



Legislation Text

File #: 20-0270R, **Version:** 1

RESOLUTION REPLACING RESOLUTION NO. 19-0424, VACATING PUBLIC PLAZA AREAS CREATED UNDER CERTAIN AGREEMENTS, AND ACCEPTING THE DEDICATION OF NEW PLAZA EASEMENTS.

WHEREAS, on April 11, 2019, Minnesota Power petitioned the Duluth city council for the vacation of certain plaza agreements on and adjacent to its property in downtown Duluth;

WHEREAS, Minnesota Power was seeking to reduce the size of one of the plazas near the entrance of its building by 30-40 feet due to safety and security concerns;

WHEREAS, the plazas and the public's rights in the plazas were created under certain agreements described on the attached Exhibit 1;

WHEREAS, pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission (PL 19-042) and such commission gave due notice of public hearing and did consider same in a public hearing and the city planning commission found that all of the easements are not needed for plaza purposes if replacement easements are obtained on or before December 31, 2020;

WHEREAS, the planning commission, at a public meeting held on May 14, 2019, recommended approval of the vacation of the plazas;

WHEREAS, the Duluth city council approved the vacation of the plazas on July 8, 2019 under Resolution No. 19-0424, contingent on the dedication of new plaza agreements being executed and recorded in the St. Louis County real estate records;

WHEREAS, Resolution No. 19-0424 contained a legal description for Minnesota Power's entire property instead of listing the specific documents to be vacated;

WHEREAS, Minnesota Power was not the owner of record of the property to be re-dedicated as public plazas areas; and

WHEREAS, the City and Minnesota Power have been diligently working together to address and fix all of the title issues associated with the plaza areas and surrounding land.

NOW, THEREFORE, BE IT RESOLVED, that Resolution No. 19-0424, passed July 8, 2019, is hereby superseded and replaced in its entirety with this resolution.

RESOLVED FURTHER, that the city council of the city of Duluth approves the vacation of the plaza agreements described on the attached Exhibit 1 and depicted on the attached Exhibit 2, contingent upon the condition that replacement plaza easement agreements, substantially in the form attached as Exhibits 3 and 4, are fully executed and recorded in the real estate records of St. Louis County, Minnesota by December 31, 2020.

RESOLVED FURTHER, that the city council of the city of Duluth hereby accepts and approves the

agreements, substantially in the form attached as Exhibits 3 and 4, and directs the proper city officials to enter into said agreements.

RESOLVED FURTHER, that if the agreements substantially in the form attached as Exhibits 3 and 4 are not recorded in the real estate records of St. Louis County, Minnesota by December 31, 2020, then this vacation is null and void and of no further effect.

RESOLVED FURTHER, that the city clerk is, pursuant to Section 100 (b)(7) of the Home Rule Charter of the city of Duluth, 1959, as amended, authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution showing the plaza agreements to be vacated, subject to the conditions stated above.

FURTHER RESOLVED, that the recordation of the easements, substantially in the forms attached as Exhibits 3 and 4, with the St. Louis County Recorder and/or Registrar of Titles shall serve as evidence of completion of Minnesota Power's obligation regarding the dedication of plaza easements, which obligation was required under Section 2 of Ordinance No. 20-027.

This resolution replaces Resolution No. 19-0404 that vacates the existing public plaza agreements for Lake Superior Plaza and replaces them with updated agreements that continue to allow public access, but reduce the size of Lake Superior Plaza to provide a security buffer between the plaza and the Minnesota Power's building.

Minnesota Power desires to vacate the entire plaza areas because there is not a single document or legal description that creates the areas and dedicate new easements for "public pedestrian passageway and plaza" purposes over the plaza areas and under the terms contained in the documents attached as Exhibits 3 and 4. These easements will provide the same level of public access to the plazas as the current agreements. However, to address safety and security concerns near their building, Minnesota Power is proposing to reduce the size of the west plaza by 30-40 feet near its building. In the vacated plaza space, Minnesota Power will be able have better control of access to their main entrance, as well as place bollards and landscaping elements to prevent vehicular access near the building.

Reducing the plaza by 30-40 feet represents a reduction of about 20% of the total plaza area, with the remaining plaza area being approximately 1/3 acre. The remaining plaza is still large enough to host community events and general plaza functions. With the standard for vacating public easements being "uselessness," the Council must determine that the area near the building is not needed for plaza purposes. Although the public occasionally uses this space, it is not critical to the functioning of the plaza and could be found useless.

This resolution is one of several items related to a larger real estate transaction between the city and Minnesota Power, as more further described in Ordinance No. 20-027.

On May 14, 2019, the Duluth city planning commission held a public hearing on the proposal and voted 6 yeas, 0 nays, and 0 abstentions to recommend that city council approve the vacation. The staff report is attached as Exhibit 5.

The motion to approve the vacation by the city council must prevail with at least six affirmative votes.

PL 19-042