of fees from residential developments that create new dwelling units without contributing a proportionate share of open space and recreational facilities for the benefit of their residents as part of the overall development (the "Fee-Paying Developments"); and

WHEREAS, pursuant to the Open Space Ordinance, the Department of Finance ("DOF") has collected fees derived from the Fee-Paying Developments (the "Open Space Fees") and has deposited those fees in separate funds, each fund corresponding to the Community Area (as defined in the Open Space Ordinance), in which each of the Fee-Paying Developments is located and from which the Open Space Fees were collected; and

WHEREAS, the Open Space Ordinance requires that the Open Space Fees: (i) be used for open space acquisition or capital improvements, or both, which provide a direct and material benefit to the new development from which the fees are collected, and (ii) be expended within the same or a contiguous Community Area from which they were collected after a legislative finding by the City Council that the expenditure of the Open Space Fees will directly and materially benefit the developments from which the Open Space Fees were collected; and

WHEREAS, the Department of Planning and Development ("DPD") has determined that the Fee-Paying Developments built in the Belmont Cragin Community Area and the Grand Boulevard Community Area have deepened the already significant deficits of open space in those Community Areas, which deficits were documented in the comprehensive plan entitled "The CitySpace Plan," adopted by the Chicago Plan Commission on September 11, 1997 and adopted by the City Council on May 20, 1998 pursuant to an ordinance published at pages 69309-69311 of the Journal of the Proceedings of the City Council of the same date; and

WHEREAS, NeighborSpace, an Illinois not-for-profit corporation, is dedicated to preserving and creating open space; and

WHEREAS, the City desires to grant NeighborSpace funds from Open Space Fees to pay or reimburse NeighborSpace for constructing the Kil-Parker Community Garden at 4646 West Parker Avenue in the Belmont Cragin Community Area (the "Kil-Parker Project") and installing a dedicated water hydrant at the 42<sup>nd</sup> Street Garden at 4200 South Vincennes Avenue in the Grand Boulevard Community Area (the "42<sup>nd</sup> Street Project," and together with the Kil-Parker Project, the "Project") ; and

WHEREAS, DPD wishes to make available to NeighborSpace proceeds from the Open Space Fees collected by DOF in a total amount not to exceed \$76,218 with \$41,218 from the Belmont Cragin Community Area to be used for the Kil-Parker Community Garden and \$35,000 from the Grand Boulevard Community Area to be used for the 42<sup>nd</sup> Street Garden; and

WHEREAS, DPD has determined that the use of the Open Space Fees to fund the Project will provide a direct and material benefit to each of the Fee-Paying Developments from which the Open Space Fees were collected; and

WHEREAS, DPD has determined that Open Space Fees to be used for the purposes set forth herein have come from the specific funds set up by DOF for the Belmont Cragin Community Area and the Grand Boulevard Community Area in which the Fee-Paying Developments are located and from which the Open Space Fees were collected; and

WHEREAS, DPD has recommended that the City Council approve the use of the Open Space Fees for the purposes set forth herein through this ordinance; and

WHEREAS, DPD has recommended that the City Council make a finding that the expenditure of the Open Space Fees as described herein will directly and materially benefit the Fee-Paying Developments from which the Open Space Fees were collected; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The above recitals are expressly incorporated in and made part of this ordinance as though fully set forth herein.

SECTION 2. The City Council hereby finds that the expenditure of the Open Space Fees will directly and materially benefit the residents of those Fee-Paying Developments from which the Open Space Fees were collected and approves the use of the Open Space Fees for the purposes described herein.

SECTION 3. The Commissioner of DPD (the "Commissioner") and a designee of the Commissioner are each hereby authorized, subject to the approval of the Corporation Counsel, to enter into agreements with NeighborSpace in connection herewith, containing such terms as the Commissioner deems necessary, and to provide Open Space Fees proceeds to NeighborSpace in an aggregate amount not to exceed a total of \$76,218, with \$41,218 from the Belmont Cragin Community Area going to Kil-Parker Community Garden and \$35,000 from the Grand Boulevard Community Area going to the 42<sup>nd</sup> Street Garden to pay for expenses permitted under the Open Space Ordinance.

SECTION 4. Open Space Fees in the amount of \$41,218 from the Belmont Cragin Community Area Open Space Fees Fund and \$35,000 from the Grand Boulevard Community Area Open Space Fees Fund are hereby appropriated for the purposes described herein.

SECTION 5. To the extent that any ordinance, resolution, rule, order or provision of the Code, or part thereof, is in conflict with the provisions of this ordinance, the provisions of this ordinance shall control. If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any other provisions of this ordinance.

SECTION 6. This ordinance shall be in full force and effect from and after the date of its passage and approval.



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OFFICE OF THE MAYOR  
CITY OF CHICAGO

RAHM EMANUEL  
MAYOR

February 22, 2017

TO THE HONORABLE, THE CITY COUNCIL  
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Planning and Development, I transmit herewith ordinances authorizing the expenditure of Open Space Impact Fee Funds.

Your favorable consideration of these ordinances will be appreciated.

Very truly yours,

A handwritten signature in cursive script that reads "Rahm Emanuel".

Mayor

March 29, 2017

To the President and Members of the City Council:

Reporting for your Committee on Special Events, Cultural Affairs and Recreation for which a meeting was held on March 22, 2017 having had under consideration two items. An ordinance authorizing the Expenditure of Open Space Impact Fee funds for Kil-Parker Community Garden and 42nd Street Garden projects, and ~~an ordinance authorizing the Expenditure of Open Space Impact Fee funds and intergovernmental agreement with Chicago Park District for expansion of Brown Memorial Park, Christiana Park and the construction of 6049 S Whipple St Park,~~ both were introduced by Mayor Emanuel at the February 22<sup>nd</sup> City Council meeting. I beg leave to report and recommend that Your Honorable Body Pass the proposed appointment transmitted herewith.

This recommendation was concurred in by a viva voce vote of the members of the Committee.

Respectfully submitted,




Chairman

APPROVED

  
CORPORATION COUNSEL

APPROVED

 ES  
4/13/17 Mayor