

PUBLISHED FEBRUARY 26, 2014

OFFICIAL PROCEEDINGS

Excerpt from the minutes of the Duluth City Council meeting held on Monday, February 24, 2014, at 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

ORDINANCE NO. 10283

AN ORDINANCE GRANTING THE DULUTH TRANSIT AUTHORITY A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A SKYWALK OVER WEST MICHIGAN STREET BETWEEN SECOND AND THIRD AVENUES WEST.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is hereby granted to the Duluth Transit Authority, and its successor(s) in interests, referred to herein as the permittees, to occupy, erect and maintain a skywalk in that part of West Michigan Street, described as follows:

This new bridge will start between 1.5 feet of the SE corner of Lot 40, Block 6, Central Division of Duluth, and 28.5 feet from the SW corner of Lot 40, Block 6. It will end between 1.5 feet of the NE corner of Lot 10, Block 10, of the Central Division of Duluth, and 3.5 feet from the NW corner of that same lot. The height over the driving lanes and parking lanes will be at least 15.5 feet.

Section 2. Before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk a duly executed and acknowledged written acceptance of the terms of this ordinance.

Section 3. Said permit granted under this ordinance may be terminated at any time when and if the city of Duluth determines to use the area occupied by said permittees for any purpose in accordance with the duly dedicated public easement or other lawful use. Unless a shorter period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance, giving the permittees six months' written notice by resolution of the council of the city of Duluth to the last known address of the permittees shall be sufficient notice of termination.

Section 4. Upon the giving of the notice of termination as aforesaid, the permittees shall remove said skywalk and all fixtures and pertinencies of every kind whatsoever attached thereto from the tract of land described above within said six months, all at the expense and cost of the permittees, and without right on the part of the permittees to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 5. By the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittees, and agree that such skywalk shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, water mains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said West Michigan Street and agree that the city of Duluth shall not be liable for damage caused to such skywalk, while the city is engaged in making repairs to public utilities provided that the city exercises reasonable care to avoid such damage, and agree to pay to the city of Duluth all extra costs of installation of any such sewers, gas mains, water mains, pipes, conduits or other public utilities made necessary by the presence of such skywalk in said West Michigan Street.

Section 6. The construction of the skywalk be limited to and in substantial compliance with the plans to be approved by the city engineer.

Section 7. The skywalk be operated and maintained in such a way as to allow citizens to walk bicycles in the skywalk. The Duluth Transit Authority, and its successor(s) in interests, will maintain a pedestrian crosswalk at the corner of West Michigan Street and Third Avenue West intersection adjacent to the new multi-modal transportation facility.

Section 8. That this ordinance shall take effect 30 days after its passage and publication.
(Effective date: March 28, 2014)

Councilor Russ moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Filipovich, Fosle, Gardner, Julsrud, Larson, Russ, Sipress and President Krug -- 8

Nays: None -- 0

Abstention: Councilor Hanson -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed February 24, 2014
Approved February 24, 2014
DON NESS, Mayor