

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

10-0538R

RESOLUTION RESCINDING RESOLUTION 05-0156, VACATING PORTIONS OF 43RD, 44TH AND 45TH AVENUES WEST, SOUTH OF GRAND AVENUE AND NORTH OF WEST SECOND STREET ALSO KNOWN AS TRAVERSE STREET, VACATING A UTILITY EASEMENT OF WEST SECOND STREET, AND ACCEPTING DEDICATION OF PORTIONS OF 44TH AVENUE WEST AND WEST SECOND STREET (DULUTH CITY ENGINEER).

CITY PROPOSAL:

RESOLVED, that the city council hereby makes the following findings:

(a) That Resolution 05-0156 was not recorded with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota;

(b) That sufficient petitions were filed with the city clerk requesting the vacation of the following:

(1) That portion of 43rd Avenue West, adjoining Lot 16, Block 71, and Lot 9, Block 72, TOWN OF ONEOTA, lying within 110 feet of vacated West Second Street, previously platted as Traverse Street, as described in Exhibit A;

(2) That portion of 44th Avenue West, adjoining Lots 8 and 16, Block 70, and Lots 1 and 9, Block 71, all in the recorded plat of Town of Oneota, that is within 161 feet of the northwest right-of-way of vacated West Second Street, previously platted as Traverse Street, subject to retention of a utility easement, all as described in Exhibit B;

(3) That utility easement retained in the previous vacation of West Second Street, TOWN OF ONEOTA, previously platted as Traverse Street pursuant to Resolution 02-0408, as described in Exhibit B;

(4) That portion of 45th Avenue West, adjoining Lot 16, Block 69, and Lot 9, Block 70, TOWN OF ONEOTA, lying within 113 feet of vacated West Second Street, previously platted as Traverse Street, retaining a utility easement over the westerly 50 feet of the vacated portion, as described in Exhibit C;

(5) That utility easement on part of the vacated West Second Street, TOWN OF ONEOTA, previously platted as Traverse Street, as described in Exhibit B;

(c) Pursuant to Section 100 of the City Charter and Article IV of Chapter

45 of the Duluth City Code, 1959, as amended, such petitions were duly referred to the city planning commission (FN 10057), and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the petitioned streets are useless for vehicular, pedestrian and utility purposes, but that portions of the petitioned streets are needed for utility purposes as noted in (b) and further described in Exhibit B and Exhibit C;

(d) The city has received the following grants of easement, in trust for the general public, from the following persons and entities:

(1) An easement for roadway and utility purposes from J&S Partnership LLP over a portion of vacated West Second Street, TOWN OF ONEOTA, previously platted as Traverse Street, as shown on Public Document No. _____, a copy of which is on file in the office of the city clerk;

(2) An easement for roadway and utility purposes from J&S Partnership LLP over a portion of vacated 44th Avenue West, TOWN OF ONEOTA, lying south of Grand Avenue, as shown on Public Document No. _____, a copy of which is on file in the office of the city clerk;

(3) An easement for utility purposes from J&S Partnership LLP over a portion of vacated 44th Avenue West, TOWN OF ONEOTA, lying south of Grand Avenue, as shown on Public Document No. _____, a copy of which is on file in the office of the city clerk;

(4) An easement for roadway and utility purposes from Roadrunner Investments LLC over a portion of vacated West Second Street, TOWN OF ONEOTA, previously platted as Traverse Street, as shown on Public Document No. _____, a copy of which is on file in the office of the city clerk;

(5) An easement for roadway and utility purposes from Roadrunner Investments LLC over a portion of vacated 44th Avenue West, TOWN OF ONEOTA, lying south of Grand Avenue, as shown on Public Document No. _____, a copy of which is on file in the office of the city clerk;

(6) An easement from Wade E. and Mindy Plaisted, individually, over a portion of vacated West Second Street, TOWN OF ONEOTA, previously platted as Traverse Street, as shown on Public Document No. _____, a copy of which is on file in the office of the city clerk;

(e) The city planning commission, at its September 14, 2010, regular meeting, recommended approval of the vacation petitions, retention of utility easements, and acceptance of right-of-way and utility easement dedications.

FURTHER RESOLVED, that Resolution No. 05-0156, approved on March 14, 2005, is hereby rescinded.

FURTHER RESOLVED, that the city council of the city of Duluth approves the vacations subject to retention of utility easements described above and as more particularly described in exhibits A, B and C and identified as Public Document No. _____.

FURTHER RESOLVED, that said city council accepts, on behalf of the general public, the dedication of those easements described above as shown on Public Document Nos. _____, _____, _____, _____, _____ and _____.

FURTHER RESOLVED, that the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, 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 and Public Document Nos. _____, _____, _____, _____, _____ and _____ showing the portions of the streets and alleys to be vacated,

utility easements to be retained and the acceptance of dedication of new easements, all as authorized hereunder.

Approved:

Approved for presentation to council:

Department Director

Chief Administrative Officer

Approved as to form:

Approved:

Attorney

Auditor

PLNG/ATTY REA:dma 10/5/2010

STATEMENT OF PURPOSE: This resolution does four things:

1. It rescinds vacations granted in Resolution 05-0156 for improper recordation;
2. It vacates portions of 43rd, 44th and 45th Avenues West;
3. It retains utility easements over portions of the streets that have city utilities in them;
4. It accepts dedication of portions of West Second Street and 44th Avenue West.

The motion to approve this resolution must prevail with at least six affirmative votes according to Section 45-44.

On September 14, 2010, the Duluth planning commission held a public hearing on the proposal and voted 10-0-0 to recommend that the city council approve the petitioned vacations, retention of easements and street dedications.

Petition received: August 25, 2010

Action deadline: There is no action deadline for this resolution.