



## Legislation Text

**File #:** 20-0441R, **Version:** 1

### RESOLUTION VACATING A PORTION OF PLATTED LAKE AVENUE AND ADJACENT LAND BETWEEN SUPERIOR STREET AND MICHIGAN STREET IN DOWNTOWN DULUTH.

#### CITY PROPOSAL:

##### RESOLVED, that:

- (a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (e) below; and
- (b) 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 and such commission gave due notice of public hearing and did consider same in a public hearing and the city planning commission found that the street, highway and/or right-of-way easement areas are not needed for public street, highway and/or right-of-way purposes; and
- (c) The city planning commission, at a Tuesday, May 12, 2020 regular meeting, recommended approval of the vacation petition; and
- (d) The city council finds that the street, highway and/or right-of-way easements proposed to be vacated:
  - 1. are not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians or otherwise for the efficient supply of utilities or public services in the City; and
  - 2. are not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.
- (e) The city council of the city of Duluth approves the vacation of the street, highway and/or right-of-way easements legally described on the attached Exhibit A and depicted on the attached Exhibit B.:
- (f) 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 street, highway and/or right-of-way easements to be vacated.

**STATEMENT OF PURPOSE:** This resolution vacates platted Lake Avenue between Superior Street and Michigan Street, except the portions already vacated, together with a piece of land adjacent to platted Lake Avenue that was previously dedicated to the public in 1895 for street, highway and/or right-of-way purposes. There is a portion of the Lake Avenue Bridge and two utilities within the easement areas to be vacated. Although this vacation does not reserve any public rights in the easement areas, the city and public's rights for the street and utility areas will be preserved as follows:

- (1) A small portion of Lake Avenue is constructed within the easement areas to be vacated, and Minnesota Power will grant an easement over that small portion for street purposes. The City previously accepted the easement under Resolution No. 20-0377.
- (2) There is a stormwater pipe located within platted Lake Avenue and Minnesota Power will grant and convey a utility easement for stormwater purposes to the City of Duluth,

together with the right of access to the stormwater pipe. The City previously accepted the easement under Resolution No. 20-0379.

(3) There is a steam pipe partially located within platted Lake Avenue and the property owner (Minnesota Power) will grant and convey a utility easement for steam and hot water purposes to the City of Duluth, together with the right of access to the steam pipe. The City previously accepted the easement under Resolution No. 20-0378.

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. At the closing of the transaction, Minnesota Power will grant the street and two utility easements to the City. The City's conveyance of property adjacent to and including the areas to be vacated are contingent upon these easements being granted. Therefore, this resolution does not need to retain the street and utility areas needed because they are already a condition of Ordinance No. 20-027, which was adopted by the city council on April 13, 2020.

This item was original heard on May 12, 2020. The Duluth city planning commission held a public hearing on the proposal and voted 7 yeas, 0 nay, and 0 abstentions to recommend the city council approve the vacation. The staff report submitted to the planning commission is attached as Exhibit C. An aerial view of the areas to be vacated are shown on the map attached as Exhibit D.

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

Petition Received: April 13, 2020

Action Deadline: August 11, 2020

Petitioner: Danielle Erjavec (City of Duluth) and Ken Ogston (Minnesota Power)  
PL 20-043