



Resolution 2014-371

Resolution Approving the Memorandum of Understanding and Lease Between the City of Minneapolis and the Minneapolis Park and Recreation Board for the Downtown East Commons

Whereas, The Minneapolis Park and Recreation Board (MPRB) was created by the Minnesota Legislature in April 1883 and has the authority to manage and operate park facilities;

Whereas, The Minneapolis Park & Recreation Board (MPRB) is the steward of Minneapolis parks;

Whereas, In December 2013 the City of Minneapolis approved the Downtown East Development which included a two block parcel with 1 full block and 2/3 of the second block designated a public park near the new Vikings Stadium with specified terms;

Whereas, An Urban Park Use Agreement was executed in February 2014 between Ryan Companies and the Minnesota Sports Facilities Authority (MSFA) based on the terms agreed to by the City of Minneapolis in December 2013;

Whereas, The term of the agreement is for 30 years plus an additional 20 years or 50 years and coincides with the Stadium Use Agreement between the Vikings and the MSFA;

Whereas, This public park is part of a 5 block mixed-use project that will include office space, a parking ramp, multi-family housing, retail space, skyway connections and a park/plaza/open space and Ryan Companies has agreed to convey the portion of the development that is legally described as "Urban Park" to the City or to its designee;

Whereas, The City has agreed to accept a conveyance of the Urban Park (or its designee to accept a conveyance of the Urban Park), subject to the use rights granted to MSFA and other terms and conditions set forth in the Urban Park Use Agreement;

Whereas, The MPRB did a thorough analysis of the Urban Park Use Agreement, and as a result of the analysis of the agreement, the MPRB, as the operator, would face conflicts with existing MPRB permitting policies, and would face significant financial challenges in finding development and operations funding that would not negatively affect all other existing park priorities especially in racially diverse underserved areas;

Whereas, The MPRB analysis estimated Turnkey (basic park) development at \$6,000,000 and complete development of the enhanced park at \$20,000,000;



Whereas, Turnkey operating and maintenance costs would be close to \$500,000 annually, with annual operating and maintenance costs for the enhanced park running between \$2,000,000 and \$3,000,000;

Whereas, Conflicts with park permitting policies; limited opportunities for the MPRB to generate revenue to assist with the development, operation, and maintenance costs for the park; the MPRB does not believe it is in the best interest of the public or the MPRB to be involved in developing the park or serving as the Operator of the park at this time;

Whereas, On August 6, 2014 the Board of Commissioners resolved that with the current Urban Park Use Agreement in place, with prior control given to both the MFSA and the Vikings, does not allow this space to truly qualify as a public park;

Whereas, On August 6, 2014 the Board of Commissioners determined that the Minneapolis Park & Recreation Board will not be involved in the development, maintenance or operation of the "Downtown East Urban Park" given that at this time 1) there is no funding for the development and annual operating and maintenance costs that does not supplant development, operations, or maintenance funding for other MPRB properties currently under the authority of the MPRB, 2) there is no opportunity to generate enough income to fund development and annual operating and maintenance costs under the Urban Park Use Agreement terms, and 3) the same terms preclude the space from following MPRB permitting policies;

Whereas, On August 6, 2014 the Board of Commissioners released the City from further discussion with the MPRB regarding ownership and operation of the space;

Whereas, The City is now referring to the "Urban Park" as the Downtown East Commons;

Whereas, The City requested that the MPRB enter into a Memorandum of Understanding (MOU) and lease with the City to establish a framework for how the City and MPRB will cooperate in the ownership and operation of the Property, which could include a third party conservancy, in order to promote the public interest and ensure compliance with state law and the City Charter; and

Whereas, The Park Board President, Superintendent and legal counsel, and City staff drafted the attached Memorandum of Understanding and lease for Downtown East Commons;

RESOLVED, That the Board of Commissioners approve the Memorandum of Understanding and lease between the City of the Minneapolis and the Minneapolis Park and Recreation Board for the Downtown East Commons; and



RESOLVED, That the President of the Board and Secretary to the Board are authorized to take all necessary administrative actions to implement this resolution.



TO: Administration & Finance Committee

FROM: Jayne Miller, Superintendent

DATE: December 3, 2014

SUBJECT: Resolution Approving the Memorandum of Understanding and Lease Between the City of Minneapolis and the Minneapolis Park and Recreation Board for the Downtown East Commons

BACKGROUND

In December 2013 the City of Minneapolis approved the Downtown East Development. Included in the development project is a two block parcel with 1 full block and 2/3 of the second block designated a public park near the new Vikings Stadium with specified terms. An Urban Park Use Agreement was executed in February 2014 between Ryan Companies and the Minnesota Sports Facilities Authority (MSFA) based on the terms agreed to by the City of Minneapolis in December 2013.

The term of the agreement is for 30 years plus an additional 20 years for a total of 50 years and coincides with the Stadium Use Agreement between the Vikings and the MSFA. This public park is part of a 5 block mixed-use project that will include office space, a parking ramp, multi-family housing, retail space, skyway connections and a park/plaza/open space. Pursuant to a separate agreement, Ryan Companies has agreed to convey the portion of the development that is legally described as "Urban Park" to the City or to its designee, possibly the Minneapolis Park & Recreation Board (MPRB). The City has agreed to accept a conveyance of the Urban Park (or its designee to accept a conveyance of the Urban Park), subject to the use rights granted to MSFA and other terms and conditions set forth in the Urban Park Use Agreement.

Per the City Charter, the Minneapolis City Council and the MPRB have the authority to purchase land for parks. The City Charter gives the MPRB the authority to devise, operate and maintain parks and to designate property to be appropriated for such purposes in the City of Minneapolis. The City Charter does not give the City Council authority to devise, operate and maintain parks. As a result of court proceedings, the City took action agreeing to work with the MPRB to find a solution regarding the development and operation of the public park.

MPRB staff did a thorough analysis of the Urban Park Use Agreement and that analysis, spelled out the terms of the complex agreement and the implications of the agreement for the "Operator" of the park, in particular with the MPRB serving as the Operator. It is the terms of this agreement which inhibit the feasibility of the MPRB owning and operating this public park.



As a result of the analysis of the agreement, the MPRB, as the operator, would face conflicts with existing MPRB permitting policies, and would face significant financial challenges in finding development and operations funding that would not negatively affect all other existing park facilities. Currently there is no designated funding for the development, maintenance and operation of the park. In today's dollars, Turnkey development will cost \$6,000,000 and complete development of the enhanced park would cost \$20,000,000. Again, in today's dollars, Turnkey operating and maintenance costs would be close to \$500,000 annually. Annual operating and maintenance costs for the enhanced park will run between \$2,000,000 and \$3,000,000.

With the conflicts with MPRB park permitting policies; limited opportunities for the MPRB to generate revenue to assist with the development, operation, and maintenance costs for the park; and the lack of funding designated for the development, operations and maintenance of the park, the MPRB does not believe it is in the best interest of the public or the MPRB to be involved in developing the park or serving as the Operator of the park at this time. In addition, with the current Urban Park Use Agreement in place, with prior control given to both the MFSA and the Vikings, this space does not follow MPRB permitting policies.

On August 6, 2014 the MPRB Board of Commissioners passed Resolution 2014-259 which states that the MPRB not be involved in the development, maintenance or operation of the "Downtown East Urban Park". This decision was based on the fact that there is, at this time, no funding for the development and annual operating and maintenance costs that does not supplant development, operations, or maintenance funding for other MPRB properties currently under the authority of the MPRB. Additionally, there is no opportunity to generate enough income to do so under the Urban Park Use Agreement terms, and the same terms do not follow MPRB permitting policies. The action also released the City from further discussion with the MPRB regarding ownership, development, and operation of the space.

The City is now referring to the "Urban Park" as the Downtown East Commons. The City subsequently requested that the MPRB enter into a Memorandum of Understanding (MOU) and lease with the City to establish a framework for how the City and MPRB will cooperate in the ownership and operation of the Property in order to promote the public interest and ensure compliance with state law and the City Charter, without financial investments or risk on the part of the MPRB during the terms of the existing covenants. The Park Board President, Superintendent and MPRB legal counsel along with the City drafted the attached MOU and lease for the Downtown East Commons and are requesting Board action on the proposed MOU and lease.

RECOMMENDATION



It is recommended that the Board of Commissioners approve the Memorandum of Understanding and lease between the City of Minneapolis and the Minneapolis Park and Recreation Board for Downtown East Commons.

ATTACHMENTS:

- DTE Commons MOU-Lease 12-1-14 (PDF)
- Urban Park Use Agreement Final (PDF)

Prepared By: Jayne Miller, Superintendent, Superintendent's Office

Review:

Jayne Miller Completed 12/02/2014 9:29 AM

Administration & Finance Committee Pending

12/03/2014 5:40 PM