

ORDINANCE No. 188277

* Declare Elk Rock Island surplus property and authorize an Intergovernmental Agreement for Parks & Recreation to dispose of the property by the transfer of Elk Rock Island to the City of Milwaukie. (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. The Bureau of Portland Parks & Recreation (“PP&R”) has owned and maintained Elk Rock Island, Tax Lot Property Number C225364, since the family of Peter Kerr transferred the property to the City of Portland (“Portland”) in 1940. (See Exhibits A and B for map and legal description.) The Island is situated in the Willamette River, in unincorporated Clackamas County. In 1955, Kerr family members donated the 3-acre Elk Rock to Portland, but that property sits on the west bank of the river, in Multnomah County, and is not the subject of this Ordinance. A restriction in both deeds states that each property is donated on the condition that it be used solely for park or public playground purposes.
2. In 1971, the City of Milwaukie (“Milwaukie”) purchased 6.87 acres of land, currently known as Spring Park, which is adjacent to Elk Rock Island on the east bank of the river.
3. In 1995, the Elk Rock Island Natural Area Management Plan, covering both Kerr properties, and Spring Park, was developed by PP&R, with the cooperation and assistance of Milwaukie, the North Clackamas Parks District – which manages Spring Park - and the Friends of Elk Rock Island Natural Area. The Plan was first adopted by Milwaukie on January 17, 1995 and was later adopted by Portland, via Ordinance #168528, on February 15, 1995. The Plan has provided a framework for Portland’s management of the Island since its adoption, as it included policies and actions designed to assist in the protection of the natural areas’ resources.
4. The Plan included the recommendation that Elk Rock Island be incorporated into the Milwaukie City Limits. An updated Plan (the “2016 Management Plan”) has recently been approved and is consistent with the previous plan as it recognizes, incorporates, builds on and is designed to complement the work that has occurred on the Island over the last 20 years.
5. In 2016, Portland’s Bureau of Planning and Sustainability (“BPS”) began negotiating an amendment of its city’s boundary with Clackamas County. This process necessarily involved neighboring public entities like Milwaukie, as it, in part, will determine where and how certain unincorporated areas like Elk Rock Island might eventually be annexed by municipalities within Multnomah County or Clackamas County. Pursuant to this process, Milwaukie expressed interest in annexing Elk Rock Island, and BPS began negotiating with Milwaukie with that goal in mind.
6. BPS has proceeded with its more comprehensive process, without resolving the status of Elk Rock Island, but now Milwaukie and PP&R wish to finalize the transfer of Elk Rock Island to Milwaukie. Such a transfer is the natural and long-anticipated course for the property.
7. In support of this goal, Milwaukie and Portland have negotiated and agreed upon an Intergovernmental Agreement (“IGA”) that memorializes the terms and conditions on which this

transfer will occur. Central to the transfer is the expectation, that the Island will be maintained consistent with Portland's significant investment and the proposed IGA acknowledges and honors that commitment.

8. Management and enforcement on the Island currently require difficult coordination between the North Clackamas Parks District, Milwaukie and Portland. The Island's transfer to Milwaukie will simplify enforcement and management and ultimately better facilitate the protection of resources the 2016 Management Plan describes as exceptional.
9. In 2016, pursuant to Portland's real property disposition policy, PP&R declared Elk Rock Island as excess, offered the property to other City bureaus, and subsequently, no bureau expressed an interest in the property. Consistent with the Disposition of City Real Property policy, PP&R then determined that Elk Rock Island should be declared surplus property that is only useful to Milwaukie, the adjacent owner, due to its size, location and the above-noted deed restriction.
10. PP&R now requests that its Commissioner or the Commissioner's designee be provided with the authority to execute an IGA that is substantially similar to the Exhibit C attached to this Ordinance, in order to effectuate the transfer of Elk Rock Island to Milwaukie.

NOW, THEREFORE, The Council Directs:

- a. Elk Rock Island, Tax Lot Property Number C225364, is surplus City of Portland real property that is only useful to the adjacent owner, the City of Milwaukie, due to its size, location and the above-noted deed restriction, and the Bureau of Portland Parks & Recreation is authorized to proceed with disposition of the property, accordingly
- b. The Commissioner in charge of the Bureau of Portland Parks & Recreation or the Commissioner's designee is authorized to sign the Intergovernmental Agreement that memorializes the terms and conditions for the transfer, will effectuate the transfer of Elk Rock Island to the City of Milwaukie and is substantially similar to the Exhibit C attached to this Ordinance. The Commissioner or the Commissioner's designee is also authorized to execute the deed and any other documents necessary to complete the transfer.

Section 2. The Council declares that an emergency exists because a delay in designating and assigning the property would unreasonably impact the transfer of the property, this Ordinance shall be in force and effect from and after its passage by Council.

MAR 15 2017

Passed by the Council:
Commissioner Fritz

Mary Hull Caballero
Auditor of the City of Portland

Prepared by: F. Dennis James

By 
Deputy

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INTRODUCED BY Commissioner/Auditor: Fritz	CLERK USE: DATE FILED <u>MAR 07 2017</u>
COMMISSIONER APPROVAL	<p style="text-align: center;">Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <u><i>[Signature]</i></u> Deputy</p> <p>ACTION TAKEN:</p>
Mayor—Finance & Administration - Wheeler	
Position 1/Utilities - Fritz <i>Amanda Fritz</i>	
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Eudaly	
BUREAU APPROVAL	
Bureau: Parks & Recreation Bureau Head: <i>Mike Abbate</i>	
Prepared by: F. Dennis James Date Prepared: February 24, 2017	
Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
City Auditor Office Approval: N/A required for Code Ordinances	
City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter	
Council Meeting Date: March 15, 2017	

AGENDA
TIME CERTAIN <input checked="" type="checkbox"/> Start time: <u>10:00am</u>
Total amount of time needed: <u>30 min</u> (for presentation, testimony and discussion)
CONSENT <input type="checkbox"/>
REGULAR <input checked="" type="checkbox"/> Total amount of time needed: <u>15 Minutes</u> (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	✓	
2. Fish	✓	
3. Saltzman	✓	
4. Eudaly	✓	
Wheeler	✓	