



## Legislation Text

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File #: 13-1277, Version: 1

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Resolution to Accept Donation of Property Located at 3013 W. Huron River Drive by the Michigan Attorney General on behalf of the Joseph Donald Brokaw and Earldine R. Brokaw Foundation and Accept and Appropriate Foundation Funds to Parks for the Upkeep and Maintenance 3013 W. Huron River Drive as Parkland **(8 Votes Required)**

The Michigan Attorney General represents the People of Michigan and the uncertain and indefinite beneficiaries of all charitable trusts in Michigan and may enforce such charitable trusts in court. The Joseph Donald Brokaw and Earldine R. Brokaw Foundation, a charitable, nonprofit corporation, was established as a charitable trust with the primary purpose to receive and administer funds for operating a park for the use of the general public. In 2004 Mr. Brokaw transferred title to 3013 W. Huron River Drive to the Foundation. In 2008 the City Greenbelt Program had preliminary discussions with the Foundation which were not pursued.

Mr. Brokaw died in May 2010 (Mrs. Brokaw had preceded him in death in 2003). In October 2010, William Drollinger, secretary and later President of the Foundation, established an investment account for the Foundation with Comerica Bank. Mr. Drollinger died in 2011 and for some time prior to his death, he was a legally incapacitated and protected individual. Last available records filed by the Foundation were in August 2010. Neither the Charitable Trust Section of Attorney General Office nor Comerica Bank was able to discover any other persons with an interest in the Foundation (e.g., directors and officers). The Foundation had ceased operating, could not authorize Comerica Bank or anyone else to handle its affairs, and was effectively defunct.

The Foundation's Articles of Incorporation address the distribution of assets upon the Foundation's dissolution and provide for the distribution to a local government for a public purpose. The Attorney General consent to the formal dissolution of the Foundation and distribution of assets and determined the City of Ann Arbor, the principal office for the corporation, was the appropriate recipient of the property and Foundation funds. An Order was issued by Washtenaw County Probate Court authorizing the Attorney General, acting on behalf of the Foundation, to transfer the real property in the name of the Foundation to the City for use as a public park pursuant to the stated aims of the Foundation and authorizing Comerica Bank to pay all outstanding taxes and any other debts outstanding from the assets held in the name of the Foundation and pay over the net sum to the City of Ann Arbor for the upkeep and maintenance of the real property as a public park.

The attached Resolution authorizes the acceptance of the donation of the real estate located at 3013 W. Huron River Drive for a public park and the acceptance and appropriation of the funds held in the name of the Foundation for its upkeep and maintenance. Comerica Bank advises, after its payment of outstanding taxes and debts, the net funds to be transferred to the City are \$476,115.99.

The Brokaw property is approximately 24.45 acres of land. A portion of the property runs along the Huron River, providing river access, and is adjacent to other City-owned property. On the west side of Huron River Drive the property slopes steeply upward and is partly wooded with flat grasslands in the immediate area of the old house on the property. The house will need to be demolished and that

area remediated.

Prepared by: Mary Joan Fales, Senior Assistant City Attorney

Sponsored by: Mayor Hieftje

Whereas, Donation of real property may be accepted by the City through the Open Space and Park Land Preservation Ordinance;

Whereas, The Michigan Attorney General represent the People of Michigan and the uncertain and indefinite beneficiaries of all charitable trusts in Michigan and may enforce such charitable trusts in court;

Whereas, The Michigan Attorney General having determined that Joseph Donald Brokaw and Earldine R. Brokaw Foundation had ceased to function and consented to its dissolution and the distribution of all Foundation assets and further determined that the City of Ann Arbor was the appropriate recipient of same consistent with the Foundation's dissolution clause and in accordance with the charitable intent of the Foundation's incorporator, Joseph Donald Brokaw;

Whereas, The Michigan Attorney General, on behalf of Joseph Donald Brokaw and Earldine R. Brokaw Foundation, petitioned and was granted an Order by the Washtenaw Probate Court to transfer the real property in the name of the Foundation to the City of Ann Arbor to be used as a public park pursuant to the stated aims of the Foundation;

Whereas, It was further ordered that the assets of the Foundation held by Comerica Bank, after payment of all outstanding unpaid taxes and any other debts, be paid over to the City of Ann Arbor for the upkeep and maintenance of said real property for use of the public;

Whereas, The net funds are sufficient to cover the estimated environmental site assessment, demolition of structures, remediation and preparation of the real property for use by the public and long-term upkeep and maintenance; and

Whereas, The Parks Advisory Commission supports the acceptance of the donation;

RESOLVED, That City Council accept the donation of the real property located at 3013 W. Huron Drive; and

RESOLVED, That City Council accept the assets of the Foundation held by Comerica Bank and establish and appropriate to them to the Parks Memorials and Contribution Fund (Fund 0034) to be used for the upkeep and maintenance of said real property.