

meeting was held on September 9, 2014, having had under consideration the reappointment introduced by Mayor Rahm Emanuel on July 30, 2014, this being the expenditure of open space impact fee funds for acquisition and construction of a 43rd Street bridge, begs leave to recommend that Your Honorable Body Approve said ordinance transmitted herewith.

This recommendation was concurred in by a via voce vote of all committee members present with no dissenting votes.

Respectfully submitted,

Joseph A. Moore, Chairman
Committee on Special Events,
Cultural Affairs and Recreation

OFFICE OF THE MAYOR
CITY OF CHICAGO
RAHM EMANUEL MAYOR

July 30, 2014

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.

Mayor

Very truly yours,

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 Department of Planning and Development ("DPD") has determined that the Fee-Paying Development built in the Community Areas listed on Exhibit A attached hereto have deepened the already significant deficit of open space in the Community Areas, which deficit was 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 (the "Journal") of the same date; and

WHEREAS, the City of Chicago Department of Transportation ("CDOT") is replacing the 43rd street pedestrian bridge over Lake Shore Drive and desires to acquire an adjacent parcel of land in order to create an access park to the pedestrian bridge (the "Project") described on Exhibit A; and

WHEREAS, the DPD desires to reimburse CDOT from proceeds of the Open Space Fees from the Kenwood and Oakland Community Areas, in the amounts described on Exhibit A, for property acquisition costs and capital improvements relating to the Project; and

WHEREAS, the Open Space Ordinance requires that the Open Space Fees be used for open space acquisition and capital improvements, which provide a direct and material benefit to the new development from which the fees are collected; and

EXHIBIT A DESCRIPTION OF PROJECT

43rd Street Pedestrian Bridge Access Park

Address: Commonly known as 1163 East 43rd Street (the "Property")

Community Areas: Kenwood - 39; Oakland - 36

Description of Project: Property Acquisition and development of 43rd Street Pedestrian Bridge Access Park to be undertaken by CDOT for purposes of providing open space and recreational facilities to the public

Amount of Open Space Fees: \$173,281 total (to be provided as such: \$109,688 from the Kenwood Community Area Open Space Fees Fund and \$63,593 from the Oakland Community Area Open Space Fees Fund)

WHEREAS, the Open Space Ordinance requires that the Open Space Fees 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, DPD has determined that the use of the Open Space provides a direct and material benefit to each of the Fee-Paying Developments from which the Open Space Fees were collected in that the Project will not be completed but for the use of the Open Space Fees; 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 corresponding Community Areas in which a Fee-Paying Development is 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 and on Exhibit A 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, as proposed on Exhibit A, 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. Open Space Fees in the amount not to exceed \$173,281 (\$109, 688 from the Kenwood Community Area and \$63,593 from the Oakland Community Area) are hereby appropriated for the Project.

SECTION 4. The Commissioner or a designee of the Commissioner is each hereby authorized, to negotiate, execute and deliver such documents as may be necessary or appropriate to implement the provisions of this ordinance, subject to the approval of the Corporation Counsel. Such documents may contain terms and < "provisions that the Commissioner deems appropriate.

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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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