



## Legislation Text

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**File #:** RES PH 15-70, **Version:** 1

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Approving the petition of James Waldo to vacate part of platted Phalen Avenue adjacent to 1444 East Shore Drive, and to purchase a parcel of adjacent city parkland to be diverted for private use.

WHEREAS, the City of Saint Paul ("City") has received a petition from James Waldo ("Petitioner") to vacate part of platted Phalen Avenue adjacent to Petitioner's residential property at 1444 East Shore Drive, Saint Paul, said vacation area legally described in the paragraph labeled "Overall Phalen Avenue Vacation Description" on the survey drawing attached hereto as Exhibit A; and

WHEREAS, the City has determined that there is no longer a public purpose for maintaining its right-of-way rights within the vacation area; and

WHEREAS, if the vacation is approved, the south half of the vacation area, legally described in the paragraph labeled "South Half of Phalen Avenue Vacation Description" on the survey drawing attached hereto as Exhibit A (the "Park Property"), would accrue to existing city parkland; and

WHEREAS, Petitioner has further petitioned, in Financial Services Real Estate file number 01-PKLDVRS-2015, to purchase the Park Property in order to assemble all of the vacation area with his residential property; and

WHEREAS, the Department of Parks and Recreation ("Department") determined that the Park Property would not be used for parks and recreation purposes as it is small, undevelopable and in an unusable location, and therefore the Department recommended support of the request to the Saint Paul Parks and Recreation Commission ("Commission"); and

WHEREAS, the Commission supported the request for Petitioner's purchase of the Park Property, as stated in its resolution, Number 15-01, adopted February 11, 2015, a copy of which is attached for reference only; and

WHEREAS, the City recommends the sale of the Park Property to Petitioner, and Petitioner has agreed to pay just compensation as determined by an independent appraisal pursuant to Section 13.01.1 of the Saint Paul City Charter; and

WHEREAS, Section 51.01, Paragraph 11 of the Administrative Code permits disposal of city property to the Housing and Redevelopment Authority ("HRA"), which in turn may dispose of property to a private party; now, therefore be it

RESOLVED, that upon the petition of the Petitioner, as documented in Office of Financial Services Vacation File Number 15-2013, that part of platted Phalen Avenue right-of-way identified in Exhibit A is hereby vacated and discontinued as public property and, subject to the following conditions, the easements within said right-of-way are hereby released:

This vacation shall be subject to the terms and conditions of Chapter 130, codified March 1, 1981, of the Saint Paul Legislative Code as amended, and to the following conditions:

1. A permanent easement shall be retained on, over, under and across the vacation area on behalf of the City's Department of Public Works to reserve the right of the City to maintain and operate the existing storm

sewer pipe any other sewer in or upon said easement, and to enter upon said easement, or any portion thereof, at any time and from time to time, for the purposes of future construction, reconstruction, inspection, maintenance or repair of the same, or any part thereof. Said easement shall be subject to the following requirements:

- a. No buildings, structures, trees or any temporary structure, material storage, fixture, or any other objects which may prohibit normal access to utility facilities for maintenance purposes will be permitted within the easement area.
- b. Improvements in or upon the above described easement that do not prohibit the City from exercising its reserved rights may be allowed by obtaining written permission from the Department of Public Works Sewer Division with the understanding that the restoration and costs of such improvements shall be the sole responsibility of Petitioner, his successors and assigns in the event the City exercises its reserved easement rights.
- c. Should it be necessary that any improvements placed by Petitioner within the easement area be removed or damaged as a result of the Department of Public Works operations, all removal, replacement or modification costs shall be borne solely by Petitioner.
- d. No change from the existing grade within the easement area shall be permitted without written permission from the Department of Public Works Sewer Division.
- e. No change in surfacing within the easement area shall be permitted without written permission from the Department of Public Works Sewer Division.
- f. Petitioner, his successors and assigns shall fully indemnify, defend, and save harmless the City of Saint Paul, its officers, agents, employees and servants from all suits, actions or claims which shall arise from any injuries or damages received or sustained by any break in any service pipe or connection in said reserved easement arising out of or resulting from any action or negligence of Petitioner, his employees, agents or business invitees.

2. A permanent easement shall be retained on, over, under and across the vacation area on behalf of the Board of Water Commissioners of the City of Saint Paul (the "Board") to reserve the right of the Board to maintain and operate any water facility in or upon said easement, and to enter upon said easement, or any portion thereof, at any time and from time to time, for the purposes of future construction, reconstruction, inspection, maintenance or repair of the same, or any part thereof. Said easement shall be subject to the following requirements:

- a. No buildings, structures, trees or any temporary structure, material storage, fixture or any other objects which may prohibit normal access to water facilities for maintenance purposes will be permitted within the easement area.
- b. Improvements in or upon the above described easement that do not prohibit the Board from exercising its reserved rights may be allowed by obtaining written permission from Saint Paul Regional Water Services with the understanding that the restoration and costs of such improvements shall be the sole responsibility of Petitioner, his successors and assigns in the event the Board exercises its reserved easement rights.
- c. Should it be necessary that any improvements placed by Petitioner within the easement area be removed or damaged as a result of Saint Paul Regional Water Services operations, all removal, replacement or modification costs shall be borne solely by Petitioner.

d. No change from the existing grade within the easement area shall be permitted without written permission from Saint Paul Regional Water Services.

e. No change in surfacing within the easement area shall be permitted without written permission from Saint Paul Regional Water Services.

f. Petitioner, his successors and assigns shall fully indemnify, defend, and save harmless the Board of Water Commissioners of the City of Saint Paul, its officers, agents, employees, and servants from all suits, actions or claims which shall arise from any injuries or damages received or sustained by any break in any service pipe, water main, or connection in said reserved easement, arising out of or resulting from any action or negligence of Petitioner, his employees, agents or business invitees.

3. Petitioner, his successors and assigns shall pay \$600.00 to the City of Saint Paul as an administrative fee for this vacation which is due and payable within 60 days of the effective date of this resolution.

4. Petitioner, his successors and assigns agree to indemnify, defend and save harmless the City of Saint Paul, its officers and employees from all suits, actions or claims of any character brought as a result of injuries or damages received or sustained by any person, persons or property on account of this vacation, or Petitioner's use of this property, including but not limited to, a claim brought because of any act of omission, neglect, or misconduct of said Petitioner or because of any claims or liability arising from any violation of any law or regulation made in accordance with the law, whether by Petitioner or any of his agents or employees.

5. Petitioner, his successors and assigns shall, within 60 days of the effective date of this resolution, file with the Office of Financial Services/Real Estate Section, an acceptance in writing of the conditions of this resolution and shall, within the period specified in the terms and conditions of this resolution, comply in all respects with these terms and conditions.

6. Petitioner agrees to purchase the Park Property and comply with all City requirements and pay all costs and fees associated with the disposal of city parkland.

; and be it further

RESOLVED, that the proper city officials are hereby authorized and directed to:

1. Convey via quitclaim deed said Park Property to the HRA for subsequent sale to Petitioner, and to execute any and all documents necessary to complete said conveyance and sale,

2. Accept just compensation from Petitioner for the Park Property in the form of cash to be deposited into the Parkland Replacement Fund and held in reserve for future purchase of park property as required in Chapter 13.01.1 of the City Charter.