

Presented by: The Manager
Introduced: 03/04/2019
Drafted by: R. Palmer III

RESOLUTION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2848

A Resolution Authorizing the Manager to Convey an Access Easement at Chicken Yard Park as Part of a Settlement Agreement.

WHEREAS, the City and Borough of Juneau (CBJ) acquired Chicken Yard Park in 1950, which is located near 635 Sixth Street in Juneau, and also described as Lots 5 and 6, Block 113, Juneau, Alaska; and

WHEREAS, legal vehicle access to an adjacent property located at 626 Fifth Street, and also described as Lot 3 and part of Lot 4, Block 113, Juneau, Alaska, has been uncertain for a number of years; and

WHEREAS, the current property owners of 626 Fifth Street alleged they had lawful vehicle access through Chicken Yard Park because of an easement by prescription, easement by estoppel, inquiry notice, and that the CBJ was exposed to an inverse condemnation claim if the CBJ prohibited vehicle access; and

WHEREAS, instead of litigating in court, the parties negotiated their positions, and the Manager brought various options to the Parks and Recreation Advisory Committee, the Assembly Lands Committee, and the Planning Commission for review and comment; and

WHEREAS, the Manager and the property owners were able to reach a tentative settlement agreement with the following essential terms:

The CBJ would:

- Construct two parking spaces at the entrance to Chicken Yard Park;
- Grant to the owners of 626 Fifth Street an exclusive easement to use these parking spaces (no public parking will be provided in the park);
- Grant to the owners of 626 Fifth Street non-exclusive use of a driveway to access the parking spaces;
- Grant to the owners of 626 Fifth Street non-exclusive pedestrian access through the park to their home;
- These access rights run with 626 Fifth Street; and

- Provide a one-time payment totaling \$5,000.00.

The owners of 626 Fifth Street would:

- Disclaim all current and future interests in Lots 5 and 6 (known as Chicken Yard Park), including any claim of access through prescriptive easement. This disclaimer of interest would carry forward to all future owners of 626 Fifth Street; and
- Be responsible for all maintenance of the parking spaces.

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Easement Authorization. The Manager is authorized to negotiate and execute the parking and access easement identified above to the owners of Lot 3 and part of Lot 4, Block 113, Juneau, Alaska. The easements shall be subject to the essential terms and conditions outlined in Section 2, below.

Section 2. Essential Terms and Conditions.

- 1) The CBJ grants two parking spaces at the entrance to Chicken Yard Park;
- 2) All the easements are perpetual and run with the land owned by the owners of 626 Fifth Street;
- 3) The CBJ grants the owners of 626 Fifth Street an exclusive easement to use these parking spaces;
- 4) The CBJ grants the owners of 626 Fifth Street non-exclusive use of a driveway to access the parking spaces;
- 5) The CBJ grants the owners of 626 Fifth Street non-exclusive pedestrian access through the park to their home;
- 6) The CBJ provides a one-time payment of \$5,000.00;
- 7) The CBJ intends to improve and construct the parking spaces with the upcoming Capital Improvement Program work at Chicken Yard Park before the end of 2020;
- 8) The owners of 626 Fifth Street disclaim all current and future interests in Lots 5 and 6 (known as Chicken Yard Park), including any claim of access through prescriptive easement. This disclaimer of interest carries forward to all future owners of 626 Fifth Street; and

9) The owners of 626 Fifth Street are responsible for all maintenance of the parking spaces.

10) The Manager may include other terms and conditions deemed to be in the public interest.

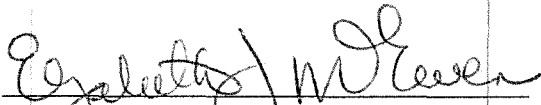
Section 3. Effective Date. This resolution shall be effective immediately after its adoption.

Adopted this 4th day of March, 2019.



Beth A. Weldon, Mayor

Attest:


Elizabeth J. McEwen, Municipal Clerk