

Emergency Bill No. 5152

Ordinance No. \_\_\_\_\_

Requested by: Steve Ehlmann

Sponsored by: Nancy Schneider

AN EMERGENCY ORDINANCE AUTHORIZING  
THE COUNTY AS LESSEE TO TERMINATE THE  
REMAINDER OF THE LEASE WITH THE CITY OF  
ST. CHARLES AS LESSOR FOR THE ISLAND  
KNOWN AS THE LOUIS H. BANGERT  
MEMORIAL WILDLIFE AREA EFFECTIVE  
FEBRUARY 15, 2023

WHEREAS, in 2007, the St. Charles County Council passed Ordinance 07-157, which authorized the County Executive to enter into an agreement with the Missouri Conservation Commission for the lease of the island known as the Louis H. Bangert Memorial Wildlife Area (hereinafter “Bangert Island”) for a term of 30 years (December 1, 2007 through November 30, 2037), for use as a nature preserve and trail system; and

WHEREAS, on November 16, 2007, the County Executive executed the lease agreement authorized by the County Council with the Missouri Conservation Commission and thereby accepted Bangert Island for use as a county park, subject to the limitations placed on its use in the lease agreement and associated documents; and

WHEREAS, St. Charles County Parks Department, in accord with that lease, then constructed natural surface trails; and

WHEREAS, all trails on Bangert Island constructed by the St. Charles County Parks Department and its volunteers were built in compliance with the Department of Conservation restrictions as set forth in the lease and its attachments; and

WHEREAS, from the inception of the lease until now the Parks Department has maintained the trails and has expended more than Two Hundred Thirty-Six Thousand Dollars (\$236,000) in Parks and other County funds for the development of the original trail and the support and maintenance of the Bangert Island trails and park; and

WHEREAS, in 2015, the Conservation Commission conveyed, by Quitclaim Deed, the fee interest of the Commission in Bangert Island to the family of the original donor's family and the family then conveyed the fee interest in Bangert Island to the City of St. Charles, Missouri on February 11, 2015, subject to the remainder of the thirty year lease held by the County; and

WHEREAS, the Quitclaim by the donor family to the City is recorded in the St. Charles County Recorder of Deeds Office at Deed Book DE6328, Page 87-Page 94 (hereinafter referred to as the "City Deed"); and

WHEREAS, said conveyance was made subject to the conditions which run with the land and bind the City that (1) that the "island shall forever remain in the public domain under the care and control of the St. Charles or such other public entity as may be charged with its duties;"

(2) that the “island shall not be sold or transferred to any private, corporate or quasi-corporate interest and it shall be maintained, as far as possible, in its natural state;” and

WHEREAS, the other restrictions make clear that City has the fee interest in the Property for public park and recreational purposes so long as City uses the Property only in a manner consistent with restrictions set forth in the Quitclaim Deed; and

WHEREAS County from that date forward retained its leasehold with the City of St. Charles as the Lessor; and

WHEREAS, due to the restrictions on the property and its location in proximity to repetitive flooding, the land is best used purely as open space; and

WHEREAS, however, the land immediately adjacent to Bangert Island is moving from undeveloped space to developed space and will contain residential, office and entertainment uses in a development known as Riverpointe; and

WHEREAS, for the next three to five years access to Bangert Island will be difficult while construction of the new development is completed on the adjacent land that is not a part of Bangert Island; and

WHEREAS, the City of St. Charles is committed to Bangert Island being part of their project accessible across a new pedestrian bridge and adjacent to other recreational public amenities that will benefit the public in accessing the trails on Bangert Island; and

WHEREAS, County and City desire jointly to end their lease agreement and for City to assume all oversight over Bangert Island as a restricted area to be maintained in its natural state as per the City Deed; and

WHEREAS, in order to meet their schedule for the Riverpointe development, the City of the St. Charles has represented to the County that they must meet certain deadlines that require the release of the lease by February 15, 2023 and City has agreed to waive all notice of termination requirements and accept Bangert Island as of that date.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF ST. CHARLES COUNTY MISSOURI, AS FOLLOWS:

Section 1. The County Executive is hereby authorized to execute such documents as the County Counselor determines are necessary to terminate the 2007 lease agreement and such other documents as are necessary to allow such land known as Bangert Island to revert to the City of St. Charles for the remainder of the lease agreement starting February 15, 2023, such termination of the lease to occur for good and valuable consideration of \$236,000.

Section 2. Such agreements and documents shall be approved in form and content by the County Counselor.

Section 3. The County Council hereby declares an emergency exists affecting the immediate preservation of the public peace, health, safety and welfare in that without this termination of the lease, the City of St. Charles has indicated it cannot meet its development schedule in the current Phase of its Riverpointe development and will face economic losses that are not in the public interest.

Section 4. This ordinance shall be in full force and effect from and after the date of its passage and approval.

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DATE PASSED

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DATE APPROVED BY COUNTY EXECUTIVE

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CHAIR OF THE COUNCIL

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COUNTY EXECUTIVE

ATTEST:

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COUNTY REGISTRAR