



# MAYOR & COUNCIL COMMUNICATION

**DATE:** January 13, 2015

**CONSENT**

**ITEM #** 11

**AGENDA ITEM:** Approve Resolution No. 2015-03, Resolution Calling for Public Hearing to Vacate Park Land

**SUBMITTED BY:** Adam Bell, City Clerk

**THROUGH:** Dean Zuleger, City Administrator

**REVIEWED BY:** Dave Snyder, City Attorney  
Nick Johnson, City Planner  
Park Commission

**SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item .....Staff
- Report/Presentation.....Staff
- Questions from Council to Staff ..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion..... Mayor & City Council
- Action on Motion..... Mayor Facilitates

**POLICY RECOMMENDER:** Under state statute, a City must hold a public hearing for the vacation of any public land. The proposed vacation is required for the sale of a 6,300 square foot triangle of land (0.15 acres), and is intended to correct an encroachment of a swimming pool that was constructed in 2005. Staff is recommending that the City Council approve the resolution calling for a public hearing to consider the vacation of the respective portion of park land.

**FISCAL IMPACT:** Approval of the resolution calling for the public hearing will result in an approximately \$200 cost for the publication of the required public notice. The negotiated purchase price for the parcel at issue is \$3,000.00. This amount was based on the assessor estimate and the market value and will go to the park fund.

**SUMMARY AND ACTION REQUESTED:** The City Council is respectfully requested to approve Resolution No. 2015-03, A Resolution Calling for Public Hearing to Vacate Park Land located in DeMontreville Wildlife Park. As part of the Consent Agenda, no formal motion is required. However, if Council wishes to remove this item from the Consent Agenda for further discussion, it can then pass the resolution by taking the following action:

***“Move to approve Resolution No. 2015-03, A Resolution Calling for Public Hearing to Vacate Park Land.”***

**LEGISLATIVE HISTORY:** In the process of preparing their property for sale, property owners David and Mary Blinkoff of 7920 DeMontreville Trail North were notified that their pool was partially located on municipal park land in the DeMontreville Wildlife Park. Based on staff research, it appears that the final pool location was not correctly placed according to the survey or verified in reference to the proposed survey during the permitting process in 2005. The issue now creates a potential liability problem for both the City as well as the property owner. After consulting with the City Attorney as to the various options, staff and the owner have agreed that selling to the property owners the impacted land where the pool is located, consisting of approximately 6,300 square feet, is the best option for all parties.

Pursuant to Minn. Stat. §§ 412.861 and 462.358, subd. 7, a city may vacate public land in the same manner as vacating streets. By law, in order to vacate public park land, Council must hold a public hearing on the vacation and then pass a resolution vacating the public park land. Presently before council is a resolution calling for the required public hearing. Notice of the hearing is required to be published and posted by the City Clerk at least two weeks prior to the hearing and mailed by the City Clerk to affected property owners at least ten days prior to the hearing. The soonest that a public hearing can be held is on February 3, 2015 at 7:00 p.m.

A resolution granting a vacation commenced solely on the initiative of the city council requires a four-fifths majority vote in favor of the resolution. The call for the public hearing only needs a simple majority vote. The City Planning, Legal, and Administration Departments have all reviewed this item. The Planning Commission is scheduled to review compliance with the Comprehensive Plan at its January 12, 2015 meeting. Those findings along with a full SWOT analysis of the proposed sale will be available at the time the public hearing is held. The sale of the property and the vacation process is time sensitive, therefore Council is respectfully asked to call for the public hearing without delay.

**RECOMMENDATION:**

Staff recommends the City Council, as part of its Consent Agenda, approve Resolution No. 2015-03, A Resolution Calling for Public Hearing to Vacate Park Land. As part of the Consent Agenda, no formal motion is required. However, if Council wishes to remove this item from the Consent Agenda for further discussion, it can then pass the resolution by taking the following action:

***“Move to approve Resolution No. 2015-03, A Resolution Calling for Public Hearing to Vacate Park Land.”***

**ATTACHMENTS:**

1. Resolution No. 2015-03
2. Public Notice to be published