

**MINUTES OF THE REGULAR MEETING  
OF THE DULUTH CITY COUNCIL**

January 12, 2015

Duluth City Council meeting held on Monday, January 12, 2015, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Absent: None -- 0

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**ELECTION OF OFFICERS**

Councilor Larson was elected council president upon a unanimous vote.

Councilor Julsrud was elected council vice president upon a unanimous vote.

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The minutes of the council meetings held on May 12, 27, June 9 and 23, 2014, were approved upon a unanimous vote.

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

15-0112-01 Minnesota state auditor audit report for Spirit Mountain recreation area authority for the years ended April 30, 2014, and 2013. -- Received

15-0112-08 Johnson-Wilson Constructors, Inc., J&S Partnership and RDS, LLC, by William M. Burns, attorney, communication relating the proposed vacation of a railroad spur easement between First and Second streets West (15-0014R). -- Received

15-0112-07 The following communications regarding the proposed designation of St. Peter's Church as a local historic preservation landmark (14-076-O): (a) Glen Filipovich; (b) Julie Heilman; (c) Mike Poupore; (d) Carolyn Sundquist; (e) Jolane Sundstrom; (f) John M. Vigen. -- Received

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**REPORTS FROM OTHER OFFICERS**

15-0112-02 Clerk application for exempt permit to the Minnesota gambling control board from Knights of Columbus on May 15, 2015 (bingo). -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

15-0112-03 Civil service board minutes of November 4, 2014, meeting. -- Received

15-0112-04 Duluth airport authority minutes of November 18, 2014, meeting. -- Received

15-0112-05 Duluth economic development authority minutes of November 19, 2014, meeting. -- Received

15-0112-06 Spirit Mountain recreation area authority minutes of November 20, 2014, meeting. -- Received

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**OPPORTUNITY FOR CITIZENS TO BE HEARD**

Garrett Niska spoke regarding the traffic on Eklund Avenue in Duluth Heights, and expressed concern over the poor road condition, speeding drivers and the high volume of traffic.

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## MOTIONS AND RESOLUTIONS

### CONSENT AGENDA

*(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)*

President Larson moved passage of the consent agenda, which motion was seconded and unanimously carried.

RESOLVED, that the proper city officials are hereby authorized to execute a renewal of Agreement 21491 with BMO Harris Bank, N.A., for an estimated total of \$100,000 in banking services in year 2015, payable as follows:

\$26,000 - Water Fund 510, Public Works and Utilities 500, Customer Services 1940, Customer Accounts 2400, Contract Services 5310;

\$39,000 - Gas Fund 520, Public Works and Utilities 500, Customer Services 1940, Customer Accounts 2400, Contract Services 5310;

\$23,000 - Sewer Fund 530, Public Works and Utilities 500, Customer Services 1940, Customer Accounts 2400, Contract Services 5310;

\$12,000 - Stormwater Fund 535, Public Works & Utilities 500, Customer Services 1940, Customer Accounts 2400, Contract Services 5310.

Resolution 15-0010 was unanimously adopted.

Approved January 12, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to amend Agreement C22120 with CR-Building Performance Specialist, Inc., for the continued facility assessment and data implementation services required to populate the asset management system currently being utilized by the property and facilities management division, for a total amount not to exceed \$75,000, payable as follows:

\$50,000 - General 110, Public Administration 121, Facilities Management 1222, Software Licenses and Maintenance Agreements 5414;

\$25,000 - Energy Management 257, Public Administration 015, Contract Services 5310.

Resolution 15-0004 was unanimously adopted.

Approved January 12, 2015

DON NESS, Mayor

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WHEREAS, the Duluth City Council approved an annual contract with Holiday Stationstores, Resolution 12-0079, on February 13, 2012, and renewed said contract in years 2013 and 2014.

RESOLVED, that the proper city officials are authorized to execute renewal of the contract with Holiday Stationstores in year 2015, the fourth year of a potential five-year contract, for purchase and delivery of service station fuels during year 2015 for an amount not to exceed \$1,200,000, payable from Fleet Services 660, Public Administration 015, Motor Fuels 5212.

Resolution 15-0007 was unanimously adopted.

Approved January 12, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to contract with North American Salt Company for the purchase and delivery of 8,100 tons of road salt for year 2015 in accordance with Minnesota State Contract 77776, Release S-803(5) specifications, and pricing

at \$60.86 per ton for a total amount of \$492,966, terms net 30, FOB destination, payable from General Fund 110, Public Administration 121, Maintenance Operations 1217, Street Maintenance 2140, Salt and Sand Salt 5223-01.

RESOLVED FURTHER, that this purchase is exempt from state sales tax as a result of legislative changes signed into law in 2013.

Resolution 15-0009 was unanimously adopted.

Approved January 12, 2015

DON NESS, Mayor

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WHEREAS, the Duluth City Council approved an annual contract with Inter-City Oil Company, Inc., Resolution 12-0080, on February 13, 2012, and renewed said contract in 2013 and 2014.

RESOLVED, that the proper city officials are hereby authorized to execute renewal of the annual contract with Inter-City Oil Company, Inc., in year 2015, the fourth year of a potential five-year contract, for purchase and delivery of bulk fuels during year 2015 for an amount not to exceed \$200,000, payable from Fleet Services 660, Public Administration 015, Motor Fuels 5212.

Resolution 15-0011 was unanimously adopted.

Approved January 12, 2015

DON NESS, Mayor

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RESOLVED, that city officials are hereby authorized to contract with Duluth Ready Mix, Inc., for the purchase and delivery of 10,500 tons of washed sand to three different city locations, in accordance with Minnesota State Contract 56238, for an estimated total of \$105,000, payable from General 110, Public Administration 121, Maintenance Operations 1217, Street Maintenance 2140, Salt and Sand 5223, Sand 02.

Resolution 15-0024 was unanimously adopted.

Approved January 12, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to contract with SFM Risk Solutions, Inc., for professional services in the third party administration of workers' compensation insurance for the human services division in accordance with the consultant's quote as follows: Year One - \$43,775; Year Two - \$54,106; Year Three - \$55,729; for a total contract amount of \$153,610, payable from Self Insurance Fund 605, Insurance Accounts 036, Insurance Administration 1650, Other Professional Services 5319.

Resolution 15-0028 was unanimously adopted.

Approved January 12, 2015

DON NESS, Mayor

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BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor license, subject to departmental approvals with any further restrictions and further subject to approval of the liquor control commissioner:

Minnesota Ballet (Celebrity Dance Challenge), 1215 Rice Lake Road, for February 5, 2015, with Willy McManus, managing director.

Resolution 15-0035 was unanimously adopted.

Approved January 12, 2015

DON NESS, Mayor

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BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to Western Lake Superior Habitat for

Humanity and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a copy of this resolution to the Minnesota gambling control board immediately after its passage.

Resolution 15-0036 was unanimously adopted.

Approved January 12, 2015

DON NESS, Mayor

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RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of support analyst, which were approved by the civil service board on December 9, 2014, and which are filed with the city clerk as Public Document No. 15-0112-19, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 131, \$3,828 to \$4,485 per month.

Resolution 15-0030 was unanimously adopted.

Approved January 12, 2015

DON NESS, Mayor

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RESOLVED, that the appointments by Mayor Ness of the following to the St. Louis County homeless leadership council are confirmed:

(a) Beverly M. Downs (formerly homeless representative) for a term expiring on March 31, 2017, replacing Scott Yeazole who resigned;

(b) David A. Bard (faith community representative) for a term expiring on March 31, 2015, replacing Fred Lund who resigned;

(c) Dawn Ammesmaki (Fond du Lac Business Council representative) for a term expiring on March 31, 2017, replacing Kathryn King who resigned;

(d) Ashley E. Compton (at large representative) for a term expiring on March 31, 2015, replacing Deborah Wagner who resigned.

FURTHER RESOLVED, that the reappointments to the St. Louis County homeless leadership council by Mayor Ness of David A. Bard (faith community representative) and Ashley E. Compton (at large representative) for terms expiring on March 31, 2018, are confirmed.

Resolution 15-0038 was unanimously adopted.

Approved January 12, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute an agreement with DEDA, substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0112-09, which allows DEDA to participate in the city's self insurance fund program during 2015; DEDA funds in the amount of \$7,000 to be deposited into self insurance fund Fund 610 (self insurance liabilities fund), Agency 036 (insurance accounts), Organization 1656 (DEDA), Object 4904 (liabilities insurance charges).

Resolution 15-0034 was unanimously adopted.

Approved January 12, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially the same as that on file with the city clerk as Public Document No. 15-0112-10, with Fryberger, Buchanan, Smith and Frederick, P.A., under which that firm will provide professional services related to the city's 2015 state legislative program, at a cost to the city not to exceed \$48,000 for the year 2015, and ability for the administration to renew for a second year, which

shall be payable from 110-700-1401-5312 (general fund, transfers and other functions, citywide dues and lobbying, lobbyist fees).

Resolution 15-0008 was unanimously adopted.  
Approved January 12, 2015  
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept from Cheryl B. Goldberg and Gregg Batanich, married to each other, and Joyce C. Goldberg, a single person, the donation of two easements for street purposes at no cost to the city as described in Public Document No. 15-0112-11 on file in the office of the city clerk and legally described as:

The North Twenty-five (25) feet and the West Twenty-five (25) feet of the North half of the Northeast Quarter of the Northwest Quarter of the Southeast Quarter (N 1/2 of NE 1/4 of NW 1/4 of SE 1/4), Section Ten (10), Township Fifty (50) North, Range Fourteen (14) West, St. Louis County, Minnesota; and the West Twenty-five(25)feet of the South Half of the Northeast Quarter of the Northwest Quarter of the Southeast Quarter (S 1/2 of NE 1/4 of NW 1/4 of SE 1/4), Township Fifty (50) North, Range Fourteen (14) West, St. Louis County, Minnesota.

Resolution 15-0012 was unanimously adopted.  
Approved January 12, 2015  
DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to renew the second year of a possible three-year contract with Duluth Ready Mix, Inc., for the purchase and delivery of Class 5 gravel, 3/4 inch crushed washed rock, rip-rap and bedding sand for public works and utilities in year 2015 for \$145,537.50, terms net 30, FOB destination, payable as follows:

\$50,938.13 - Water 510, Public Works and Utilities 500, Utility Operations 1945, Gravel and Other Maintenance Materials 5224;

\$36,384.37 - Sewer 530, Public Works and Utilities 500, Utility Operations 1945, Gravel and Other Maintenance Materials 5224;

\$36,384.37 - Stormwater 535, Public Works and Utilities 500, Utility Operations 1945, Gravel and Other Maintenance Materials 5224;

\$21,830.63 - Gas 520, Public Works and Utilities 500, Utility Operations 1945, Gravel and Other Maintenance Materials 5224.

Resolution 15-0013 was unanimously adopted.  
Approved January 12, 2015  
DON NESS, Mayor

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RESOLVED, that the Minnesota department of transportation has improved adjacent city streets and utilities in the Miller Hill Mall area, State Project 6915-129 (TH 53 - 106), S.P. 118-196-003, S.P. 118-201-001, S.P. 118-202-001, S.P. 118-178-005, and S.P. 118-030-009 located on Burning Tree Road from CSAH 6 to TH 53, Mall Drive from 500 feet south of CSAH 6 to 800 feet north of CSAH 6, the TH 53 West Frontage Road, Maple Grove Road from ES 20+39.14 to ES 62+39.96 (500 feet east of Joshua Avenue), and on Joshua Avenue from 500 feet south of Maple Grove Road to Maple Grove Road (the mall area project), City Project No. 0391TR, at a cost to the city of \$6,220,392.04.

FURTHER RESOLVED, that the proper city officials are hereby authorized to remit to the commissioner of transportation the remaining sum of \$673,032.97 as the city of Duluth's share of costs for improvement to the city-owned facilities as part of MnDOT's improvement to the mall area project, payable from Permanent Improvement Fund 0411, Department/Agency 035 (capital projects accounts), Object 5530 (improvements other than buildings), City Project No. 0391TR.

These monies will be reimbursed from the municipal state aid construction account and the various appropriate utility funds.

Resolution 15-0015 was unanimously adopted.

Approved January 12, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to renew the annual contract with InfoSend, Inc., the fourth and final year of a four-year contract, for mailing services (\$34,380) and postage (\$156,620) during year 2015 for a total amount of \$191,000, payable as follows:

Mailing Services \$34,380		PWU	Cust Srvc	Cust Accts	Contract Svcs
\$8,938.80	Water 510	500	1940	2400	5310
\$13,408.20	Gas 520	500	1940	2400	5310
\$7,907.40	Sewer 530	500	1940	2400	5310
\$4,125.60	Stormwater 535	500	1940	2400	5310
Postage \$156,620					
\$40,721.20	Water 510	500	1940	2400	5310
\$61,081.80	Gas 520	500	1940	2400	5310
\$36,022.60	Sewer 530	500	1940	2400	5310
\$18,794.40	Stormwater 535	500	1940	2400	5310

Resolution 15-0016 was unanimously adopted.

Approved January 12, 2015

DON NESS, Mayor

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RESOLVED, that the city of Duluth has applied to the commissioner of transportation for a grant from the Minnesota state transportation fund for the construction of the MacFarlane Road box culvert over Chester Creek, Bridge 69J90, City Project No. 0711.

FURTHER RESOLVED, that the grant has been approved and that the amount of the grant is \$140,288.

FURTHER RESOLVED, that the city of Duluth agrees to the terms and conditions of the grant consistent with Minnesota Statutes, Section 174.50, subdivision 5, clause (3), and will pay any additional amount by which the cost exceeds the estimate, and will return to the Minnesota state transportation fund any amount appropriated for the project but not required. The proper city officials are hereby authorized to execute a grant agreement concerning the above referenced grant. Grant monies shall be deposited into Permanent Improvement 411, Department/Agency 035 (capital projects accounts), Object 5530 (improvements other than buildings), City Project 0711, S.A.P. 118-080-043.

Resolution 15-0021 was unanimously adopted.

Approved January 12, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with KGM Contractors, Inc., for construction of the MacFarlane Road box culvert over Chester Creek, Bridge No. 69J90, in the amount of \$187,977, with \$140,288 payable out of Permanent Improvement 411, Department/Agency 035 (capital projects accounts), Object 5530

(improvements other than buildings), and \$47,689 payable out of Stormwater Fund 535, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5530 (improvements other than buildings), City Project No. 0711, S.A.P. 118-080-043.

Resolution 15-0022 was unanimously adopted.

Approved January 12, 2015

DON NESS, Mayor

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RESOLVED, that Section (d) of Resolution No. 14-0075 is hereby amended to read as follows:

“(d) The city council of the city of Duluth approves the vacation of the alley described below and as described depicted on Public Document No. 15-0112-12:

Existing 20 foot alley located between Blocks 39 and 37 as platted in the Portland Division of Duluth that lies between the centerline of the former right-of-way of North 11th Avenue East and the westerly right-of-way of North 12th Avenue East.”

Resolution 15-0023 was unanimously adopted.

Approved January 12, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to accept a grant from the Minnesota board of firefighter training and education in the amount of \$12,901, said funds to be deposited in Fund 210, Agency 030, Organization 3178, Revenue Source 4220-02 (special projects, finance, fire training fund, state of Minnesota), and committed for the purpose of supporting the Duluth fire department personnel training.

Resolution 15-0001 was unanimously adopted.

Approved January 12, 2015

DON NESS, Mayor

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RESOLVED, that city officials are hereby authorized to contract with A Plus Landscaping for the demolition of four structures at various city locations for the building safety office in accordance with approved specifications and the vendor's low bid of \$123,715, payable as follows:

\$74,000 - Community Development 262; Planning 020; Grants and Awards 5434; Project: CDBG 2013 CD13CD, Public Facility Improvement Projects 2013 PFAC, Demolition Blighted Properties PF07;

\$49,715 - General 110, Planning and Construction Services 132, Construction Services and Inspection 1304, Building Demolition 5453.

Resolution 15-0006 was unanimously adopted.

Approved January 12, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute an agreement with St. Louis County for an amount not to exceed \$67,284, the University of Minnesota-Duluth police department for an amount not to exceed \$17,300, the city of Hermantown for an amount not to exceed \$30,200, the city of Proctor for an amount not to exceed \$30,100, and the city of Floodwood for an amount not to exceed \$17,400, substantially the same as that on file in the office of the city clerk as Public Document No. 15-0112-13, for services provided under the 2015 toward zero deaths law enforcement grant from the Minnesota department of public safety. All reimbursement payments made to other agencies under the agreement shall be paid from Fund No. 215-200-2209-5447 (Duluth police grant programs, police, 2015 TZD grant, payments to other government agencies) and reimbursement payments for the Duluth police department shall be

paid from Fund No. 215-200-2209-5700-10 (Duluth police grant programs, police, 2015 TZD grant, interfund transfers out to general fund).

Resolution 15-0018 was unanimously adopted.  
Approved January 12, 2015  
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept a FY14 justice assistance grant program award from the United States department of justice, bureau of justice assistance, office of justice programs, in the amount of \$40,288 to be used for state and local initiatives including the First Witness Child Abuse & Resource Center, St. Louis County DUI court, Neighborhood Youth Services and Duluth police department; equipment, supplies contractual support and criminal justice information systems; and further are authorized to execute any documents required to be executed to accept said grant, funds to be deposited in Fund 215-200-2302-4209-02 (Duluth police grant programs, police, 2014 JAG, payment to other government agencies) and other expenses to be paid from Fund 215-200-2302-5441 (Duluth police grant programs, police, 2014 JAG and other services and charges).

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 15-0112-14, with the St. Louis County sheriff's office, who is a partner of the city under this grant.

Resolution 15-0019 was unanimously adopted.  
Approved January 12, 2015  
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a five-year agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0112-15, with Regents of the University of Minnesota, through the department of recreational sports, Duluth campus, for the lease of property on Park Point for operating its water-based recreational and educational activities for both university students and the public with rent payments payable to Fund 110 Department 121, Organization 1222, Revenue Source 4623 (general, public administration, facilities management, rent of land).

Resolution 15-0017 was unanimously adopted.  
Approved January 12, 2015  
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a three year rental agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0112-16, with Arrowhead Youth Soccer Association for the use of space in the Wheeler Fieldhouse for operating its administrative functions of its youth soccer programs with rent payments payable to Fund 110-121-1222-4622 (general, public administration, facilities management, rent of buildings).

Resolution 15-0020 was unanimously adopted.  
Approved January 12, 2015  
DON NESS, Mayor

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The following resolutions were also considered:

RESOLVED, that the proposed specifications for the new civil service classification of senior support analyst, which were approved by the civil service board on December 9, 2014, and which are filed with the city clerk as Public Document No. 15-0112-17, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit



employees; and that pay range for said classification shall be Range 134, \$4,313 to \$5,095 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 15-0031 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved January 12, 2015

DON NESS, Mayor

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Resolution 15-0014, vacating a railroad spur easement on Lot 12, Block 1, Oneota Industrial Park, running between First and Second Streets West (J&S Partnership), was introduced by Councilor Russ for discussion.

The rules were suspended upon a unanimous vote to hear from speakers on the resolution.

Mike Casey spoke against the resolution.

Bill Burns spoke in support of the resolution.

Councilor Filipovich moved to table the resolution, which motion was seconded and carried upon the following vote:

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

Nays: Councilor Hanson -- 1

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Resolution 15-0037, setting 2015 legislative priorities, was introduced by President Larson for discussion.

Councilor Sipress moved to amend the resolution as follows:

(a) In subparagraph (a) of the last paragraph, add the phrase "including but not limited to local streets" after the phrase "funding for street construction and repair";

(b) Add the following priorities at the end of the resolution:

"(8) Revision of the state seed law to allow noncommercial seed sharing without labeling or germination testing;

(9) Opposition to any increase in the state truck weight limit";

which motion was seconded and carried unanimously.

Resolution 15-0037, as amended, was adopted as follows:

The city council finds as follows:

(a) The city desires to establish a legislative agenda for 2015;

(b) The city has devoted meeting time and discussion to the city legislative priorities;

(c) The city supports legislative initiatives that are of vital interest to the region.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth supports the following initiatives:

(a) Public infrastructure funding, including but not limited to, funding for street construction and repair, including but not limited to local streets, bridge construction and repair, and wastewater and drinking water infrastructure;

(b) Funding for housing projects, including construction and rehabilitation of affordable housing and supportive housing units;

(c) Maintaining local government aid;

(d) Extending the boundary for half and half tax from 34th Avenue West to 11th Avenue West to include the Lincoln Park neighborhood;

(e) Funding for improvements at the Lake Superior Zoo;

(f) Other city priorities:

- (1) State bond funding for the conversion of the Duluth district heating system from steam to hot water;
- (2) State bond funding for the Superior Street reconstruction in 2016;
- (3) Authorizing an on sale liquor license for the Lester Park clubhouse;
- (4) State funding for improvements to the seawall and pedestrian plaza near the Duluth entertainment convention center, from Minnesota Slip to Pier B;
- (5) State bond funding for phase two of Wade stadium renovations;
- (6) State funding for Duluth public library renovations;
- (7) State programs and projects that impact the Duluth community, including but not limited to, port development, public transit funding, and tax increment financing options;
- (8) Revision of the state seed law to allow noncommercial seed sharing without labeling or germination testing;
- (9) Opposition to any increase in the state truck weight limit.

Resolution 15-0037, as amended, was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved January 12, 2015

DON NESS, Mayor

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RESOLVED, that city officials are hereby authorized to contract with K.A. Steel Chemicals, Inc., for the purchase and delivery of 85,000 gallons of caustic soda in year 2015 in accordance with city-approved specifications and the vendor's low bid of \$1.86 per gallon, for a total of \$158,100, terms net 30, FOB destination, payable from Water 510, Public Works and Utilities 500, Water Treatment and Pumping 1955, Chemicals 5216, Liquid Caustic Soda 05.

Resolution 15-0002 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved January 12, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to contract with Thunder Bay Chemicals, Ltd., for the purchase and delivery of 125,000 gallons of liquid aluminum sulfate in year 2015 in accordance with city-approved specifications and the vendor's low bid of \$1.2638 per gallon, for a total of \$157,975, payable from Water 510, Public Works and Utilities 500, Water Treatment and Pumping 1955, Chemicals 5216, Liquid Aluminum Sulfate 04.

Resolution 15-0003 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved January 12, 2015

DON NESS, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES  
ORDINANCES TABLED**

INTRODUCED BY COUNCILOR FILIPOVICH  
14-077 - AN ORDINANCE AMENDING SECTIONS 41-24 AND 41-32 OF DULUTH CITY CODE, 1959, AS AMENDED, TO INCREASE THE MINIMUM CONTRACT AMOUNT IN SOLE SOURCE CONTRACTS REQUIRING CITY COUNCIL APPROVAL FROM MORE THAN \$25,000 TO

MORE THAN \$50,000 AND ALLOWING THE PURCHASING AGENT, WITH THE APPROVAL OF THE CHIEF ADMINISTRATIVE OFFICER, TO AUTHORIZE THE AWARD OF NONCOMPETITIVE BID CONTRACTS OF \$50,000 OR LESS.

Councilor Filipovich moved to remove the ordinance from the table, which motion was seconded and carried unanimously.

Councilor Sipress moved to amend the ordinance title, body and statement of purpose to delete "\$50,000" and replace it with "\$40,000," which motion was seconded and carried unanimously.

*[Editor's Note: With the amendment, the ordinance was considered to have had a new first reading at this meeting.]*

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INTRODUCED BY COUNCILOR RUSS

14-076 - AN ORDINANCE DESIGNATING SAINT PETER'S CHURCH, 810 WEST THIRD STREET, AS A LOCAL HISTORIC PRESERVATION LANDMARK.

Councilor Russ moved to remove the ordinance from the table, which motion was seconded and carried unanimously.

The rules were suspended upon a unanimous vote to hear from speakers on the ordinance.

Glenn Filipovich, Tony Dierckins, David Woodward and Carolyn Sundquist spoke in support of the ordinance.

Father Peter Muhich spoke in opposition to the ordinance.

The ordinance failed upon a unanimous vote (Public Document No. 15-0112-18).

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The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR RUSS

15-001 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM INDUSTRIAL-WATERFRONT (I-W) TO PARKS AND OPEN SPACE (P-1) THE PROPERTY LOCATED ON PARK POINT, SOUTH OF SAINT LOUIS AVENUE, TO THE SHORELINE OF THE DULUTH HARBOR BASIN, FROM 13TH STREET SOUTH TO 15TH STREET.

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INTRODUCED BY COUNCILOR RUSS

15-002 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF CERTAIN PROPERTY WITHIN THE CITY OF DULUTH TO THE STATE OF MINNESOTA, DEPARTMENT OF TRANSPORTATION, FOR \$3,000.

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INTRODUCED BY COUNCILOR RUSS

15-003 - AN ORDINANCE AMENDING ORDINANCE 10283 GRANTING CONCURRENT USE PERMIT TO THE DULUTH TRANSIT AUTHORITY FOR A SKYWALK BRIDGE PERTAINING TO CONTINUING USE.

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INTRODUCED BY COUNCILOR RUSS

15-005 - AN ORDINANCE AMENDING ORDINANCE 10208 GRANTING CONCURRENT USE PERMIT TO THE DULUTH TRANSIT AUTHORITY FOR A SKYWALK AND CANOPY OVER WEST MICHIGAN STREET BETWEEN SECOND AND THIRD AVENUES WEST PERTAINING TO CONTINUING USE.

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The meeting was adjourned at 8:28 p.m.

CHELSEA J. HELMER, Assistant City Clerk, for  
JEFFREY J. COX, City Clerk

**MINUTES OF THE REGULAR MEETING  
OF THE DULUTH CITY COUNCIL**

January 26, 2015

Duluth City Council meeting held on Monday, January 26, 2015, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Absent: None -- 0

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The minutes of council meetings held on July 10, 14, 21, August 18 and 25, 2014, were approved upon a unanimous vote.

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

15-0126-11 Dulce Proud communication regarding the proposed request for abutting landowners on Park Point to have the right of first refusal to buy select tax forfeited land (15-0068R). -- Received

15-0126-01 Storage King Properties, by John Bray, attorney, appeal of the denial for a stormwater utility fee adjustment, pursuant to Duluth City Code Section 43-67 (4514 Rice Lake Road). -- Committee 3 (public works and utilities)

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**REPORTS FROM OTHER OFFICERS**

15-0126-02 Clerk applications for exempt permits to the Minnesota gambling control board from: (a) Ducks Unlimited at UMD on March 6, 2015 (raffle); (b) Lincoln Park Business Group on June 20, 2015 (raffle); (c) National Kidney Foundation on July 30, 2015 (raffle); (d) Rocky Mountain Elk Foundation "Head of the Lakes" on March 26, 2015 (raffle); (e) St. John the Evangelist Church on March 12, 2015 (raffle); (f) St. Mary, Star of the Sea Catholic Church on: (1) March 29, 2015 (bingo, raffle); (2) November 22, 2015 (bingo, raffle); (g) St. Michael's Church on March 8, 2015 (bingo) and October 25, 2015 (bingo, raffle). -- Received

15-0126-03 Parks and recreation division manager rental agreements with Donald Rodrick Kuchenbecker and Benjamin David Kimmes for the Chester Bowl Apartments, pursuant to Section 2-35 of the Duluth City Code. -- Mayor for execution

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**REPORTS OF BOARDS AND COMMISSIONS**

15-0126-04 Alcohol, gambling and tobacco commission minutes of: (a) September 3; (b) October 1; (c) November 5, 2014, meetings. -- Received

15-0126-09 Duluth public utilities commission minutes of November 18, 2014, meeting. -- Received

15-0126-07 Duluth Seaway Port authority minutes of: (a) June 27; (b) July 31; (c) August 28; (d) September 25; (e) October 30, 2014, meetings. -- Received

15-0126-05 Parks and recreation commission minutes of November 5, 2014, meeting. -- Received

15-0126-06 Planning commission minutes of December 9, 2014, meeting. -- Received

15-0126-08 Spirit Mountain recreation area authority minutes of December 18, 2014, meeting. -- Received

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### REPORTS OF COUNCIL COMMITTEES

15-0126-10 City council Lakewalk task force final report. -- Received

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At this time, 7:03 p.m., the public hearing on the proposed confirmation of the Lakeview Avenue sanitary sewer extension assessment roll, was called to order.

Lin Xiu spoke of her need for more information on this assessment and requesting a response from her prior inquiries.

At this time, 7:07 p.m., the public hearing was closed and the regular order of business was resumed.

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### OPPORTUNITY FOR CITIZENS TO BE HEARD

Richard Bronson, trustee of St. John's Free Lutheran Church, presented materials (Public Document No. 15-0126-31) and spoke of his concerns that the city is requiring landscaping trees to be planted on their property.

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### RESOLUTION TABLED

Councilor Russ moved to remove Resolution 15-0014, vacating a railroad spur easement on Lot 12, Block 1, Oneota Industrial Park, running between First and Second streets West, from the table, which motion was seconded and carried unanimously.

Resolution 15-0014 was adopted as follows:

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (d) 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 public hearing and the city planning commission found that the portion of the railroad spur easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, December 9, 2014, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the platted road easement described below and as described and depicted on Public Document No. 15-0126-12:

#### VACATION LEGAL DESCRIPTION:

All that part of the 25 foot wide railroad spur easement lying within Lot 12, Block 1 of ONEOTA INDUSTRIAL PARK, according to the recorded plat thereof, St. Louis County, Minnesota; and

(e) 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 No. 15-0126-12 showing the platted easement to be vacated.

Resolution 15-0014 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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## MOTIONS AND RESOLUTIONS

### CONSENT AGENDA

*(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)*

President Larson moved passage of the consent agenda, which motion was seconded and unanimously carried.

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form on file in the office of the city clerk as Public Document No. 15-0126-13, with the Lake Superior Center, dba Great Lakes Aquarium, in an amount not to exceed \$360,000, payable from Tourism Taxes 258, Finance 030, Tourism Tax Allocation 5436, Great Lakes Aquarium 08.

Resolution 15-0041 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that the city desires to renew the Joint Powers Agreement 20604 with the Duluth entertainment and convention center (DECC) authority for the operation of the Minnesota Slip pedestrian draw bridge during year 2015 for a total amount not to exceed \$37,276.14, payable from Tourism Taxes 258, Finance 030, Contract Services 5310.

Resolution 15-0051 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that city and U.S. Bank National Association (U.S. Bank) entered into a lease agreement on or about June 1, 1999, (City Contract No. 18435) for the lease of space in the Technology Village parking ramp.

FURTHER RESOLVED, the parties desire to amend the agreement to (i) authorize subleasing of space to P.S. Rudie Clinic, (ii) define and clarify common maintenance charges, and (iii) update general terms and conditions.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute an amendment to the lease agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0126-14.

Resolution 15-0052 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to implement a one-year extension of the city's annual contract with Liscomb Hood Mason Company for property insurance from February 16, 2015, through February 16, 2016, covering city-owned structures, miscellaneous equipment and business personal property, based on a revised quote of \$119,500 and substantiated in a memo from city claims adjuster Don Douglas on file in the office of the city clerk as Public Document No. 15-0126-15, and payable from the following accounts: Self Insurance Fund 610, Department/Agency 036 (insurance accounts), Cost Center 1651 (insurance-general city), Cost Center 1652 (insurance - water and gas), Cost Center 11653 (insurance - sewer), Cost Center 1654 (insurance - stormwater) and Cost Center 1656 (insurance - DEDA), Object 5360 (insurance).

Resolution 15-0064 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that city officials are hereby authorized to contract with Titan Machinery, Inc., for OEM parts and labor as requested by fleet services in year 2015, for an estimated total amount of \$120,000, payable as follows:

\$80,000 - Fleet Services 660, Public Administration 015, Equipment Repair Supplies 5221;

\$40,000 - Fleet Services 660, Public Administration 015, Equipment/ Machinery Repair and Maintenance 5404.

Resolution 15-0025 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that city officials are hereby authorized to contract with Ziegler, Inc., for OEM parts and labor as requested by fleet services in year 2015, for an estimated amount of \$120,000, payable as follows:

\$80,000 - Fleet Services 660, Public Administration 015, Equipment Repair Supplies 5221;

\$40,000 - Fleet Services 660, Public Administration 015, Equipment/ Machinery Repair and Maintenance 5404.

Resolution 15-0026 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that city officials are hereby authorized to enter into an agreement with New World Systems, substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0126-16, for the purchase, implementation and maintenance of fire records management software. The total amount of \$258,885 is broken down as follows: \$203,760 AEGIS/MSP fire records application software and implementation; \$18,000 training and travel expenses; \$37,125 SSMA - two year maintenance agreement (see Exhibit A of Public Document No. 15-0126-16); payable from Capital Equipment 250; Public Administration 015; Fiscal Year 2015; 2015 Capital Equipment 5580; Project: CE250-E1504; Capital Equipment Fund 250, fire programs replacement.

Resolution 15-0065 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a three year service agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0126-17, with the Duluth Superior Area Community Foundation related implementation of the community parks and recreation program, in the amount of 2.5 percent of the total grant distributed in any contract year but not to exceed \$2,500 in any contract year, payable from Fund No. 205-130-1219-5310 (parks fund, community resources department, parks operating division, contract services).

Resolution 15-0056 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to make the following fund transfers totaling \$12,085 from the 2013 CDBG program and enter into amendments to increase the 2014 CDBG grant agreements as set forth below:

2013 CDBG Program

Fund 262, Agency 020, Object 5434, Project CD13CD

Project	Program	Original Budget	New Grant	Difference
PSVC	Coordinate Homeless In-take	12,085	0	(12,085)

2014 CDBG Program

Fund 263, Agency 020, Object 5434, CD14CD

Project	Activity	Grantee	Original Budget	New Grant	Difference
PSVC	1974	Life House	20,000	21,500	1,500
PSVC	1226	Center City	26,000	27,500	1,500
PSVC	2509	Safe Haven	45,000	46,500	1,500
PSVC	2511	Salvation Army	12,000	13,500	1,500
PSVC	2109	MACV	15,000	16,500	1,500
PSVC	1050	AICHO	3,000	4,500	1,500
PSVC	1244	CHUM	72,000	73,500	1,500
HOUS	1734	HRA	860,077	861,662	1,585

ALSO RESOLVED, that the proper city officials are authorized to enter into a joint contract to provide funding for the placement of homeless families and individuals into permanent housing and to ensure these households remain stably housed for six months.

2014 CDBG Program

Fund 262, Agency 020, Object 5434, Project CD14CD

Project	Activity	Program	Amount
PSVC	14-PS-10	Housing and stabilization services fund	49,025

(Grantees to receive funding under a joint contract are Churches United in Ministry, American Indian Community Housing Organization, Minnesota Assistance Council for Veterans, The Salvation Army, Center City Housing Corporation, Safe Haven Shelter for Battered Women and Life House Incorporated.)

Resolution 15-0060 was unanimously adopted.  
 Approved January 26, 2015  
 DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept the dedication of a utility easement from Larry M. Udesen and Leann M. Udesen, joint tenants, in the form of Public Document No. 15-0126-18, on file in the office of the city clerk, dedicating to the general public a 20-foot wide utility easement over the property described therein running between Valley Drive and the alley providing public access to the city utilities at no cost to the city.

Resolution 15-0029 was unanimously adopted.  
 Approved January 26, 2015  
 DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute a forbearance agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 15-0126-19, with Troy M. And Melissa A. Hendrickson, that delays the connection of the following property to a city watermain:

The Westerly One-half of the Westerly One-half of the Northeast Quarter of the Southeast Quarter (W 1/2 of W 1/2 of NE 1/4 of SE 1/4) of Section 4, Township 50 North, Range 14 West of the Fourth Prime Meridian;



Street address: 2221 Norton Road, Duluth, Minnesota 55803.  
Resolution 15-0045 was unanimously adopted.  
Approved January 26, 2015  
DON NESS, Mayor

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RESOLVED, that Contract No. C22185 with Veit & Company, Inc., for Seven Bridges Road realignment and slope repairs be amended to include additional work of hauling excavated material offsite, electrical wiring for the Lester Park Ski Trail, unexpected rock excavation and additional soil erosion control and bituminous pavement in the amount of \$103,173.95 for a new total of \$476,172.95, payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project Number 1113, flood sites 24 and 378.

Resolution 15-0050 was unanimously adopted.  
Approved January 26, 2015  
DON NESS, Mayor

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WHEREAS, pursuant to Resolution 12-0636, the city council approved the rate calculation attached thereto; and

WHEREAS, Ever-Green Energy, LLC, ("EGE") the city's manager of Duluth Steam District No. 1, has recommended a modification thereof to include seasonal consumption charges rates in the calculation of customer consumption charges and a minimum capacity charge for steam service provided; and

WHEREAS, the city has determined that such changes are reasonable and necessary to defray the costs of operating the subject system.

RESOLVED, that pursuant to Section 2.3.7 of the energy system management services agreement between the city and EGE, the city council hereby approves the rate calculation on file in the office of the city clerk as Public Document No. 15-0126-20, effective on and after January 1, 2015.

Resolution 15-0062 was unanimously adopted.  
Approved January 26, 2015  
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept an award from the United States department of agriculture, forest service law enforcement and investigations, in the amount of \$1,500 to be used for approved equipment reimbursement to the city of Duluth for the Lake Superior drug and violent crime task force and authorizing city officials to execute any documents necessary to accept said award, substantially the same as that on file in the office of the city clerk as Public Document No. 15-0126-21, funds to be deposited in Fund 215-200-2285-4209-02 (Duluth police grant programs, police, forest service, direct federal grants operation), and other expenses to be paid from Fund 215-200-2285-5241 (Duluth police grant programs, police, forest service, small equipment).

Resolution 15-0005 was unanimously adopted.  
Approved January 26, 2015  
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with St. Louis County, by and through its sheriff's office to share the cost of providing a public safety grant coordinator for the year 2015 in the amount of \$20,935, said agreement to be substantially in the form of Public Document No. 15-0126-22 on file in the office of the city clerk,

reimbursement funds payable to Fund No. 110-160-1610-4260 (general, police, administration and investigation - St. Louis County).

Resolution 15-0043 was unanimously adopted.  
Approved January 26, 2015  
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Diversion Solutions, LLC, substantially the same as that on file in the office of the city clerk as Public Document No. 15-0126-23, for the administration of the driving diversion pilot program for the city of Duluth, said program established by Laws of Minnesota 2009, c. 59, art. 3, section 4, and recently extended by Laws of Minnesota 2013, c. 127, sec. 60. Funds generated by the program and collected by Diversion Solutions, LLC, pursuant to the terms of the agreement shall be deposited in Fund 110-110-1104-4644 (general, legislative and executive, attorney and human rights, miscellaneous fees).

Resolution 15-0049 was unanimously adopted.  
Approved January 26, 2015  
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a three year agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0126-24, with Twin Ports Boxing Club for the use of the Lincoln Park Community Center for operating a boxing and fitness program for the city's adults and youth with rent payments payable to Fund 110-121-1222-4622 (general, public administration, facilities management, rent of buildings).

Resolution 15-0047 was unanimously adopted.  
Approved January 26, 2015  
DON NESS, Mayor

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RESOLVED, that the city's chief administrative officer is hereby authorized to apply to Minnesota department of natural resources (MnDNR) for funding through the Minnesota Lake Superior coastal program on behalf of the city.

FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the money, and the financial, technical and managerial capacity to ensure proper construction, operation and maintenance of the project for no less than 20 years.

FURTHER RESOLVED, that if the city of Duluth is awarded aforesaid grant, the city of Duluth agrees to accept the grant award and the proper city officials are authorized to enter into a grant agreement with the MnDNR.

FURTHER RESOLVED, that the city of Duluth estimates the total project cost to be \$250,000, including the grant amount of \$100,000 (deposited in Capital Improvements-450, Finance-030, State of Minnesota-4220-01, Project HANDHTAX-HH2015-1502); matching funds as follows: \$150,000 from the half and half tourism tax (Capital Improvements-450, Finance-030, Improvements Other Than Buildings-5530, Project HANDHTAX-HH2015-1502).

Resolution 15-0053 was unanimously adopted.  
Approved January 26, 2015  
DON NESS, Mayor

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RESOLVED, that the city's chief administrative officer is hereby authorized to apply to Minnesota department of natural resources (MnDNR) for funding through the conservation partners legacy metro grant on behalf of the city.

FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the money, and the financial, technical and managerial capacity to ensure proper construction, operation and maintenance of the project for no less than 20 years.

FURTHER RESOLVED, that if the city of Duluth is awarded aforesaid grant, the city of Duluth agrees to accept the grant award and the proper city officials are authorized to enter into a grant agreement with the MnDNR.

FURTHER RESOLVED, that the city of Duluth estimates the total project cost to be \$575,000 including the grant amount of \$400,000 (to be deposited in Capital Improvements-450, Finance-030, State of Minnesota-4220-01, Project HANDHTAX-HH2015-1501); matching funds as follows: \$175,000 from the half and half tourism tax (Capital Improvements-450, Finance-030, Improvements Other Than Buildings-5530, Project HANDHTAX-HH2015-1501).

Resolution 15-0054 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept the donation of unconditional monetary gifts from the Duluth Library Foundation during 2015 and 2016 for use by the Duluth public library, said gifts to be deposited in library special gifts, Miscellaneous Fund 240-300-SG80-4660.

FURTHER RESOLVED, that the city hereby thanks the Duluth Library Foundation for their generous gifts and continued support.

Resolution 15-0057 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept the donation of unconditional monetary gifts from the Friends of the Duluth Public Library during 2015 and 2016 for the use by the Duluth public library, said gifts to be deposited in library special gifts, Friends of Library Fund 240-300-SG50-4660.

FURTHER RESOLVED, that the city hereby thanks the Friends of the Duluth Public Library for their generous gifts and continued support.

Resolution 15-0058 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that the city of Duluth (the "city") act as the legal sponsor for project contained in Laws of Minnesota, Chapter 295, Section 10, Subdivision 4, entitled Duluth-Spirit Mountain Recreation Area.

FURTHER RESOLVED, that the city has the legal authority to receive financial assistance and the institutional, managerial and financial capability to ensure adequate project administration.

FURTHER RESOLVED, that the sources and amounts of the local match identified in the development proposal are committed to the project.

FURTHER RESOLVED, that the city has not violated any federal, state or local laws pertaining to fraud, bribery, graft, kickbacks, collusion, conflict of interest or other unlawful or corrupt practice.

FURTHER RESOLVED, that upon approval of its development proposal by the state, the city may enter into an agreement with the state of Minnesota for the above-referenced project, and that the city certifies that it will comply with all applicable laws and regulations as stated in all contract agreements.

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such agreements as are necessary to implement the project on behalf of the city.

Resolution 15-0059 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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The following resolutions were also considered:

Resolution 15-0039, confirming assessment roll levied to defray the assessable portions of the sanitary sewer extension at Lakeview Avenue, was introduced by Councilor Julsrud.

Councilor Fosle moved to table the resolution, which motion was seconded and carried unanimously.

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Resolution 15-0055, authorizing an agreement with Duluth Cross Country Ski Club for the development, management and operation of the Lakeview Sports Chalet, was introduced by Councilor Sipress.

The rules were suspended upon a unanimous vote to hear from a speaker on the resolution.

Dave Johnson spoke in support of the resolution.

Resolution 15-0055 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter into a ten year agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0126-25, with Duluth Cross Country Ski Club for the development, management and operation of the city's Lakeview Sports Chalet in Lester Park.

Resolution 15-0055 was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that pursuant to Resolution 10-0229, the city council hereby approves the loan agreement, authorized by Resolution No. 14D-40 of the Duluth economic development authority ("DEDA"), with Sherman Associates, Inc., authorizing the loan of up to \$300,000 to fund a portion of the costs associated with designing those elements of the NorShor Theatre development, including the skywalk, which are eligible for funding with tax increment proceeds.

Resolution 15-0044 was adopted upon the following vote:

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

Nays: Councilor Hanson -- 1

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form on file in the office of the city clerk as Public Document No. 15-0126-26, with the Historic Union Depot, Inc. (Depot), in an amount not to exceed \$176,800, payable from Tourism Taxes 258, Finance 030, Tourism Tax Allocation 5436, Historic Union Depot 03.

Resolution 15-0040 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved January 26, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form on file in the office of the city clerk as Public Document No. 15-0126-27, with Duluth Sister Cities International, Inc. (DSCI), in an amount not to exceed \$40,000, payable from Tourism Taxes 258, Finance 030, Tourism Tax Allocation 5436, Sister Cities 05.

Resolution 15-0042 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved January 26, 2015

DON NESS, Mayor

- - -

Resolution 15-0046, approving budget and cost sharing formula of Minneapolis-Duluth/Superior and passenger rail alliance and authorizing payment of city's cost share of \$9,750, was introduced by Councilor Filipovich.

The rules were suspended upon a unanimous vote to hear from a speaker on the resolution.

Ken Buehler spoke in support of the resolution.

Resolution 15-0046 was adopted as follows:

RESOLVED, that the city council hereby approves the 2015 budget and cost sharing formula for the Minneapolis-Duluth/Superior passenger rail alliance, a copy of which is on file in the office of the city clerk as Public Document No. 15-0126-28, as required by paragraph V-E of the joint powers agreement on file as City Agreement No. 20580.

FURTHER RESOLVED, that the proper city officials are hereby authorized to pay the city's share of the rail alliance's 2015 budget in the amount of \$9,750, in conformance with Section VI-A of City Agreement No. 20580, said sum to be payable from Tourism Tax Fund 258, Finance 030, Tourism Tax Allocation 5436, Rail Alliance 09.

Resolution 15-0046 was adopted upon the following vote:

Yeas: Councilors Filipovich, Gardner, Julsrud, Krug, Russ, Sipress and President Larson -- 7

Nays: Councilors Fosle and Hanson -- 2

Approved January 26, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of construction services combination inspector, which were approved by the civil service board on January 6, 2015, and which are filed with the city clerk as Public Document No. 15-0126-29, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 32, \$4,316 to \$5,087 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 15-0063 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved January 26, 2015

DON NESS, Mayor

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Resolution 15-0068, by Councilor Gardner, asking St. Louis County and the state of Minnesota legislature to resolve tax forfeiture issues so that abutting landowners on Park Point have the right of first refusal to buy select tax forfeited land, was introduced.

The rules were suspended upon a unanimous vote to hear from speakers on the resolution.

Dulce Proud, David Johnson, Elizabeth Hooper and Thomas Crook presented pictures (Public Document No. 15-0126-11) and spoke in support of the resolution.

Gary Eckenberg, St. Louis County deputy administrator, commented on the county's position on this issue.

Councilor Gardner moved to amend the second paragraph of the resolution to add the phrase "and Lots 85 through 119 (odd numbered lots) Upper Duluth St. Louis Avenue on file in County Board File No. 59938" after the file number "59937A," which motion was seconded and carried unanimously.

Resolution 15-0068, as amended, was adopted as follows:

BY COUNCILOR GARDNER:

WHEREAS, the state of Minnesota owns tax forfeit land in St. Louis County and the land is managed by county officials; and

WHEREAS, tax forfeited parcels described as Lots 203 and 219 Upper Duluth Minnesota Avenue, and Lots 11 through 39 and Lot 45 (odd numbered lots) Upper Duluth St. Louis Avenue on file in County Board File No. 59937A and Lots 85 through 119 (odd numbered lots) Upper Duluth St. Louis Avenue on file in County Board File No. 59938 ("Park Point parcels") have been jointly identified by the city of Duluth and St. Louis County as parcels which should be offered up for sale; and

WHEREAS, abutting land owners to the Park Point parcels have requested that the county and state provide land owners with the opportunity of first refusal on the Park Point parcels before that land is sold at public auction; and

WHEREAS, the Duluth City Council supports the sale of the land to the abutting land owners.

THEREFORE, BE IT RESOLVED, that the city council requests that state and St. Louis County work expeditiously to resolve the issues hindering the sale of tax forfeit land on Park Point to abutting land owners.

Resolution 15-0068, as amended, was unanimously adopted.

Approved January 26, 2015

DON NESS, Mayor

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WHEREAS, Ever-Green Energy, LLC, ("EGE") the city's manager of Duluth Steam District No. 1, has recommended a modification of the district heating hot water rate for customers connected to the eastern Canal Park hot water system to a rate of \$6.51 per million BTUs for thermal energy service; and

WHEREAS, the city has determined that such rate is reasonable and necessary to defray the costs of operating the subject system.

RESOLVED, that pursuant to Section 2.3.7 of the energy system management services agreement between the city and EGE, the city council hereby approves the rate of \$6.51 per million BTUs for thermal energy services provided to customers connected to the eastern Canal Park hot water system, effective on and after January 1, 2015.

Resolution 15-0061 was adopted upon the following vote:

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

Nays: Councilor Hanson -- 1

Approved January 26, 2015

DON NESS, Mayor

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## INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR GARDNER

15-007 - AN ORDINANCE AMENDING SECTION 29A-32.1 OF DULUTH CITY CODE, 1959, AS AMENDED, TO ALLOW OWNER OCCUPIED ONE-FAMILY DWELLINGS TO BE LICENCED AS SINGLE TENANT RENTAL UNITS WITHOUT PAYMENT OF A CONVERSION FEE IF THE OWNER-OCCUPANT RENTS ONLY TO ONE PERSON.

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INTRODUCED BY COUNCILOR JULSRUD

15-008 - AN ORDINANCE AMENDING CHAPTER 48 OF THE DULUTH CITY CODE, 1959, AS AMENDED, UPDATING LANGUAGE RELATED TO UTILITY SERVICE BILLING AND COLLECTION, DEPARTMENT SERVICES AND AUTHORIZED RESIDENTIAL GAS CONNECTIONS.

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The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR FILIPOVICH

14-077 (10348) - AN ORDINANCE AMENDING SECTIONS 41-24 AND 41-32 OF DULUTH CITY CODE, 1959, AS AMENDED, TO INCREASE THE MINIMUM CONTRACT AMOUNT IN SOLE SOURCE CONTRACTS REQUIRING CITY COUNCIL APPROVAL FROM MORE THAN \$25,000 TO MORE THAN ~~\$50,000~~ 40,000 AND ALLOWING THE PURCHASING AGENT, WITH THE APPROVAL OF THE CHIEF ADMINISTRATIVE OFFICER, TO AUTHORIZE THE AWARD OF NONCOMPETITIVE BID CONTRACTS OF ~~\$50,000~~ 40,000 OR LESS.

Councilor Filipovich moved passage of the ordinance, as amended, and the same was adopted upon the following vote:

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

Nays: Councilor Hanson -- 1

- - -

INTRODUCED BY COUNCILOR RUSS

15-001 (10349) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM THE INDUSTRIAL-WATERFRONT (I-W) TO PARKS AND OPEN SPACE (P-1) THE PROPERTY LOCATED ON PARK POINT, SOUTH OF SAINT LOUIS AVENUE, TO THE SHORELINE OF THE DULUTH HARBOR BASIN, FROM 13TH STREET SOUTH TO 15TH STREET.

Councilor Russ moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR RUSS

15-002 (10350) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF CERTAIN PROPERTY WITHIN THE CITY OF DULUTH TO THE STATE OF MINNESOTA, DEPARTMENT OF TRANSPORTATION, FOR \$3,000.

Councilor Russ moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR RUSS

15-003 (10351) - AN ORDINANCE AMENDING ORDINANCE 10283 GRANTING CONCURRENT USE PERMIT TO THE DULUTH TRANSIT AUTHORITY FOR A SKYWALK BRIDGE PERTAINING TO CONTINUING USE.

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

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

Nays: None -- 0

Abstention: Councilor Hanson -- 1

- - -

INTRODUCED BY COUNCILOR RUSS

15-005 (10352) - AN ORDINANCE AMENDING ORDINANCE 10208 GRANTING CONCURRENT USE PERMIT TO THE DULUTH TRANSIT AUTHORITY FOR A SKYWALK AND CANOPY OVER WEST MICHIGAN STREET BETWEEN SECOND AND THIRD AVENUES WEST PERTAINING TO CONTINUING USE.

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

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

Nays: None -- 0

Abstention: Councilor Hanson -- 1

- - -

The meeting was adjourned at 8:50 p.m.

JEFFREY J. COX, City Clerk

- - -

### **ORDINANCE NO. 10348**

AN ORDINANCE AMENDING SECTIONS 41-24 AND 41-32 OF DULUTH CITY CODE, 1959, AS AMENDED, TO INCREASE THE MINIMUM CONTRACT AMOUNT IN SOLE SOURCE CONTRACTS REQUIRING CITY COUNCIL APPROVAL FROM MORE THAN \$25,000 TO MORE THAN \$40,000 AND ALLOWING THE PURCHASING AGENT, WITH THE APPROVAL OF THE CHIEF ADMINISTRATIVE OFFICER, TO AUTHORIZE THE AWARD OF NONCOMPETITIVE BID CONTRACTS OF \$40,000 OR LESS.

The city of Duluth does ordain:

Section 1. That Section 41-24 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 41-24. Contract procedure--contracts of \$100,000 or less.

Purchases of supplies and contractual services and all sales of personal property involving \$100,000 or less shall be made pursuant to the provisions of this section either by formal written contract or upon a properly executed purchase or sale order, whichever method is deemed appropriate.

(a) Bidding procedures;

(1) Contracts between \$25,000 and \$100,000. If the amount of the contract is estimated to exceed \$25,000 but not to exceed \$100,000 the purchasing agent shall make such purchases or sales by direct negotiation, obtaining two or more quotations when possible. All quotations obtained shall be kept on file for a period of at least one year after receipt thereof;



(2) Contracts of \$25,000 or less. If the amount of the contract is estimated to be \$25,000 or less, the purchasing agent may, in his discretion, make the purchase or sale either upon quotation or in the open market. If the contract is made upon quotation, it shall be based, so far as practicable, on at least two quotations, which shall be kept on file for a period of at least one year after receipt thereof;

(3) Purchases of \$5,000 or less. In the case of purchases estimated to be \$5,000 or less, department heads or their designees are authorized to make such purchases without the approval of the purchasing agent. Such purchases may be made either upon quotation or in the open market. If such purchases are made upon quotation, they shall be based, so far as practicable, on at least two quotations, which shall be kept on file for a period of at least one year after receipt thereof;

(b) Rejection of bids. The purchasing agent or other person authorized to make purchases shall have the authority to reject all bids, parts of all bids or all bids for any one or more supplies or contractual services included in the proposed contract when the public interest will be served thereby. The purchasing agent or other person authorized to make purchases may reject the bid of a contractor who is in default on the payment of taxes, licenses or other money due the city;

(c) Award of contract. The purchasing agent or, subject to the limitations of paragraph (a)(3) of this Section, other persons authorized to make purchases shall have authority to award contracts within the purview of this Section, provided that contracts for more than \$40,000 with sole source providers or for which only one complete responsive bid was received shall be awarded only after authorization by the city council;

(d) Performance bonds. The provisions regarding performance bonds contained in Section 41-23 of this Code are hereby incorporated into this Section.

Section 2. That Section 41-32 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 41-32. Contracts not subject to competitive bidding process.

The purchasing agent, with the approval of the chief administrative officer, is authorized to award contracts not subject to the competitive bidding process that involve an expenditure of \$40,000 or less.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: March 1, 2015)

Councilor Filipovich moved passage of the ordinance, as amended, and the same was adopted upon the following vote:

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

Nays: Councilor Hanson -- 1

Passed January 26, 2015  
Approved January 26, 2015  
DON NESS, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10349**

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM THE INDUSTRIAL-WATERFRONT (I-W) TO PARKS AND OPEN SPACE (P-1) THE PROPERTY LOCATED ON PARK POINT, SOUTH OF SAINT LOUIS AVENUE,

TO THE SHORELINE OF THE DULUTH HARBOR BASIN, FROM  
13TH STREET SOUTH TO 15TH STREET.

The city of Duluth does ordain:

Section 1. That the subject property located on Park Point, south of Saint Louis Avenue, to the shoreline of the Duluth Harbor Basin, from 13th Street South to 15th Street South and as more particularly described as follows:

That part of even-numbered Lots 88 through 120, Argyle Street (13th Street South), Dunleith Street (14th Street South) and Saint Louis Avenue, of Upper Duluth Saint Louis Avenue, according to the recorded plat thereof, described as follows:

Beginning at the intersection of said 13th Street South and Saint Louis Avenue;

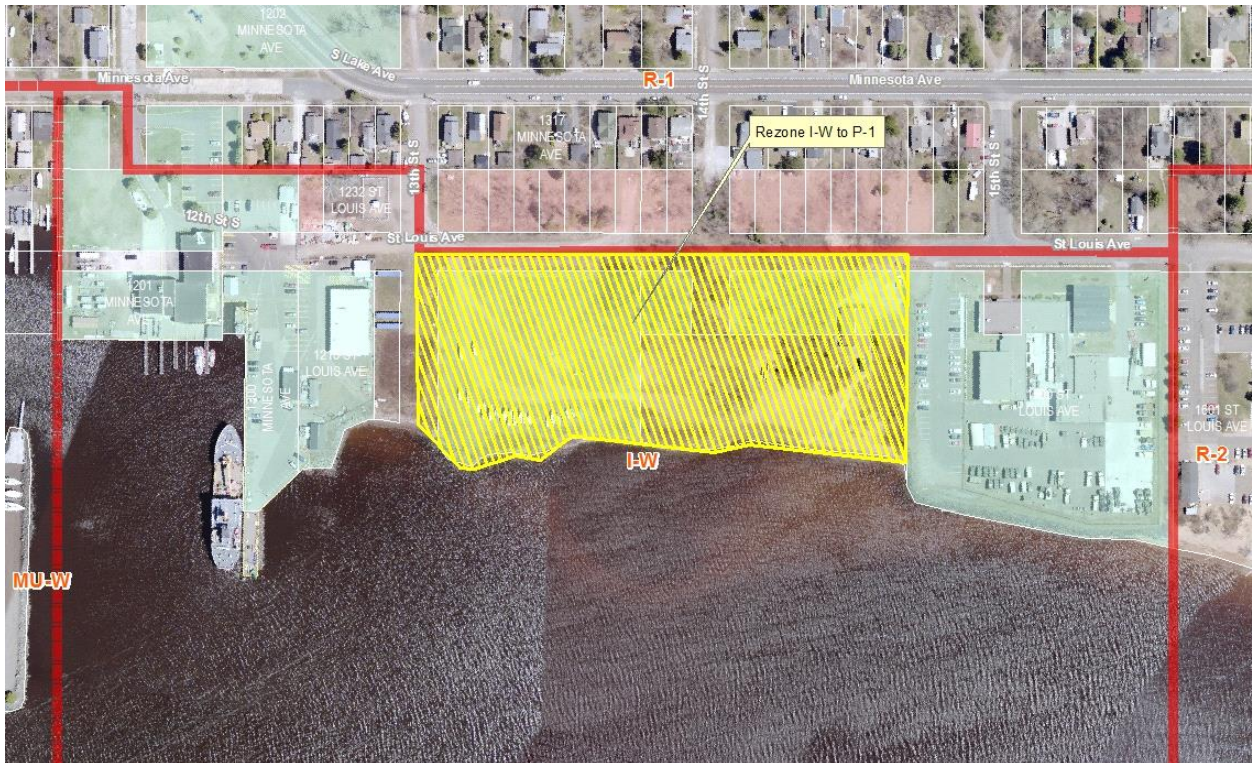
Thence south along the center line of Saint Louis Avenue to the easterly extension of the south line of said Lot 88;

Thence west along said south line of Lot 88 and its extension to the shoreline of Duluth Harbor Basin;

Thence north along said shoreline to the westerly extension of the centerline of said 13th Street South;

Thence east along said centerline of 13th Street South and its extension to the point of beginning;

be reclassified from Industrial-Waterfront (I-W), to Parks and Open Space (P-1), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



(Ref. File No. 14-148)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: March 1, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9  
Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed January 26, 2015  
Approved January 26, 2015  
DON NESS, Mayor

- - -

**ORDINANCE NO. 10350**

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF CERTAIN PROPERTY WITHIN THE CITY OF DULUTH TO THE STATE OF MINNESOTA, DEPARTMENT OF TRANSPORTATION, FOR \$3,000.

The city of Duluth does ordain:

Section 1.

Pursuant to Section 2-176(a) of the Duluth City Code, as amended (the "Code"), the city council stated its intention to sell or convey certain property as set forth in Resolution 14-0609.

Pursuant to Section 2-177.3 of the Code, the city council finds that the conveyance to MNDOT of certain property described in Public Document No. 15-0126-30 (the "property") to be utilized by MNDOT in its multi-million dollar improvement project to Grand Avenue/Highway 23 is in the best interest of the citizens of the city and exceed the needs of the city to retain the property.

Pursuant to Section 2-176(b) of the Code, the city's planning department has reviewed the proposed conveyance of the property for conformity to the city's comprehensive plan and reported that the conveyance of the property to MNDOT conforms with said comprehensive plan.

Pursuant to Section 2-176(c) of the Code, MNDOT's certified general real estate appraiser has provided a written estimate of the market value of the property to be \$3,000.

Section 2. That the proper city officials are hereby authorized to execute deeds, easements and all other documents necessary to effectuate the conveyance of the property to MNDOT for the sum of \$3,000, said sum to be payable into General Fund 110, Department 700, Division 1420, Revenue Source 4640.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: March 1, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9  
Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed January 26, 2015  
Approved January 26, 2015  
DON NESS, Mayor

- - -

**ORDINANCE NO. 10351**

AN ORDINANCE AMENDING ORDINANCE 10283 GRANTING CONCURRENT USE PERMIT TO THE DULUTH TRANSIT AUTHORITY FOR A SKYWALK BRIDGE PERTAINING TO CONTINUING USE.

The city of Duluth does ordain:

Section 1. That Section 3 of Ordinance No. 10283 is hereby amended to read as follows:

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 except that the city shall not have the right hereunder to terminate this ordinance until after January 31, 2050, unless prior written consent and authorization is obtained from the Commissioner of Minnesota management and budget, and until that date shall allow permittees to maintain continuing control and use of the improvements constructed on the property subject of this ordinance as described in permittee's state of good repair grant (FTA Grant #MN-04-0043) and state go assisted property (MN/DOT Contract #03806). Unless a shorter period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance but in no event prior to January 31, 2050, 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 2. That Section 5 of Ordinance No. 10283 is hereby amended to read as follows:

Section 5. By the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree to maintain the improvements constructed within the areas permitted hereunder in conformance with the property management standards of 49 C.F.R. Section 18.31 through 18.34 including amendments thereto and with other applicable federal regulations and directives, to maintain said improvements and said areas in good operating order and in compliance with any applicable federal and state laws and regulations and in accordance with applicable federal and state directives as may be issued, 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 including but not limited to any failure to fulfill any of the obligations of permittees as set forth in the Section, 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 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: March 1, 2015)

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

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

Nays: None -- 0

Abstention: Councilor Hanson -- 1

Passed January 26, 2015  
Approved January 26, 2015  
DON NESS, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

- - -

### ORDINANCE NO. 10352

AN ORDINANCE AMENDING ORDINANCE 10208 GRANTING CONCURRENT USE PERMIT TO THE DULUTH TRANSIT AUTHORITY FOR A SKYWALK AND CANOPY OVER WEST MICHIGAN STREET BETWEEN SECOND AND THIRD AVENUES WEST PERTAINING TO CONTINUING USE.

The city of Duluth does ordain:

Section 1. That Section 3 of Ordinance No. 10283 is hereby amended to read as follows:

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 except that the city shall not have the right hereunder to terminate this ordinance until after January 31, 2050, unless prior written consent and authorization is obtained from the commissioner of Minnesota management and budget, and until that date shall allow permittees to maintain continuing control and use of the improvements constructed on the property subject of this ordinance as described in permittee's state of good repair grant (FTA Grant #MN-04-0043) and state go assisted property (MN/DOT Contract #03806). Unless a shorter period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance but in no event prior to January 31, 2050, 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 2. That Section 5 of Ordinance No. 10283 is hereby amended to read as follows:

Section 5. By the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree to maintain the improvements constructed within the areas permitted hereunder in conformance with the property management standards of 49 C.F.R. Section 18.31 through 18.34 including amendments thereto and with other applicable federal regulations and directives, to maintain said improvements and said areas in good operating order and in compliance with any applicable federal and state laws and regulations and in accordance with applicable federal and state directives as may be issued, 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 including but not limited to any failure to fulfill any of the obligations of permittees as set forth in the Section, 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 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: March 1, 2015)

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

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

Nays: None -- 0

Abstention: Councilor Hanson -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed January 26, 2015  
Approved January 26, 2015  
DON NESS, Mayor

- - -

**MINUTES OF THE REGULAR MEETING  
OF THE DULUTH CITY COUNCIL**

February 9, 2015

Duluth City Council meeting held on Monday, February 9, 2015, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Absent: None -- 0

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The minutes of council meetings held on September 8 and 22, October 9, 13 and 27, 2014, were approved upon a unanimous vote.

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

15-0209-12 Richard Paulson communication regarding the proposed Lester Park and Enger Park golf courses management agreement (15-0077R). -- Received

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**REPORTS FROM OTHER OFFICERS**

15-0209-01 Clerk applications for exempt permits (raffles) to the Minnesota gambling control board from: (a) Ridgeview Country Club on April 18, 2015; (b) United Northern Sportsmen Club on April 10, 2015. -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

15-0209-02 Civil service board minutes of December 9, 2014, meeting. -- Received

15-0209-03 Duluth Seaway Port authority budget summary of December 2014. -- Received

15-0209-04 Duluth transit authority: (a) October 2014 financial statement; (b) Minutes of October 29, 2014, meeting. -- Received

15-0209-05 Library board minutes of: (a) October 28; (b) November 25, 2014, meetings. -- Received

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**OPPORTUNITY FOR CITIZENS TO BE HEARD**

Mary Jane Peterson stated that the League of Women Voters will have observers attending council meetings to report on current issues for league membership.

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Tom Morgan, president of Duluth Sister Cities International, spoke regarding the organization and thanked the council for its ongoing support.

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**MOTIONS AND RESOLUTIONS**

**CONSENT AGENDA**

(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)

President Larson moved passage of the consent agenda, which motion was seconded and unanimously carried.

RESOLVED, that the proper city officials are hereby authorized to purchase two new cameras with two fixed installations for the citywide video surveillance system known as West Fourth Street, from AVRIO RMS Group for a total amount not to exceed \$39,535, payable as follows:

\$33,535 - General 110, Police 160, Administration and Investigation 1610, Other Services and Charges 5441;

\$619 - General 110, Police 160, Police Special Accounts 1640, Auction Proceeds 2232, other services and charges;

\$5,381 - Duluth Police Grant Programs 215, Police 200, 2012 JAG 2299, Capital Equipment 5580.

Resolution 15-0072 was unanimously adopted.

Approved February 9, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a five-year management agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 15-0209-06, with Billy Casper Golf for the operation, maintenance and improvement of Enger Park and Lester Park golf courses with a base monthly management fee of \$14,167 (\$9,167 for Enger and \$5,000 for Lester), including a two percent annual increase each year; in addition, Billy Casper Golf shall receive an annual incentive calculated as 22 percent of the positive net operating income (as defined in the agreement) in excess of \$1; payable from Fund 503-400-ENGR and LSTR-5310 (golf fund, parks and recreation department, Enger and Lester park golf courses, contract services).

Resolution 15-0077 was unanimously adopted.

Approved February 9, 2015

DON NESS, Mayor

- - -

BY COUNCILOR HANSON:

WHEREAS, some business owners in Lincoln Park question the benefits of having parking meters in the area from 19th Avenue West to 22nd Avenue West and from Michigan Street to First Street, commonly known as the Lincoln Park Business District; and

WHEREAS, the council would like the Duluth parking commission to review the burdens and benefits of having parking meters in the Lincoln Park Business District and report its recommendations to the council.

THEREFORE, BE IT RESOLVED, that the city council hereby requests that the Duluth parking commission review the burdens and benefits of having parking meters in the Lincoln Park Business District and report its recommendations back to the council.

Resolution 15-0091 was unanimously adopted.

Approved February 9, 2015

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to Ducks Unlimited at UMD and Fraternal Order of Police Lodge 9 and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.



RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a copy of this resolution to the Minnesota gambling control board immediately after its passage.

Resolution 15-0097 was unanimously adopted.

Approved February 9, 2015

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 2015, subject to departmental approvals, and the payment of sales and property taxes:

Sir Benedict's IV, Inc. (Sir Benedict's Tavern on the Lake), 805 East Superior Street, with Joshua Stotts, 50 percent owner, and Kaila Stotts, 50 percent owner, transferred from Sir Benedict's III, Inc. (Sir Benedict's Tavern on the Lake), same address.

Resolution 15-0098 was unanimously adopted.

Approved February 9, 2015

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council approves issuance of the following on sale club liquor license and on sale Sunday license for the period ending August 31, 2015, subject to departmental approvals and the payment of sales and property taxes:

Fraternal Building Assn. (Duluth Owls Club), 118 East Second Street, with Benjamin Marsen, manager.

Resolution 15-0099 was unanimously adopted.

Approved February 9, 2015

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness of Rachel Johnson to the housing and redevelopment authority of Duluth for a term expiring on January 7, 2019, replacing Nancy Bratrud who resigned, is confirmed.

Resolution 15-0096 was unanimously adopted.

Approved February 9, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the Duluth economic development authority (DEDA), substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0209-07, pursuant to which certain DEDA property will be insured under the city's property and boiler insurance policies for the period from February 16, 2015, to February 16, 2016, and for which DEDA shall reimburse the city in an amount not to exceed \$16,480, to be deposited in Fund 610 (self insurance liabilities), Agency 036 (insurance accounts), Organization 1656 (insurance DEDA), Object 4904 (liability insurance charges).

Resolution 15-0048 was unanimously adopted.

Approved February 9, 2015

DON NESS, Mayor

- - -

RESOLVED, that pursuant to Ordinance 8713, the city of Duluth consents to and authorizes the assignment of a concurrent use of an aerial easement to maintain existing guy wires attached to the KBJR Broadcasting Tower granted to RJR Communications, Inc., by said

ordinance to Quincy Newspapers, Inc., and a wholly owned subsidiary thereof. The city's consent and authorization is contingent on Quincy Newspapers, Inc., and a wholly owned subsidiary thereof, providing proof of liability insurance in form and amount approved by the city attorney.

Resolution 15-0070 was unanimously adopted.

Approved February 9, 2015

DON NESS, Mayor

- - -

WHEREAS, Regulation 24 CFR Part 91 issued by the U.S. department of housing and urban development (HUD) requires the city to submit and receive HUD approval of a five-year consolidated plan and an annual action plan as part of a HUD-approved five-year consolidated plan for the city of Duluth; and

WHEREAS, Title 1 of the Housing and Community Development Act of 1974, as amended, establishes a community development block grant (CDBG) program for the purpose of developing viable urban communities by providing decent housing and suitable living environment and expanding economic opportunities and preventing and/or eliminating conditions of slum and blight, principally for persons of low and moderate income; and

WHEREAS, the city of Duluth desires to continue to carry out HUD-funded programs.

NOW, THEREFORE, BE IT RESOLVED, that the FY 2015-2019 city of Duluth consolidated plan for housing and community development and the FY 2015 annual action plan required by HUD federal legislation are hereby adopted and approved.

BE IT FURTHER RESOLVED, that the city of Duluth hereby makes a finding that expenditures as set forth in Resolution 15-0074 are necessary and appropriate and, further, that said expenditures for the CDBG program will serve to assist low- and moderate-income individuals/families (no less than 70 percent as described in federal regulations) and/or serve to prevent or eliminate conditions of slum or blight in the community.

BE IT FURTHER RESOLVED, that the city of Duluth hereby makes a finding that expenditures as set forth in resolutions 15-0075 and 15-0076 are necessary and appropriate and, further, that said expenditures for the HOME and ESG programs will serve to assist low- and moderate-income people.

BE IT FURTHER RESOLVED, that the city of Duluth and its officials are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of HUD issued pursuant thereto and authorizing appropriate city officials to execute any documents with HUD to implement the program. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and emergency shelter grant programs.

Resolution 15-0073 was unanimously adopted.

Approved February 9, 2015

DON NESS, Mayor

- - -

WHEREAS, City Council Resolution No. 15-0073, adopted February 9, 2015, approved FY 2015 annual action plan portion of the 2015-2019 consolidated plan; and

WHEREAS, the secretary of HUD is authorized to make grants to cities and/or counties to finance local community development programs, approved in accordance with the provisions of Title I of said act, as well as grants under the Cranston-Gonzales National Affordable Housing Act of 1990, as amended, (the HOME program) and the Stewart B. McKinney Homeless Assistance Act of 1987, as amended (the emergency solutions grant - ESG - program).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to make and submit appropriate documentation to HUD for those projects and corresponding funding levels as set forth below:

2015 HOME PROGRAM - FUND 260, AGENCY 020, OBJECT 5434, PROJECT CD15HM

SUB PROJECT	ACTIVITY	PROJECTS	AMOUNT
GN14	1736	Homeless rental asst. program (TBRA) - HRA	\$130,000
GN14	1737	TBRA admin - HRA	\$ 8,500
GN14	1738	Housing rehab - Housing Resource Connection - HRA	\$333,034
CH14	1226	Housing predevelopment - Center City Housing	\$ 27,000
GN14	AD03	Program administration (city)	\$ 45,948
Total			\$ 544,482

BE IT FURTHER RESOLVED, the following are hereby designated as the financial sources for the above program:

Year 2015	HOME grant	\$ 544,482
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BE IT FURTHER RESOLVED, that the city of Duluth and its officials are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of HUD issued pursuant thereto. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and ESG programs.

BE IT FURTHER RESOLVED, that the appropriate city officials are authorized to execute the appropriate agreements with these agencies upon receipt of approval of HUD funds.

Resolution 15-0075 was unanimously adopted.

Approved February 9, 2015

DON NESS, Mayor

- - -

WHEREAS, City Council Resolution No. 15-0073, adopted February 9, 2015, approved FY 2015 annual action plan portion of the 2015-2019 consolidated plan; and

WHEREAS, the secretary of HUD is authorized to make grants to cities and/or counties to finance local community development programs, approved in accordance with the provisions of Title I of said act, as well as grants under the Cranston-Gonzales National Affordable Housing Act of 1990, as amended, (the HOME program) and the Stewart B. McKinney Homeless Assistance Act of 1987, as amended (the emergency solutions grant - ESG - program).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to make and submit appropriate documentation to HUD for those projects and corresponding funding levels as set forth below:

2015 ESG PROGRAM - FUND 262, AGENCY 020, OBJECT 5434, PROJECT CD15ES

SUBPROJECT	PROJECTS	AMOUNT
1244	CHUM Emergency Shelter	\$ 14,800
2109	MACV - Duluth	\$ 3,150

2511	Transitional Housing-Salvation Army	\$ 5,250
2509	Safe Haven D.V. Shelter	\$ 7,800
1226	Supportive Housing - Center City Housing Corp	\$ 11,550
1050	Transitional Housing & Shelter - AICHO	\$ 3,750
6092	HMIS data administration - Wilder Foundation	\$ 4,000
AD-05	Prevention & rapid re-housing assistance - HRA	\$ 67,963
AD-04	Program administration - city	\$ 13,789
HS-08	Housing stabilization benchmarks	\$ 51,800
	Total	\$183,852

BE IT FURTHER RESOLVED, that the following is hereby designated as the financial resource for the above program:

Source of Funding	
2015 ESGP grant	\$183,852
Total	\$183,852

BE IT FURTHER RESOLVED, that the city of Duluth and its officials are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of HUD issued pursuant thereto. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and ESG programs.

BE IT FURTHER RESOLVED, that the appropriate city officials are authorized to execute the appropriate agreements with these agencies upon receipt of approval of HUD funds.

Resolution 15-0076 was unanimously adopted.

Approved February 9, 2015

DON NESS, Mayor

- - -

RESOLVED, that, pursuant to Section 2-176(a) of the Duluth City Code, 1959, as amended, the city council hereby states its intention to convey to the Duluth economic development authority that property generally outlined in red and depicted on Public Document No. 15-0209-08 in exchange for that property generally outlined in yellow and depicted on said public document.

Resolution 15-0082 was unanimously adopted.

Approved February 9, 2015

DON NESS, Mayor

- - -

RESOLVED, that pursuant to Section 2-176(a) of the Duluth City Code, 1959, as amended, the city council hereby states its intention to convey to the Duluth economic development authority certain property depicted on Public Document No. 15-0209-09 subject to conveyance of the same to the city from the Minnesota department of transportation (MnDOT) in connection with the construction of a mixed used development on the southeast corner of 21st Avenue East and London Road.

Resolution 15-0092 was unanimously adopted.

Approved February 9, 2015

DON NESS, Mayor

- - -

RESOLVED, that Contract 22084 with LHB, Inc., for professional engineering services for preliminary engineering of the Grand Avenue CIMS enhancements to be constructed from Becks

Road to I-35 be amended to include increased and revised design phase and to increase the amount by an estimated, \$79,556 for a new total of \$240,624, payable from Permanent Improvement Fund 411, Department/Agency 035 (capital projects accounts), Object 5530 (improvements other than buildings), City Project No. 1251.

Resolution 15-0079 was unanimously adopted.

Approved February 9, 2015

DON NESS, Mayor

- - -

RESOLVED, that Contract 21000 with SEH, Inc., for professional engineering services for the Munger Trail extension from Lake Avenue to the Munger Trail be amended (second amendment) to increase the amount by \$97,000 for a new total of \$706,000, payable from Capital Improvement Fund 450, Department/Agency 030 (finance), Object 5530 (improvements other than buildings), City Project No. 0568TR, Capital Project No. CP2009-0568TR, S.P. 118-090-014 and Minnesota Project No. HPPH H146(001).

Resolution 15-0084 was unanimously adopted.

Approved February 9, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept monies and/or property from the United States department of justice and the United States department of the treasury under the federal equitable sharing program, and to execute an equitable sharing agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 15-0209-10 for the purpose of supporting the operations of the Lake Superior drug and violent crime task force, funds to be deposited in Fund Number 215-200-2261-4471 (Duluth police grant programs, police, LSD/VCTF-federal forfeitures, police felony forfeitures).

Resolution 15-0066 was unanimously adopted.

Approved February 9, 2015

DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth ("city") act as the legal sponsor for project contained in Laws of Minnesota Chapter 295, Section 10, Subdivision 5, entitled Duluth-Wade Stadium.

RESOLVED, that the city has the legal authority to receive financial assistance and has the institutional, managerial and financial capability to ensure adequate project administration.

RESOLVED, that the sources and amounts of the local match identified in the development proposal are committed to the project identified.

RESOLVED, that the city has not violated any federal, state or local laws pertaining to fraud, bribery, graft, kickbacks, collusion, conflict of interest or other unlawful or corrupt practice.

RESOLVED, that upon approval of its development proposal by the state, the city may enter into an agreement with the state of Minnesota for the above-referenced project, and that the city certifies that it will comply with all applicable laws and regulations as stated in all contract agreements.

RESOLVED, that the proper city officials are hereby authorized to execute such agreements as are necessary to implement the project on behalf of the city.

Resolution 15-0083 was unanimously adopted.

Approved February 9, 2015

DON NESS, Mayor

- - -

WHEREAS, the golf enterprise fund has an accumulated cash deficit of \$1,600,000; and  
 WHEREAS, the city of Duluth desires, as part of its reorganization of golf course operations, to formalize a loan repayment schedule that will allow golf operations to become self-sufficient.

NOW, THEREFORE, BE IT RESOLVED, that the current interfund loan balance of \$1,600,000 from the general fund be considered a long-term loan to be repaid in annual installments of \$50,000 without interest.

FURTHER RESOLVED, that in any year that golf operations do not generate \$50,000 in net income before loan repayment that such year's loan repayment be decreased to annual net income greater than \$1.

Resolution 15-0085 was unanimously adopted.

Approved February 9, 2015

DON NESS, Mayor

- - -

The following resolutions were also considered:

WHEREAS, City Council Resolution No. 15-0073, adopted February 9, 2015, approved FY 2015 annual action plan portion of the 2015-2019 consolidated plan; and

WHEREAS, the secretary of HUD is authorized to make grants to cities and/or counties to finance local community development programs, approved in accordance with the provisions of Title I of said act, as well as grants under the Cranston-Gonzales National Affordable Housing Act of 1990, as amended, (the HOME program) and the Stewart B. McKinney Homeless Assistance Act of 1987, as amended (the emergency solutions grant - ESG - program).

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to make and submit appropriate documentation to HUD for those projects and corresponding funding levels as set forth below:

2015 CITY OF DULUTH COMMUNITY DEVELOPMENT BLOCK

GRANT (CDBG) PROGRAM-FUND 262, AGENCY 020, OBJECT 5434 PROJECT CD15CD  
 SUB

PROJECT	ACTIVITY	AMOUNT	PROJECTS
HOUSING PROJECTS			
HOUS	1734	\$515,000	Housing Resource Connection - One Roof/HRA
HOUS	2001	\$200,000	Center for Changing Lives - Lutheran Social Services
ECONOMIC DEVELOPMENT PROJECTS			
ECDV	2412	\$128,000	SOAR Duluth At Work - SOAR Career Solutions
ECDV	1244	\$ 64,000	CHUM Support Services for Employment - Churches United in Ministry
ECDV	2264	\$ 64,000	Growing Neighborhood Businesses - Northeast Entrepreneur Fund, Inc.
ECDV	1974	\$ 32,000	Futures Program - Life House
ECDV	1291	\$ 48,000	Duluth @ Work - Community Action Duluth
PUBLIC FACILITY IMPROVEMENT PROJECTS			
PFAC	PF01	\$175,000	New Kitchen - Washington Center - city of Duluth

PFAC	PF03	\$165,000	West Duluth Food Access & Education - city of Duluth
PFAC	PF04	\$ 68,000	Central Hillside Building Improvements - One Roof
PUBLIC SERVICE PROJECTS			
PSVC	1244	\$ 70,000	Duluth Hunger Project - CHUM
PSVC	1929	\$ 30,000	Primary Health Care Services - Lake Superior Community Health Center
PSVC	1974	\$ 28,000	Basic Needs Center for Homeless Youth - Life House
PSVC	1226	\$ 19,550	Supportive Housing Programs - Center City
PSVC	2509	\$ 7,800	Battered Women's Shelter Program - Safe Haven Shelter/CHUM
PSVC	2511	\$ 5,250	Family Transitional Housing Program - Salvation Army
PSVC	2805	\$ 20,000	JET Food Program - NYS
PSVC	2109	\$ 9,150	Homeless and At-Risk Vets Stabilization/ Outreach - MACV/CHUM
PSVC	1050	\$ 18,250	Transitional and Permanent Housing Services - AICHO
PSVC	1244	\$ 14,800	Duluth Shelter Project - CHUM
PSVC	HO07	\$ 42,000	Coordinated Assessment*
PSVC	HO08	\$ 55,987	Housing and Stabilization Services Fund*

\* Grantees to receive funds under the joint agreement include Churches United in Ministry, American Indian Community Housing Organization, Minnesota Assistance Council for Veterans, The Salvation Army, Center City Housing Corporation, Safe Haven Shelter for Battered Women and Life House Incorporated.

PLANNING/PROGRAM ADMINISTRATION

ADMC	AD01	\$424,947	CDBG Program Administration
ADMC	AD02	\$ 20,000	Neighborhood Revitalization Planning

BE IT FURTHER RESOLVED, that the following are hereby designated as the financial resources for the above program:

SOURCE OF FUNDING

Year 2015	CDBG Grant - city	\$2,224,734
Total		\$2,224,734

BE IT FURTHER RESOLVED, that the city of Duluth and its officials are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of HUD issued pursuant thereto. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and ESG programs.

BE IT FURTHER RESOLVED, that the appropriate city officials are authorized to execute the appropriate agreements with these agencies upon receipt of HUD funds.

Resolution 15-0074 was adopted upon the following vote:

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Krug, Russ and Sipress -- 7

Nays: None -- 0

Abstention: Councilor Julsrud and President Larson -- 2

Approved February 9, 2015

DON NESS, Mayor

- - -

Resolution 15-0080, amending Resolution 14-0599, adopting license, permit, fine, penalty and other charges for 2015, to amend the 2015 fee schedule for Bayfront Festival Park, was introduced by Councilor Sipress.

Councilor Sipress moved to table the resolution, which motion was seconded and carried as follows:

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

Nays: Councilor Krug -- 1

- - -

Resolution 15-0067, authorizing city officials to allocate \$100,000 from the tourism tax fund balance to UMD for improvements to Glensheen Mansion, was introduced by Councilor Filipovich for discussion.

The rules were suspended upon a unanimous vote to hear from a speaker on the resolution.

Dan Hartman spoke in support of the resolution.

Resolution 15-0067 was adopted as follows:

RESOLVED, that the proper city officials are authorized to allocate \$100,000 from Fund 258, the tourism tax fund balance, to UMD to restore certain historic brick walls located on Glensheen Mansion property.

Resolution 15-0067 was adopted upon the following vote:

Yeas: Councilors Filipovich, Gardner, Julsrud, Krug, Russ, Sipress and President Larson -- 7

Nays: Councilor Fosle -- 1

Abstention: Councilor Hanson -- 1

Approved February 9, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form on file in the office of the city clerk as Public Document No. 15-0209-11, with UMD; \$50,000 for the continued promotion of programs, exhibits and events at Glensheen Mansion; \$100,000 for repairs to historic brick walls near the visitor entrance to the mansion; for a total amount not to exceed \$150,000, payable as follows:

\$50,000 - Tourism Taxes 258, Finance 030, tourism tax allocation - Miscellaneous 5436-12;



\$100,000 - Tourism Taxes 258, Finance 030, tourism tax allocation - Advertising and Publicity 5436-11.

Resolution 15-0069 was adopted upon the following vote:

Yeas: Councilors Filipovich, Gardner, Julsrud, Russ, Sipress and President Larson -- 7

Nays: Councilor Fosle -- 1

Abstention: Councilor Hanson -- 1

Approved February 9, 2015

DON NESS, Mayor

- - -

Resolution 15-0071, authorizing the purchase of equipment from Boyer Trucks in the amount of \$114,475.52, was introduced by Councilor Hanson.

Councilor Hanson moved to table the resolution, which motion was seconded and carried upon the following vote:

Yeas: Councilors Filipovich, Gardner, Hanson, Julsrud, Russ, Sipress and President Larson -- 7

Nays: Councilors Fosle and Krug -- 2

- - -

Resolution 15-0078, authorizing the purchase of equipment from MacQueen Equipment, Inc., in the amount of \$212,227.88, was introduced by Councilor Hanson.

Councilor Hanson moved to table the resolution, which motion was seconded and carried upon the following vote:

Yeas: Councilors Filipovich, Gardner, Hanson, Julsrud, Russ, Sipress and President Larson -- 7

Nays: Councilors Fosle and Krug -- 2

- - -

Resolution 15-0093, by President Larson, establishing a 2015 Duluth distinguished artist award to be bestowed on Duluth artists by members of the city council, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear from speakers on the resolution.

Anne Dugan and Crystal Pelkey spoke in support of the resolution.

Resolution 15-0093 was adopted as follows:

BY PRESIDENT LARSON:

WHEREAS, creative expression and the literary, visual and performing arts are a critical component and reflection of community life allowing for histories, perspectives, ideas, stories and lives to be shared; and

WHEREAS, art may be defined by a variety of different methods and spans mediums which include visual art, sculpture, dance, spoken word, film, storytelling, literature, fabric art, music, theater and other forms of creative expression; and

WHEREAS, Duluth has an abundance and diversity of artistic voices and a rich arts community that is supported by institutional and individual partners which operate through the dedication of employees, volunteers and boards; and

WHEREAS, in 2013 and 2014, the Creative Community Leadership Institute brought together 24 cross-sector community leaders in the Twin Ports to learn about, and build relationships to support, arts based community development; and

WHEREAS, public recognition of the arts is an opportunity to acknowledge the important role the arts and artists play in the social, physical, cultural and economic development of Duluth.

THEREFORE, BE IT RESOLVED, that the Duluth City Council establishes the 2015 Duluth distinguished artists award.

FURTHER RESOLVED, each member of the city council may bestow one Duluth distinguished artist award during 2015.

Resolution 15-0093 was unanimously adopted.

Approved February 9, 2015

DON NESS, Mayor

- - -

Resolutions 15-0089 and 15-0090, by Councilor Julsrud, affirming and reversing, respectively, the decision of the public works and utilities director denying Storage Kings's request for a stormwater utility fee adjustment pursuant to Section 43-67 of the Duluth City Code, were introduced.

Councilors Filipovich and Julsrud moved to table the resolutions, which motions were seconded and carried upon the following vote:

Yeas: Councilors Filipovich, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 7

Nays: Councilors Fosle and Gardner -- 2

- - -

### **INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinances were read for the second time:

BY COUNCILOR GARDNER

15-007 (10353) - AN ORDINANCE AMENDING SECTION 29A-32.1 OF DULUTH CITY CODE, 1959, AS AMENDED, TO ALLOW OWNER OCCUPIED ONE-FAMILY DWELLINGS TO BE LICENCED AS SINGLE TENANT RENTAL UNITS WITHOUT PAYMENT OF A CONVERSION FEE IF THE OWNER-OCCUPANT RENTS ONLY TO ONE PERSON.

Councilor Gardner moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR JULSRUD

15-008 (10354) - AN ORDINANCE AMENDING CHAPTER 48 OF THE DULUTH CITY CODE, 1959, AS AMENDED, UPDATING LANGUAGE RELATED TO UTILITY SERVICE BILLING AND COLLECTION, DEPARTMENT SERVICES AND AUTHORIZED RESIDENTIAL GAS CONNECTIONS.

Councilor Julsrud moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

The meeting was adjourned at 8:20 p.m.

CHELSEA J. HELMER, Assistant City Clerk, for  
JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10353**

BY COUNCILOR GARDNER:

AN ORDINANCE AMENDING SECTION 29A-32.1 OF DULUTH CITY CODE, 1959, AS AMENDED, TO ALLOW OWNER OCCUPIED ONE-FAMILY DWELLINGS TO BE LICENCED AS SINGLE TENANT RENTAL UNITS WITHOUT PAYMENT OF A CONVERSION FEE IF THE OWNER-OCCUPANT RENTS ONLY TO ONE PERSON.

The city of Duluth does ordain:

Section 1. That Section 29A-32.1 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 29A-32.1. Conversion fee.

Any one-family dwelling, not currently licensed pursuant to this Article on March 13, 2011, shall be subject to a rental conversion fee at the time it is initially licensed as a rental unit. The conversion fee shall not apply if:

- (a) License is being renewed; or
- (b) Single tenant rental unit will be owner occupied and have only one renter. If the owner-occupant ceases to live in the dwelling, the one-time conversion fee will be required for dwelling to remain licensed.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: March 12, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9  
Nays: None -- 0

Passed February 9, 2015  
Approved February 9, 2015  
DON NESS, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10354**

AN ORDINANCE AMENDING CHAPTER 48 OF THE DULUTH CITY CODE, 1959, AS AMENDED, UPDATING LANGUAGE RELATED TO UTILITY SERVICE BILLING AND COLLECTION, DEPARTMENT SERVICES AND AUTHORIZED RESIDENTIAL GAS CONNECTIONS.

The city of Duluth does ordain:

Section 1. That Section 48-6 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-6. Application required; applicants to answer all questions of department.

- (a) All applicants for water, gas, gas transportation or sewer service shall sign an application form for said service furnished by the department;
- (b) No person or persons shall be provided service until they have presented sufficient information to the department to clearly and accurately establish, to the satisfaction of the department, their identity and their utility credit history.

Section 2. That Section 48-11 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-11. Security from applicants--when it may be required by department.

The department, at any time and at its discretion, may require from an applicant reasonable security to safeguard itself against the loss of or damage to equipment and to insure prompt payment of all bills, subject to the following conditions:

(a) The department may, at its discretion, accept security in the form of a contract executed by a third party guaranteeing payment by the applicant. Such guarantee contract shall be in a form acceptable to the department and be given by a person or entity acceptable to the department;

(b) A security deposit shall not be required of:

(1) A residential heating or domestic applicant who has been an applicant of the department within the last one year at other premises within the city, or who has had like utility services outside the city within the last one year, and has promptly paid all service charges for the last 12 months at such other premises; or

(2) An applicant, other than a residential heating or domestic applicant, who has been an applicant of the department within the last two years at other premises within the city, or who has had like utility services outside the city within the last two years, and has promptly paid all service charges for the last 24 months at such other premises;

(c) The department shall not require a deposit or a guarantee of payment based upon source of income, residential location, employment tenure, nature of occupation, race, color, creed, sex, marital status, age, national origin or any other criteria which does not bear a reasonable relationship to the assurance of payment.

Section 3. That Section 48-12 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-12. Security from applicant--amount.

The department, at any time and at its discretion, may require from an applicant reasonable security to safeguard itself against the loss of or damage to equipment and to insure prompt payment of all bills subject to the following conditions:

(a) The security deposit shall be in an amount of 1/6 the estimated total annual cost of services to be provided at the premises for which the applicant contracts for service, except as provided herein. If the department requires a greater deposit, it shall give written reasons for its requirement. A person aggrieved by the requirement of a deposit may have a hearing before the director of public works and utilities by requesting one in writing. If the applicant is a recipient for low income home energy assistance according to the criteria of the current Minnesota state plan for low income energy assistance, and also that the applicant's utility credit history shows that there is little risk of nonpayment to the department, then the director may reduce the deposit to any reasonable amount in excess of \$49;

(b) The security deposit shall be in the form of a cash deposit;

(c) Any security deposit shall bear interest at a rate determined by state statute. The interest shall be credited to the customer's security deposit account;

(d) The department shall keep records of persons from whom deposits are collected, and the amounts, interest paid and the distribution, if any, of such deposits. Receipts shall be issued to applicants for the deposits.

Section 4. That Section 48-13 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-13. Use of security deposit.

(a) If, at any time, an applicant does not promptly pay any charges owing to the department, and the applicant has a security deposit with the department, then the department, at its option, may use said security to satisfy the charges owing on any account of applicant. Whenever the department applies the security deposit to the payment of charges, it shall send written notice of its action to the applicant within 35 days. If the security deposit is used to pay charges owed to the department, then the department, at its option, may require the deposit with it of additional security, under the same conditions set out in sections 48-11 and 48-12 of this Code. If the applicant fails to make the required security deposit within 30 days of a request to do so, the department may terminate service to the customer as provided in Section 48-208(a) below;

(b) Subject to paragraph (a) above, any security deposit shall be refunded to a residential heating or domestic applicant when such applicant has promptly paid his or her bills for a period of 12 consecutive months after such applicant has deposited the full amount of the required security with the department, and to an applicant other than a residential heating or domestic applicant when said applicant has promptly paid his or her bills for a period of 24 consecutive months after such applicant has deposited the full amount of the required security with the department. Said deposit shall be paid directly to applicant;

(c) Whenever an applicant terminates all business with the department, the amount of such security deposit shall be applied against applicant's final bill for service, and the applicant shall be given, within 45 days, a written accounting of the disposition of any security deposit given by that applicant and any remaining amounts due to him or her;

(d) If an applicant has more than one account or is receiving service at more than one property, security for any account or property may be applied and used for any other account or property of the applicant.

Section 5. That Section 48-15 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-15. Same--To be paid monthly--meter reading requirements.

(a) Payment for the supply of water, gas, sewage and all other charges and fees shall be made monthly, on or before time for payment stated on the bill, but in no case shall such time be less than 20 days after the date of mailing of the bill. The department shall charge interest on delinquent bills, including all charges, fees and budget plan payments, at the rate of the amount set in accordance with Section 31-8 of this Code per month. Interest on such delinquent bills shall be charged from the date of the mailing of the delinquent bill, but interest of less than \$1 accruing during a billing period shall be waived;

(b) Except in unusual cases or when approval is obtained from the applicant, readings of all meters used for determining charges to applicants shall be made at least every other month unless otherwise authorized by resolution of the city council; provided, however, that in the case of premises not served by gas, the department shall not be required to read water meters more frequently than once every four months. The term, month, for meter reading and billing purposes is the period between successive meter reading dates which shall be as nearly as practicable to a 30 day interval.

The department shall read the meter when there is a change in applicants;

(c) When access to a meter cannot be gained an estimated bill may be rendered; provided that in cases of emergency, the department may render

estimated bills without reading meters. Estimated bills shall be based on the applicant's normal consumption for a corresponding period during the preceding year or any other reasonable and accurate method;

(d) The department may render no more than two consecutive estimated bills to any applicant. When two consecutive bills have been issued, the department will send a letter to the applicant with the second bill, giving that applicant ten days to make arrangements with the department for reading the meter, either by making an appointment to grant the meter reader access to the meter or delivering a key to the department for access to the meter. The letter shall also state that if no such arrangements are made within ten days, the department will disconnect service.

Section 6. That Section 48-15.4 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-15.4. Same--Uncollectible debts.

If it comes to the attention of the department director that because of death, insolvency or other cause, the debt of an applicant or customer is presently uncollectible and that there appears to be no chance that such debt will become collectible in the future, the director may present evidence of such uncollectibility to the director of finance and to the city attorney. If both the director of finance and the city attorney agree in writing that the debt appears to be uncollectible presently and in the future, the director may delete such debt from the list of delinquent accounts receivable. Debts discharged pursuant to bankruptcy and debts of less than \$5 may be recommended to the director of public works and utilities for deletion from the list of delinquent accounts receivable by the department office manager.

Section 7. That Section 48-15.5 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-15.5. Assessment of unpaid sewer charges generally and assessment of unpaid water charges in certain cases.

(a) Application. The authorization to assess for unpaid water charges in this Section shall apply only in cases meeting the following criteria; said criteria shall not limit the authority of the city to assess for unpaid sewer charges under Section 43-6 of the Code:

(1) Where more than one building is served by a single water service;

(2) Where at least one of the buildings so served is under separate ownership from one or more of the other buildings served by said service;

(3) Where there are at least two months of unpaid charges for water service provided to any such separately-owned property;

(4) Where the director certifies that reasonable efforts to collect such unpaid charges have been unsuccessful and the applicant for such services does not have a valid agreement with the department to pay such charges;

(5) Where there is not a water shut-off valve located within a public street easement which will allow water service to be shut off to the property to which the unpaid charges pertain without turning off water service to a property where payments received for water service are current;

(b) List of delinquent accounts. On or before June 1 of each year, the department may transmit to the city's chief financial officer a list of properties described in Subsection (a) above and any other properties having unpaid sewer charges certified by the director for assessment against the property pursuant to Section 43-6 of the Code, together with the amount due with respect to each such

property. For each account transmitted, a collection fee in the amount set by city council resolution pursuant to Section 31-8 of the City Code shall be added to reimburse the department for its administrative costs;

(c) Preparation of assessment roll. Upon the receipt of such lists, the chief financial officer shall make an assessment roll containing, in columns, the name of the owner of each lot or parcel of land separately assessed, if known to him, together with a description of each such lot or parcel of land and the amount of such assessment. The assessment roll shall include the collection fee set forth in Subsection (b) above;

(d) Notice. On or before July 1 of each year, the chief financial officer shall certify the assessment roll to the city council. The chief financial officer shall give 20 days' notice by first class mail to the apparent owner of each lot or parcel of land and any other party known to have a legal interest in said land. The notice shall state the amount of the assessment, including the collection fee, the description of the property, that the assessment roll is on file in the chief financial officer's office and that any party aggrieved by the assessment may appeal by filing a written notice of appeal with the office of the chief financial officer within 20 days after receiving notice of assessment. Such notice shall indicate that the assessment, including the collection fee, is due and payable on or before October 1 of the current year. Failure to make payment by such date shall render the assessment delinquent;

(e) Form of appeal to the chief financial officer. Any party aggrieved by an assessment made pursuant to this Section may appeal such assessment by filing a written notice of appeal with the chief financial officer within 20 days of receipt of the notice of assessment. The notice shall state the precise grounds upon which the appeal is taken. The chief financial officer shall notify the appellant of the time and place of the hearing. At the hearing, the chief financial officer shall hear and determine all objections made to the regularity of the proceedings or to the correctness of the amount of such assessment or of the amount levied upon a particular lot or parcel of land. If the proceedings are found to be regular and the amounts claimed had been properly billed with regard to the benefitted property, the chief financial officer shall correct any errors which may have been found in the assessment and shall thereupon recommend that the city council by resolution confirm such assessment. To each assessment a collection fee shall be added in an amount set by council resolution pursuant to Section 31-8 of the City Code to reimburse the city its administrative assessment costs. Immediately thereafter notice of the confirmed assessment and its amount, including the collection fees, shall be sent by the city treasurer by mail to the apparent owner of each lot or parcel of land assessed. Such notice shall indicate that the assessment is due and payable on or before October 1 of the year when confirmed and that failure to make payment by such date shall render the assessment delinquent. After all appeals are heard and determined, the city council shall confirm the entire assessment roll by resolution;

(f) Certification of delinquent assessments. After the city council confirms the assessment roll, the city treasurer shall file with the county auditor, during the time set by law for such filings, a certified statement of all assessments delinquent under this Chapter, describing the land affected and giving the amount of the assessment, with ten percent penalty added, after which the assessment shall follow the provisions of Chapter IX of the City Charter including but not limited to Sections 67 and 68 thereof.

Section 8. That Section 48-26 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-26. Connections, etc., to be made by authorized persons only.

Any person making any attachment or connection to, or doing any work with or on any water house service and any appurtenances thereto, must be authorized by the laws of the state of Minnesota to do such work. All persons performing gas-fitting work from the outside meter stop valve to any appliance or outlet, including all gas house piping, shall be a plumber or pipefitter licensed by the state of Minnesota working for a licensed and bonded plumbing contractor. Residential gas piping in owner-occupied units in one and two family dwellings may also be performed by an employee of a mechanical contractor bonded in accordance with Minnesota law if the employee is qualified to do gas piping through an education and training program approved by the building official. The provisions of this Section shall not apply to city employees doing work for the city and to any property owner doing work on their single family, owner occupied dwelling.

Section 9. That Section 48-120 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-120. Same--Services to be maintained by department to curb stop only.

All street services shall be maintained and repaired by the department at department cost. Privately owned water services downstream from the curb stop or master box shall be repaired and maintained by the owners at their expense.

Section 10. That Section 48-128 of the Duluth City Code, 1959, as amended, is repealed.

Section 11. That Section 48-157 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-157. Transportation services.

The department is authorized to provide by contract interruptible natural gas transportation services to high volume gas service users. The provisions of this Chapter shall not apply to such services except as provided for and incorporated in such a contract.

Section 12. That Section 48-207 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-207. Same--Fees.

A fee based on current service charges shall be collected for each permit to take water from a fire hydrant and for establishing supply thereunder. This fee shall not be part of any charge for water used from the hydrant.

Section 13. That Section 48-208 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-208. Right of department to shut off supply of gas or water.

(a) For violation of or noncompliance with the provisions of this Chapter or the rules of the department, other than for nonpayment of any charges, the right is reserved to the department to shut off the supply of water or gas, or both, after the giving of such notice and opportunity to be heard as is reasonable under the circumstances. Whenever possible, such notice shall be mailed or otherwise given to the owner of record of affected premises or his agent, to any lessee of such premises known to the department and to residents of such premises, such notice to residents being in the form of letter addressed to "resident" at such premises or in another reasonable manner;

(b) For nonpayment of any charges the department may terminate water or gas service, or both, to the premises where the service was received and



to any other premises owned or occupied by the applicant, provided that:

(1) Notice of termination has been given at least 15 calendar days prior to such action by mail to the applicant at the billing address. A record of all notices must be kept on file by the department for a period of not less than one year. Such notice shall specify:

- (A) The reason for the termination;
- (B) The date on which termination of service is scheduled to occur;
- (C) The amount delinquent;
- (D) That the department will accept payment at any time during business hours prior to termination;
- (E) The right of an applicant to establish inability to pay the charges and work out a payment plan during the cold weather months, as provided in subparagraph (3) of this paragraph;
- (F) The availability of low-income energy assistance or other resources for energy expense; and
- (G) That the applicant has a right to a hearing if the applicant disputes the bill;

(2) Such charges are undisputed or, if disputed, the dispute resolution procedure provided for in sections 48-15.3, 48-237 and 48-238 of this Code has been complied with by the department;

(3) Termination is conducted in accordance with Minnesota's "Cold Weather Rule" (Minn. Stat. § 216B.097, as may be amended);

(c) If the department has received no response from an applicant to whom a notice of service termination has been sent pursuant to this Section, the department must make one attempt, within ten days prior to the date of termination, to contact the applicant ascertain the reason for nonpayment and provide information on financial resources available to pay for energy expenses, if appropriate. This attempt shall be in addition to the regular monthly bill and the notice of termination required by this Section.

Section 14. That Section 48-208.2 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-208.2. Misdemeanor to rent premises where water or gas disconnected.

(a) No person shall let to another for occupancy any dwelling or dwelling unit covered by the city of Duluth Housing Code (Chapter 29A of the City Code), for the purpose of living therein, to which water, gas or sewer service has been discontinued by the department for the failure of the owner or any other person to pay outstanding charges on his or her account, unless one of the following conditions is met:

(1) The landlord provides the prospective tenant with written confirmation from the department that arrangements have been made to reconnect utility service; or

(2) The landlord and prospective tenant enter into a written agreement approved by the department providing for payment of current and continuing utility charges, whether through allocation of rent toward satisfaction of utility charges or otherwise, in consideration for reconnection of utility service; or

(3) The prospective tenant applies for service pursuant to Section 48-6 of this Chapter;

(b) No landlord, agent of the landlord or person acting under a landlord's direction or control may disconnect or cause the disconnection of water, gas or sewer services to the tenant, without the tenant's consent, unless such

interruption is for the purpose of repairing or correcting faulty or defective equipment or protecting the health and safety of the occupants of the premises involved. If such disconnection occurs, the landlord shall be obligated to reinstate the service as soon as possible;

(c) If residential premises are rented in violation of paragraph (a) of this Section, the tenant may temporarily reinstate service by paying to the department an amount equal to the estimated utility charges for the remainder of the period for which the tenant has paid rent, not to exceed 31 days. At the end of said period, the department may immediately disconnect service to said premises unless other arrangements are made by the landlord or by the tenant under Section 48-208.3 below. The department shall bill the landlord for the reconnection charges.

Section 15. That Section 48-208.3 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-208.3. Tenant's right to pay bill and deduct charges from rent.

(a) Where the department has given notice that it will terminate utility service because of the failure of a landlord applicant to pay outstanding charges on his or her account, a tenant may notify the landlord in writing of his or her intent to follow the procedures set forth in this Section. During the time period from October 15 to April 15, if utility service has been disconnected, or is threatened with disconnection within 48 hours, the tenant may notify the landlord, either orally or in writing, of the situation and of his or her intent to pay the bill within such period as is reasonable under the circumstances. If the situation is not remedied, the tenant may pay the charges for the current billing period and, upon submitting to the landlord receipts, deduct the cost from the rent;

(b) If the department receives payment from a tenant under this Section equivalent to the current bill, it shall not terminate service for the following month;

(c) If the tenant desires to continue paying service charges for the landlord beyond the one month period authorized in paragraph (b) of this Section, the department may require the tenant or tenants to agree to make payments to the department in an amount equal to the current charges not to exceed tenant's monthly rent to the landlord applicant. Payments shall be due monthly on the date tenant's rent is due under tenant's lease with the landlord. Tenant may, at his or her option, terminate the obligation under this agreement, continue to pay current charges under the terms and conditions of this Section or apply for service as provided for in Section 48-6 above. The department may require the tenant to furnish rent receipts, a written lease or other proof in writing of the amount of the tenant's monthly rent. All agreements to make payments to the department in lieu of rent shall be in writing, and signed by the tenant and a representative of the department. A copy of such agreement shall be furnished to the tenant;

(d) When a tenant elects to pay for water and gas service in accordance with this Section, the department shall notify the tenant's landlord of the election. This notice shall advise the landlord that the tenants have the right to deduct utility charges actually paid from future rental payments, and that no landlord can retaliate against tenants (i.e., eviction or rent increase without other good cause) for exercise of their rights under this Section;

(e) For purposes of this Section, "current bill" means the bill for utility consumption at the premises during the previous billing period and "average bill" means the bill for a year's consumption at the premises divided by the number of billing periods in a year;

(f) If the tenant fails to make payments under this Section, the department shall give the tenant five days' notice by first class mail of its intent to

terminate utility service before terminating such service;

(g) Notwithstanding a tenant's election to pay for current water and gas service in accordance with this Section, the landlord shall remain responsible for any and all arrearages on the account along with any and all accrued penalties on said arrearages. The landlord may choose to execute an assignment of rents with the department providing for the assignment of the landlord's right to receive tenant's remaining monthly rents until all arrearages on the account have been paid in full;

(h) If there are multiple tenants in an affected multifamily building, the department is not required to offer the right to become the responsible bill payer or customer of record to more than one tenant in a 12-month period;

(i) This Section is intended to comply with all applicable provision of Minnesota Statutes chapters 325E and 504B, as may be amended, and shall be interpreted to comply with those provision wherever possible.

Section 16. That Section 48-234 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 48-234. Appropriated funds for use by director in advertising, etc.

Subject to the approval of the city's chief administrative officer, the director of the public works and utilities department is hereby authorized and directed during any calendar year, if funds shall be appropriated by the city council to purchase and contract for such services, materials and supplies and to pay for such selling expense items as the director may from time to time deem necessary in carrying on any advertising or publicity campaign designed to make effective the intent and purpose of this Article.

Section 17. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: March 12, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed February 9, 2015  
Approved February 9, 2015  
DON NESS, Mayor

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**MINUTES OF THE REGULAR MEETING  
OF THE DULUTH CITY COUNCIL**

February 23, 2015

Duluth City Council meeting held on Monday, February 23, 2015, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Absent: None -- 0

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The minutes of council meetings held on November 10 and 24, 2014, were approved unanimously.

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

15-0223-01 Joe Signorelli, et al. (24 signatures), by Daniel D. Maddy, attorney, petition for repair and completion of road, stormwater utility features and other public improvements to meet the requirements of the approved plans for Eastridge Estates and for city acceptance of the road and public improvements in Eastridge Estates. -- Acting Assessor

15-0223-08 Storage King Properties, by John Bray, attorney, withdrawal of appeal of the denial for a stormwater utility fee adjustment for 4514 Rice Lake Road (15-0089R and 15-0090R). -- Received

15-0223-09 The following communications regarding the recommendations of the council's Lakewalk task force (15-0119R): (a) Terry Clark; (b) Alison Clarke; (c) Members of Pointe Condominiums, by Craig Wilson. -- Received

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**REPORTS FROM OTHER OFFICERS**

15-0223-02 Clerk applications for exempt permits to the Minnesota gambling control board from: (a) Churches United in Ministry (CHUM) (raffles) on: (1) March 22, 2015; (2) June 27, 2015; (b) Holy Family Catholic Church (bingo) on March 8, 2015; (c) Lake Superior Lawmen Hockey; Fraternal Order of Police Lodge 9 (MN) (raffle) on March 21, 2015; (d) Rotary Club of Duluth Hermantown Minnesota USA, Inc. (raffle) on May 13, 2015; (e) St. Louis Carlton County Pheasants Forever (raffle) on April 24, 2015. -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

15-0223-03 Alcohol, gambling and tobacco commission minutes of January 7, 2015, meeting. -- Received

15-0223-07 Duluth airport authority minutes of January 20, 2015, meeting. -- Received

15-0223-06 Duluth public utilities commission minutes of January 20, 2015, meeting. -- Received

15-0223-04 Parks and recreation commission minutes of December 10, 2014, meeting. -- Received

15-0223-05 Planning commission minutes of January 13, 2015, meeting. -- Received

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## REPORTS OF COUNCIL OPEN ISSUES

President Larson thanked the Duluth Art Institute for the display of art from the member art show which will be hanging in the Council Chamber for a few weeks.

Councilor Filipovich presented the February 2015 Duluth City Council distinguished artist award to Charles Leibfried, who thanked the council and played some tunes on the trumpet.

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## RESOLUTIONS TABLED

Councilor Filipovich moved to remove Resolution 15-0039, confirming assessment roll levied to defray the assessable portions of the sanitary sewer extension at Lakeview Avenue, from the table, which motion was seconded and carried unanimously.

Resolution 15-0039 was adopted as follows:

RESOLVED, that the assessable roll levied to defray the assessable portions of the following is hereby confirmed:

Lakeview Avenue sanitary sewer extension for Lakeview Avenue Contract 2014015 - total assessable amount of \$50,000; to be deposited in Fund 530.

Resolution 15-0039 was unanimously adopted.

Approved February 23, 2015

DON NESS, Mayor

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Councilor Julsrud moved to remove Resolutions 15-0089 and 15-0090, affirming and reversing, respectively, the decision of the public works and utilities director denying Storage King's request for a stormwater utility fee adjustment pursuant to Section 43-67 of the Duluth City Code, from the table, which motion was seconded and carried unanimously.

Councilor Julsrud moved to remove the resolutions from the agenda, which motion was seconded and carried unanimously.

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Councilor Sipress moved to remove Resolution 15-0080, amending Resolution 14-0599, adopting license, permit, fine, penalty and other charges for 2015, to amend the 2015 fee schedule for Bayfront Festival Park, from the table, which motion was seconded and carried unanimously.

Councilor Sipress moved to return the resolution back to the administration, which motion was seconded and carried unanimously.

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## MOTIONS AND RESOLUTIONS

### CONSENT AGENDA

*(All matters listed under the consent agenda were considered routine and/or noncontroversial and were enacted by one unanimous motion.)*

President Larson moved passage of the consent agenda, which motion was seconded and unanimously carried.

RESOLVED, that the proper city officials are hereby authorized to purchase 5,000 tons of hot mix from Northland Constructors, Minnesota State Contract No. 55656, for filling street potholes and permanent patching, in an amount not to exceed \$234,500, payable from General

110, Public Administration 121, Maintenance Operations 1217, Street Maintenance 2140, Blacktop 5222.

Resolution 15-0095 was unanimously adopted.

Approved February 23, 2015

DON NESS, Mayor

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RESOLVED, that the appointment by Mayor Ness of Ann M. Glumac to the housing and redevelopment authority of Duluth for a term expiring on January 6, 2020, replacing Lorenda Ingersoll, is confirmed.

Resolution 15-0100 was unanimously adopted.

Approved February 23, 2015

DON NESS, Mayor

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RESOLVED, that the proposed specifications for the new civil service classification of utility operations paralegal, which were approved by the civil service board on February 3, 2015, and which are filed with the city clerk as Public Document No. 15-0223-10, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 133, \$4,143 to \$4,883 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 15-0101 was unanimously adopted.

Approved February 23, 2015

DON NESS, Mayor

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RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (d) 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 public hearing and the city planning commission found that the undeveloped right-of-way is useless for all purposes; and

(c) The city planning commission, at its Tuesday, February 10, 2015, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the platted road easement described below and as described and depicted on Public Document No. 15-0223-11:

VACATION LEGAL DESCRIPTION:

That portion of Worth Street in the plat of Oakland Park Addition which lies between Lots 1-5, Block 19 and Lots 1-5, Block 22, Oakland Park Addition; and

(e) 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 No. 15-0223-11 showing the platted easement to be vacated.

Resolution 15-0108 was unanimously adopted.

Approved February 23, 2015

DON NESS, Mayor

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RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (d) 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 public hearing and the city planning commission found that the undeveloped right-of-way is useless for all purposes; and

(c) The city planning commission, at its Tuesday, February 10, 2015, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the platted road easement described below and as described and depicted on Public Document No. 15-0223-12:

VACATION LEGAL DESCRIPTION:

That portion of Bayview Avenue in the plat of Oakland Park Addition which lies between the north line of Worth Street and the extension of the southern line of Block 22 Oakland Park Addition.

LEGAL DESCRIPTION OF UTILITY EASEMENT TO BE VACATED:

The utility easement as described in 12-0444R as a 20 foot portion of Bayview Avenue beginning at the southeast corner of Lot 1, Block 19, Oakland Park Addition extending north (assumed bearing) 100 feet.

LEGAL DESCRIPTION OF UTILITY EASEMENT TO BE RETAINED:

A 20 foot wide portion of Bayview Avenue in the plat of Oakland Park Addition whose centerline begins 16 feet west (assumed bearings) of the southwest corner of Lot 12, Block 18, thence 33 feet south, thence east 16 feet to the extension of the west line of Lot 12, Block 18; and

(e) 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 No. 15-0223-12 showing the platted easement to be vacated.

Resolution 15-0109 was unanimously adopted.

Approved February 23, 2015

DON NESS, Mayor

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RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (d) 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 public hearing and the city planning commission found that the right-of-way is necessary for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians and the efficient supply of utilities or public services in the city; and

(c) The city planning commission, at its Tuesday, February 10, 2015, regular meeting, recommended denial of the vacation petition; and

(d) The city council of the city of Duluth hereby denies the vacation of the platted road easement described below and as described and depicted on Public Document No. 15-0223-13:

VACATION LEGAL DESCRIPTION:

That portion of Oakland Avenue (fka Grand Avenue) in the plat of Oakland Park Addition which lies between the south line of Maryland Street (fka James Street) and the extension of the southern line of Block 22 Oakland Park Addition.

LEGAL DESCRIPTION OF UTILITY EASEMENT TO BE RETAINED:

The western most 20 foot strip of said vacated Oakland Avenue (fka Grand Avenue) which lies between the extension of the northern line of Block 20 and the extension of the southern line of Block 21 Oakland Park Addition; and

- (e) The reasons for denying this petition are as follows:
- (1) The vacation will result in a dead-end street;
  - (2) The right-of-way is or may be needed for pedestrian or bicycle purposes;
  - (3) The right-of-way is needed for utility purposes.

Resolution 15-0110 was unanimously adopted.

Approved February 23, 2015

DON NESS, Mayor

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RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (d) 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 public hearing and the city planning commission found that the undeveloped right-of-way is useless for all purposes; and

(c) The city planning commission, at its Tuesday, February 10, 2015, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the platted road easement described below and as described and depicted on Public Document No. 15-0223-14:

VACATION LEGAL DESCRIPTION:

The entire alley adjacent to Lot 9 Block 7 Clover Hill Division; and

(e) 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 No. 15-0223-14 showing the platted easement to be vacated.

Resolution 15-0111 was unanimously adopted.

Approved February 23, 2015

DON NESS, Mayor

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RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (d) 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



public hearing and the city planning commission found that the easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, February 10, 2015, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the platted road easement described below and as described and depicted on Public Document No. 15-0223-15:

VACATION LEGAL DESCRIPTION:

The northwesterly 8.20 feet of Lots 2, 4, 6, 8, 10, 12 and 14 and the Northwesterly 4.50 feet of Lot 16, DULUTH PROPER FIRST DIVISION WEST SECOND STREET, according to the recorded plat thereof, St. Louis County, Minnesota; and

(e) 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 No. 15-0223-15 showing the platted easement to be vacated.

Resolution 15-0112 was unanimously adopted.

Approved February 23, 2015

DON NESS, Mayor

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RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (d) 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 public hearing and the city planning commission found that the undeveloped alley is useless for all purposes; and

(c) The city planning commission, at its Tuesday, February 10, 2015, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the platted road easement described below and as described and depicted on Public Document No. 15-0223-16:

VACATION LEGAL DESCRIPTION:

All that part of the 16 foot wide alley lying Northwesterly and adjacent to Lot 27, Block 5 of NORTONS FAIRMOUNT PARK DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota. Said portion to be vacated is bounded as follows:

On the Northwest - By the Southeasterly right of way line of the Duluth Winnipeg & Pacific Railway;

On the Southwest - By the Northwesterly extension of the Southwesterly line of said Lot 27;

On the Southeast - By the Northwesterly line of said Lot 27;

On the Northeast - By the Northwesterly extension of the Northeast line of said Lot 27; and

(e) 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 No. 15-0223-16 showing the platted alley to be vacated.

Resolution 15-0114 was unanimously adopted.

Approved February 23, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute and implement a contract, in substantially the form and containing substantially the terms of that contract on file in the office of the city clerk as Public Document No. 15-0223-17, with, and accept funds from, St. Louis County to provide Minnesota family investment program and diversionary work program employment and training services in an amount not less than \$914,358 for the period January 1, 2015, through December 31, 2015. Monies received under this agreement will be deposited in and paid from Fund 268 (workforce development), Agency 031 (grants division), Organization 6235 (MFIP) and 6236 (DWP).

Resolution 15-0088 was unanimously adopted.

Approved February 23, 2015

DON NESS, Mayor

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WHEREAS, on February 11, 2015, notice was published in the Duluth News Tribune, a newspaper of general circulation in both the township of Rice Lake ("township") and city of Duluth ("city"), of the intent to include 240 acres within the township of Rice Lake, legally described as the southeast quarter and south half of the northeast quarter of Section 25, Township 51 North, Range 14 West, St. Louis County, Minnesota, in the orderly annexation area at issue in the Orderly Annexation agreement between said township and the city, a copy of which is on file in the office of the city clerk as Public Document No. 15-0223-18; and

WHEREAS, at least ten days have passed since the notice was published in the Duluth News Tribune.

THEREFORE BE IT RESOLVED, that pursuant to the provisions of Minnesota Statutes, Section 414.0325, the board of supervisors of the township and the city council hereby designate 240 acres within the township of Rice Lake, the same as is described in the orderly annexation agreement between said township and said city, as in need of orderly annexation.

FURTHER RESOLVED, that the proper township and the proper city officials are hereby authorized to enter into the said orderly annexation agreement governing the conditions for the annexation of the 240 acres in the township by the city.

FURTHER RESOLVED, that the township clerk and the city clerk are hereby requested and directed to send copies of this resolution and the executed orderly annexation agreement to the chief administrative judge of the Minnesota state office of administrative hearings as provided for in Minnesota Statutes, Chapter 414.

FURTHER RESOLVED, that this resolution shall go into effect only after its approval by both the township and the city council of the city of Duluth.

Resolution 15-0118 was unanimously adopted.

Approved February 23, 2015

DON NESS, Mayor

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THE CITY COUNCIL FINDS:

(a) That city officials were previously authorized by the city council of the city of Duluth to enter into an agreement with the Judson Hatfield Trust to acquire an easement over the following-described property in St. Louis County, Minnesota:

Portions of Lots 14, 15 and 16, Block 38, Rearrangement of Part of East Duluth and of First Addition to East Duluth;

for the sum of \$40,000, and Resolution 06-0719 was unanimously adopted and approved October 23, 2006, regarding the same; and

(b) Pursuant to said authorization, the sum of \$40,000 was paid from Fund 450, Agency 030, Object 5520, Project No. CP-2005-C0502, to First Capital Surety and Trust Company as trustee by check dated March 2, 2007; and

(c) An easement dated February 13, 2007, was granted by First Capital Surety and Trust Company, as trustee, to the city of Duluth pursuant to the approved agreement, but the grantor was identified as trustee of the "Judson Hatfield Trust" and the land described in the easement as the encumbered property was at that time and remains owned by the "Judson Hatfield Special Needs Trust Dated December 1, 2003"; and

(d) First Capital Surety and Trust Company has executed an easement, easement agreement and restrictive covenant, copies of which are on file in the office of the city clerk as Public Document No. 15-0223-19, as trustee for the Judson Hatfield Special Needs Trust Dated December 1, 2003, on behalf of the trust; and

(e) The city council of the city of Duluth does hereby find and determine that it is in the best interests of the city of Duluth to accept the referenced easement, easement agreement and restrictive covenant.

RESOLVED, that the proper city officials are authorized to enter into and accept the easement, easement agreement and restrictive covenant affecting property legally described therein, copies of which are on file in the office of the city clerk as Public Document No. 15-0223-19.

FURTHER RESOLVED, that the proper city officials are authorized to execute all documents necessary to effectuate the authorization and acceptance of the easement, easement agreement and restrictive covenant.

Resolution 15-0113 was unanimously adopted.

Approved February 23, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with St. Louis County, substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0223-20, with St. Louis County to chip seal Oxford Street, Livingston Avenue and Glenwood Street from Woodland Avenue to Jean Duluth Road; payable from Street Improvement Fund 440, Department/Agency 038 (special assessment contracts), Object 5530 (improvements other than buildings), City Project No. SIP2015-1436, Requisition No. 15-0226.

Resolution 15-0115 was unanimously adopted.

Approved February 23, 2015

DON NESS, Mayor

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RESOLVED, city officials are hereby authorized to pay St. Louis County for shared access to software and services associated with NEMESIS (Northeastern Minnesota Enforcement Safety Information System) including Shield UF, eMerts Suite, Records Management Service (RMS), MDC Paasthu CJDN-Nemesis and Port Fee connection, during year 2015, for a total amount of \$112,602.30, terms net 30 payable from General 110, Police 160, Administration and Investigation 1610, Software Licenses and Maintenance Agreements 5414.

Resolution 15-0094 was unanimously adopted.

Approved February 23, 2015  
DON NESS, Mayor

- - -

WHEREAS, the city, Spirit Mountain recreation area authority (Spirit Mountain) and the Duluth Cross Country Ski Club (DXC) entered into an agreement on or about August 7, 2012 (City Contract No. 21686), for the operation and management of the Spirit Mountain's Nordic Center; and

WHEREAS, the parties desire to amend the agreement to (i) allow for the storage of a snowmobile trailer, and (ii) to clarify the collection of and use of fees by DXC.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute an amendment to the agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0223-21.

Resolution 15-0103 was unanimously adopted.

Approved February 23, 2015  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into an agreement with Lake Superior Girls Fastpitch, said agreement to be substantially in the form of Public Document No. 15-0223-22 on file in the office of the city clerk; payment to be deposited in 210-030-3190-4625-02 special projects-finance-special leagues-field rental).

Resolution 15-0106 was unanimously adopted.

Approved February 23, 2015  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to submit an application to the Minnesota department of natural resources (DNR) for funding for extension of the Western Waterfront Trail from the Riverside neighborhood to Smithville Park through the federal recreation trail program.

FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the money, and the financial, technical and managerial capacity to ensure proper construction, operation and maintenance of the project for no less than 20 years.

FURTHER RESOLVED, that the city of Duluth estimates the grant amount to be \$150,000 and has local matching funds available through city of Duluth half and half tax of \$150,000.

FURTHER RESOLVED, that if the city of Duluth is awarded a grant by the Minnesota department of natural resources, the city of Duluth agrees to accept the grant award and may enter into an agreement with the state of Minnesota for the above referenced project. The city of Duluth will comply with all applicable laws, environmental requirements and regulations stated in the grant agreement.

FURTHER RESOLVED, that the city council of the city of Duluth names the fiscal agent for the city of Duluth for this project as: Wayne Parson, City Auditor, City of Duluth, 411 West First Street, Duluth, MN 55802.

Resolution 15-0117 was unanimously adopted.

Approved February 23, 2015  
DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 15-0081, authorizing an agreement with Forecast Public Art for professional services in preparing a long-term strategic plan for creative and cultural development of the city for an amount not to exceed \$50,000, was introduced by Councilor Russ.

The rules were suspended upon a unanimous vote to hear from a speaker on the resolution.

Mary Matthews spoke in support of the resolution.

Resolution 15-0081 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter into a professional service agreement with Forecast Public Art, substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0223-23, for the preparation of a long-term strategic plan for public art in the city of Duluth with a three to five year actionable plan for an amount not to exceed \$50,000, payable from Duluth Public Arts 745, Public Administration 015, Other Professional Services 5319.

Resolution 15-0081 was unanimously adopted.

Approved February 23, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into an agreement substantially in the form of that on file in the office of the city clerk as Document No. 6982-0044 with the Minnesota department of transportation granting the city a limited use permit for the construction, operation and maintenance of a section of Phase IV of the Cross City Trail in the state's right-of-way for Trunk Highway 35 (I-35).

Resolution 15-0102 was unanimously adopted.

Approved February 23, 2015

DON NESS, Mayor

- - -

BY COUNCILOR JULSRUD:

WHEREAS, The Great Lakes Restoration Initiative ("GLRI") was launched to accelerate efforts to restore and protect the largest system of fresh water in the world - the Great Lakes; and

WHEREAS, the GLRI was first funded by the United States Congress in fiscal year 2010. In addition, congress has historically recognized the need for restoration funding by approving the Great Lakes water quality agreement with Canada in 1972; and

WHEREAS, support for the GLRI is an acknowledgment that the protection and restoration of the Great Lakes is inextricably linked to the economic vitality and public health of the Great Lakes region; and

WHEREAS, GLRI funding supports efforts to restore the Great Lakes by investing in projects to clean up toxic pollution, restore habitat and wetlands, combat invasive species, and prevent harmful runoff from farms and cities; and

WHEREAS, although the GLRI has created a clear pathway to de-listing the St. Louis River area of concern by the year 2025, the citizens of the city of Duluth realize that work remains to be done for full restoration and complete de-listing of the St. Louis River area of concern; and

WHEREAS, the restoration of the environmental quality of the Great Lakes, and in particular, Lake Superior, is a direct benefit to the city of Duluth, which utilizes Lake Superior as its source of potable water, and bases a substantial part of its tourism efforts on the recreational

opportunities provided by the city's location on the shore of Lake Superior and the St. Louis River estuary.

THEREFORE, BE IT RESOLVED, that the city of Duluth urges the United States Congress and President Obama to continue fully funding the GLRI at the current level of \$300 million.

Resolution 15-0120 was unanimously adopted.

Approved February 23, 2015

DON NESS, Mayor

- - -

THE CITY COUNCIL FINDS:

(a) That the city of Duluth is undertaking a project to develop 6.5 additional miles of the Duluth Traverse Trail; and

(b) The Minnesota department of natural resources (DNR) has grant monies available through its federal recreational trail program that are intended to accelerate the acquisition and development of recreational trails; and

(c) To receive this money the city must submit the federal recreational trail grant application to the Minnesota department of natural resources.

RESOLVED, that the proper city officials are hereby authorized to submit an application to the Minnesota department of natural resources for funding to develop additional sections of the Duluth Traverse Trail as described in the application.

FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the money, and the financial, technical and managerial capacity to ensure proper construction, operation and maintenance of the project for no less than 20 years.

FURTHER RESOLVED, that the city of Duluth estimates the grant amount to be \$150,000 and has local matching funds available through city of Duluth half and half tax of \$150,000.

FURTHER RESOLVED, that if the city of Duluth is awarded a grant by the Minnesota department of natural resources, the city of Duluth agrees to accept the grant award and may enter into an agreement with the state of Minnesota for the above referenced project. The city of Duluth will comply with all applicable laws, environmental requirements and regulations stated in the grant agreement.

FURTHER RESOLVED, that the city council of the city of Duluth names the fiscal agent for the city of Duluth for this project as: Wayne Parson, City Auditor, City of Duluth, 411 West First Street, Duluth, Minnesota 55802.

Resolution 15-0105 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved February 23, 2015

DON NESS, Mayor

- - -

WHEREAS, the city is creating a cross city trail system (Cross City Trail) as a combination pedestrian and bicycle trail from the Lakewalk on the east side of the city to the Munger Trail on the west side of the city to promote an active lifestyle for the citizens and visitors of the city; and

WHEREAS, the city is also creating the Duluth Traverse trail system (Duluth Traverse) which is a multi-use single-track trail that is purpose-built for mountain biking and traverses the entire 26 mile length of the city of Duluth; and

WHEREAS, the city entered into a grant agreement with the United States department of agriculture, forest service, northeastern area, state and private forestry, to fund invasive species removal, fill placement and plantings in the amount of \$400,000 for property located at the Duluth, Winnipeg, Pacific Railway property (DWP site) in West Duluth; and

WHEREAS, the property to be acquired from the state of Minnesota, department of transportation (MnDOT), is a critical acquisition for implementation of Cross City Trail, the Duluth Traverse and the invasive species removal project.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to accept from MnDOT a quitclaim deed for property legally described therein, substantially in the form of that on file in the office of the clerk as Public Document No. 15-0223-24, at no cost to the city.

FURTHER RESOLVED, that the proper city officials are authorized to execute all documents necessary to effectuate the acquisition of the property from MnDOT.

Resolution 15-0116 was unanimously adopted.

Approved February 23, 2015

DON NESS, Mayor

- - -

Resolution 15-0119, by Councilor Sipress and President Larson, endorsing the recommendations of the Lakewalk task force and requesting that the city administration conduct a feasibility study and implement the short-term recommendations made by the Lakewalk task force, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear from speakers on the resolution.

Craig Wilson, Carol Burns, Judy Gordon, Lezlie Oakes, Eric Viken, Pete and Angela Olson, Robert Ryan, Henry Roberts, Alison Clarke and Jackie Falk spoke of their concerns or support for the resolution.

Resolution 15-0119 was adopted as follows:

BY COUNCILOR SIPRESS AND PRESIDENT LARSON:

WHEREAS, the Duluth City Council via Resolution 14-0451 established the Lakewalk task force for the purpose of reviewing and making recommendations regarding the Lakewalk in the vicinity of 19th Avenue East and 25th Avenue East with a focus on 1) safety issues at the intersection of the Lakewalk, 23rd Avenue East, and Water Street; 2) pedestrian access to the lakefront; 3) Americans with Disabilities Act (ADA) issues; and 4) the cost, benefits and funding sources of potential options; and

WHEREAS, the Duluth City Council has received the final report of the Lakewalk task force; and

WHEREAS, the recommendations of the task force offer a thoughtful balance among public access, respect for the concerns of immediate neighbors, safety and accessibility for all users; and

WHEREAS, the recommendations offer a positive resolution to an issue of longstanding controversy.

THEREFORE, BE IT RESOLVED, that the Duluth City Council endorses the recommendations of the Lakewalk task force.

FURTHER RESOLVED, that the Duluth City Council asks the city administration to conduct a feasibility study of the Lakefront Pedestrian Trail recommendation as described in the task force report with a focus both on cost and technical feasibility.

FURTHER RESOLVED, that the Duluth City Council asks the city administration to implement low-cost short-term measures, as called for in the task force report, to improve bicycle and pedestrian safety at the intersection of Water Street, 23rd Avenue East and the Lakewalk.

FURTHER RESOLVED, that the Duluth City Council asks the city administration to pursue a redesign of the intersection of Water Street, 23rd Avenue East and the Lakewalk, along with the segment of the Lakewalk to the immediate east of the intersection, as described in the task force report, in the context of the forthcoming Water Street project.

FURTHER RESOLVED, that upon final implementation of the recommendations of the Lakewalk task force, the Duluth City Council shall consider the issues regarding the Lakewalk in the area between 19th Avenue East and 25th Avenue East to be fully resolved.

FURTHER RESOLVED, that if at a future date the Duluth City Council determines that the Lakefront Pedestrian Trail recommendation, as described in the task force report, cannot be constructed, the council finds that the easement currently held by the city of Duluth in the front of the Point Condominiums, Beacon Pointe Resort and Lighthouse Condominiums should be vacated by the city subject to the requirements of the Charter.

Resolution 15-0119 was adopted upon the following vote:

Yeas: Councilors Filipovich, Gardner, Julsrud, Krug, Russ, Sipress and President Larson -- 7

Nays: Councilors Fosle and Hanson -- 2

Approved February 23, 2015

DON NESS, Mayor

- - -

## **INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR RUSS

15-009 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM MU-N TO MU-B THE PROPERTY LOCATED ALONG THE NORTH AND SOUTH SIDES OF AIRPORT ROAD BETWEEN AIRPORT APPROACH ROAD AND US TRUNK HIGHWAY 53 (CITY OF DULUTH).

- - -

INTRODUCED BY COUNCILOR RUSS

15-010 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-2 TO R-P THE PROPERTY LOCATED AT THE CAMPUS PARK LOW DENSITY PLANNED DEVELOPMENT (CITY OF DULUTH).

- - -

INTRODUCED BY COUNCILOR RUSS

15-011 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-P THE PROPERTY LOCATED AT THE FOUNTAIN GATE (FORMERLY AUTUMN LEAVES) LOW DENSITY PLANNED DEVELOPMENT (CITY OF DULUTH).

- - -



INTRODUCED BY COUNCILOR RUSS

15-012 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1, RR-1 AND RR 2 TO P-1 FOR AMITY, AMITY CREEK, LESTER/AMITY, KITCHI GAMMI AND UNIVERSITY PARKS (CITY OF DULUTH).

- - -

INTRODUCED BY COUNCILOR SIPRESS

15-013 - AN ORDINANCE DEDICATING RIGHT-OF-WAY FOR TRAIL PURPOSES FOR CERTAIN PROPERTY IN WEST DULUTH.

- - -

The meeting was adjourned at 8:50 p.m.

JEFFREY J. COX, City Clerk

**MINUTES OF THE REGULAR MEETING  
OF THE DULUTH CITY COUNCIL**

March 9, 2015

Duluth City Council meeting held on Monday, March 9, 2015, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Absent: None -- 0

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The minutes of the council meetings held on December 8 and 15, 2014, were approved upon a unanimous vote.

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

15-0309-06 Duluth Preservation Alliance communication regarding the current library building (15-0107R). -- Received

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**REPORTS FROM OTHER OFFICERS**

15-0309-01 Acting assessor letter of sufficiency regarding petition for repair and completion of road, stormwater utility features and other public improvements to meet the requirements of the approved plans for Eastridge Estates and for city acceptance of the road and public improvements in Eastridge Estates. -- Received

15-0309-02 Clerk applications to the Minnesota gambling control board for: (a) Excluded bingo from St. Elizabeth's Catholic Church on March 22, 2015; (b) Exempt permit from St. Luke's Foundation on July 13, 2015. -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

15-0309-03 Civil service board minutes of January 6, 2015, meeting. -- Received

15-0309-04 Duluth transit authority: (a) Minutes of December 3, 2014, meeting; (b) December 2014 financial statement. -- Received

15-0309-05 Library board minutes of January 27, 2015, meeting. -- Received

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**OPPORTUNITY FOR CITIZENS TO BE HEARD**

Rebecca Haavik presented a report on the services of AmeriCorps in Duluth (Public Document No. 15-0309-09).

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Myrna Matheson, Ann Redelfs, Marge Wolters and Lucius Oliver commented on their displeasure with the issue of removing the trees for the upcoming Fourth Street reconstruction and that an alternative is available (Public Document No. 15-0309-10).

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**RESOLUTIONS TABLED**

Councilor Hanson moved to remove Resolution 15-0071, authorizing the purchase of equipment from Boyer Trucks in the amount of \$114,475.52, from the table, which motion was seconded and carried unanimously.

Resolution 15-0071 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to purchase a 2015 Western Star 4700SF 6x4 chassis, State Contract No. 77960, for a total amount of \$114,475.52, payable as follows:

\$11,447.56 - Water 510, Public Works and Utilities 500, Capital (including depreciation/debt service) 1905, Capital Equipment 5580;

\$11,447.56 - Gas 520, Public Works and Utilities 500, Capital (including depreciation/debt service) 1905, Capital Equipment 5580;

\$45,790.20 - Sewer 530, Public Works and Utilities 500, Capital (including depreciation/debt service) 1905, Capital Equipment 5580;

\$45,790.20 - Stormwater 535, Public Works and Utilities 500, Capital (including depreciation/debt service) 1905, Capital Equipment 5580.

Resolution 15-0071 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved March 9, 2015

DON NESS, Mayor

- - -

Councilor Hanson moved to remove Resolution 15-0078, authorizing the purchase of equipment from Macqueen Equipment, Inc., in the amount of \$212,227.88, from the table, which motion was seconded and carried unanimously.

Resolution 15-0078 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to purchase a Vactor Jetter Rodder, State Contract No. 74590, for a total amount of \$212,227.88, payable as follows:

\$21,222.78 - Water 510, Public Works and Utilities 500, Capital (including depreciation/debt service) 1905, Capital Equipment 5580;

\$21,222.78 - Gas 520, Public Works and Utilities 500, Capital (including depreciation/debt service) 1905, Capital Equipment 5580;

\$84,891.16 - Sewer 530, Public Works and Utilities 500, Capital (including depreciation/debt service) 1905, Capital Equipment 5580;

\$84,891.16 - Stormwater 535, Public Works and Utilities 500, Capital (including depreciation/debt service) 1905, Capital Equipment 5580.

Resolution 15-0078 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved March 9, 2015

DON NESS, Mayor

- - -

## **MOTIONS AND RESOLUTIONS**

### **CONSENT AGENDA**

(All matters listed under the consent agenda were considered routine and/or noncontroversial and were enacted by one unanimous motion.)

President Larson moved passage of the consent agenda, which motion was seconded and unanimously carried.

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the Spirit Mountain recreation area authority ("authority") which allows the authority to participate in the city's self insurance fund for a one-year term, effective January 1, 2015, for purposes of liability arising from the authority's amusement ride operations. The agreement shall be substantially in the form of Public Document No. 15-0309-07, on file in the office of the city clerk. The authority shall pay an annual administrative fee of \$2,000 to be deposited into the city's Self Insurance Fund 610-036-1658.

Resolution 15-0125 was unanimously adopted.  
 Approved March 9, 2015  
 DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to purchase access and revenue control equipment from Harstad Controls to be installed by the vendor. This resolution covers the purchase of the equipment for an amount of \$524,690 and labor charges not to exceed \$96,409, for a total amount not to exceed \$621,099; payable from Capital Equipment 250; Public Administration 015; Fiscal Year 2015; Capital Equipment 5580; Project: CE250-E1511 - Capital Equipment Fund 250, parking payment technology.

Resolution 15-0126 was unanimously adopted.  
 Approved March 9, 2015  
 DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing lawful gambling exemptions to Churches United in Ministry (CHUM) and St. Louis/Carlton County Pheasants Forever and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a copy of this resolution to the Minnesota gambling control board immediately after its passage.

Resolution 15-0142 was unanimously adopted.  
 Approved March 9, 2015  
 DON NESS, Mayor

- - -

RESOLVED, that the city council hereby change the total expenditure of the 2015 CDBG program by an amount of \$14,524 due to a decrease in the allocation to the city by HUD, and authorizes changes to contracts as set forth below:

2015 CDBG PROGRAM - FUND 262, AGENCY 020, OBJECT 5434, PROJECT CD15CD

<u>SUBPROJECT</u>	<u>ACTIVITY</u>	<u>PROJECT</u>	<u>AMOUNT</u>	<u>NEW GRANT</u>	<u>DIFFERENCE</u>
PSVC	H007	Coordinated assessment	\$ 42,000	\$ 37,000	(\$5,000)
PSVC	H008	Housing & stabilization services fund	\$ 55,987	\$ 49,368	(\$6,619)
ADMC	AD01	CDBG program administration	\$424,947	\$422,042	(\$2,905)

Resolution 15-0127 was unanimously adopted.  
 Approved March 9, 2015  
 DON NESS, Mayor

- - -

RESOLVED, that the city council hereby change the total expenditure of the 2015 HOME program by an amount of \$63,586 due to a decrease in the allocation to the city by HUD, and authorizes changes to contracts as set forth below:

2015 HOME PROGRAM - FUND 260, AGENCY 020, OBJECT 5434, PROJECT CD15HM

<u>SUBPROJECT</u>	<u>ACTIVITY</u>	<u>PROJECT</u>	<u>AMOUNT</u>	<u>NEW GRANT</u>	<u>DIFFERENCE</u>
GN15	1736	Homeless Rental Asst. Program (TBRA) - HRA	\$130,000	\$115,000	(\$15,000)
GN15	1737	TBRA Admin - HRA	\$ 8,500	\$ 6,500	(\$ 2,000)
GN15	1738	Housing Rehab-Housing Resource Connection - HRA	\$333,034	\$300,806	(\$32,228)
CH15	1226	Housing Predevelopment - Center	\$ 27,000	\$ 17,000	(\$10,000)
GN15	AD03	City Housing Program Admin - city	\$ 45,948	\$ 41,590	(\$ 4,358)

Resolution 15-0128 was unanimously adopted.  
 Approved March 9, 2015  
 DON NESS, Mayor

- - -

RESOLVED, that the city council hereby change the total expenditure of the 2015 ESGP program by an amount of \$14,453 due to an increase in the allocation to the city by HUD, and authorizes changes to contracts as set forth below:

2015 ESGP PROGRAM - FUND 262, AGENCY 020, OBJECT 5434, PROJECT CD15ES

<u>SUBPROJECT</u>	<u>PROJECT</u>	<u>AMOUNT</u>	<u>NEW GRANT</u>	<u>DIFFERENCE</u>
HS-08	Housing stabilization benchmarks	\$51,800	\$63,132	\$11,332
AD-05	Prevention & rapid re-housing assistance - HRA	\$67,963	\$70,000	\$ 2,037
AD-04	Program administration - city	\$13,789	\$14,873	\$ 1,084

Resolution 15-0129 was unanimously adopted.  
 Approved March 9, 2015  
 DON NESS, Mayor

- - -

RESOLVED, that plans for Project No. 069-690-013 showing proposed alignments, profiles, grades and cross sections for the construction, reconstruction or improvement of County State Aid Highway No. 90 (Arlington Avenue) within the limits of the city of Duluth as a state aid project, have been prepared and presented to the city, and that said plans be in all things approved.

Resolution 15-0121 was unanimously adopted.  
 Approved March 9, 2015  
 DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth has applied to the commissioner of transportation for a grant from the Minnesota state transportation fund for the rehabilitation of Bridge No. 91143 located on Third Street at Chester Creek, City Project No. 1175.

FURTHER RESOLVED, that the grant has been approved and that the amount of the grant is \$834,602.90.

FURTHER RESOLVED, that the city of Duluth agrees to the terms and conditions of the grant consistent with Minnesota Statutes, Section 174.50, subdivision 5, clause (3), and will pay any added amount by which the cost exceeds the estimate, and will return to the Minnesota state transportation fund any amount appropriated for the project but not required. The proper city officials are hereby authorized to execute a grant agreement concerning the above referenced grant. Grant monies shall be deposited into Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges) Object 5403 (street repair and maintenance), City Project No. 1175, S.A.P. 118-126-020, Flood Site No. 537.

Resolution 15-0131 was unanimously adopted.

Approved March 9, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to renew the CodeRED service agreement (Agreement No. 22025) and renewing the CodeRED weather warning service addendum (Agreement No. 22026) with Emergency Communications Network, LLC for the provision of simultaneous notification to specified data bases which will include city staff and members of the public of information or directives needing high-speed and targeted capability in the amount of \$29,500, payable in the following amounts from the following funds:

210-030-3164-5441 (special projects, finance, homeland security, emergency management)	\$19,750.00
510-500-1915-5441 (water, public works and utilities utility general expenses, other services and charges)	\$2,437.50
520-500-1915-5441 (gas, public works and utilities utility general expenses, other services and charges)	\$ 2,437.50
530-500-1915-5441 (sewer, public works and utilities utility general expenses, other services and charges)	\$ 2,437.50
535-500-1915-5441 (stormwater, public works and utilities utility general expenses, other services and charges)	\$ 2,437.50

Resolution 15-0124 was unanimously adopted.

Approved March 9, 2015

DON NESS, Mayor

- - -

RESOLVED, that Resolution 14-0599 adopting license, permit, fine, penalty and other charges for 2015, be amended by amending the fee schedule for Bayfront Festival Park.

<b>Parks and Recreation</b>	
<b>Fee Name</b>	<b>2015 Fee</b>
Bayfront Festival Park- use of Bayfront Family Center- Usage fee per day	\$150

**Parks and Recreation**

Bayfront Festival Park- use of Bayfront Park Plaza- Usage fee per day	\$500
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Resolution 15-0132 was unanimously adopted.  
Approved March 9, 2015  
DON NESS, Mayor

- - -

The following resolutions were also considered:

RESOLVED, that proper city officials are hereby authorized to accept a donation from the Spirit Valley Land Company in the amount of \$20,000 for the preparation of the Kayak Bay small area plan with funds to be deposited in Fund 110-132-1301-4654-02 (general fund, planning and construction services, planning and development, other reimbursements).

Resolution 15-0123 was adopted upon the following vote:

Yeas: Councilors Filipovich, Fosle, Hanson, Julsrud, Krug, Russ and President Larson -- 7

Nays: Councilors Gardner and Sipress -- 2

Approved March 9, 2015

DON NESS, Mayor

- - -

Resolution 15-0130, amending Resolution 14-0599, adopting license, permit, fine, penalty and other charges for 2015, to amend the 2015 fee schedule to adopt a filing fee for appeals to the city council of stormwater utility fee adjustment denials, was introduced by Councilor Julsrud.

Councilor Julsrud moved to table the resolution so that it could be considered with Ordinance 15-016 at the next council meeting, which motion was seconded and carried unanimously.

- - -

BY COUNCILOR JULSRUD:

WHEREAS, the city of Duluth has an extensive street system with roughly 450 miles of streets; and

WHEREAS, nearly 85 percent of municipal streets are ineligible for dedicated highway user tax distribution fund dollars; and

WHEREAS, reconstructing city streets can cost up to \$2 million per mile; and

WHEREAS, since the city of Duluth's primary source of street funding was abruptly cut off in 2009, the city has struggled to finance the repair and improvement of its streets; and

WHEREAS, existing funding mechanisms, such as municipal state aid (MSA), property taxes and special assessments, have limited applications, leaving all Minnesota cities straining to address growing street maintenance and construction needs; and

WHEREAS, maintenance costs increase as road systems age, and no city - large or small - is spending enough on roadway capital improvements to maintain a 50 year life cycle; and

WHEREAS, city cost participation in state and county highway projects diverts resources from city-owned streets; and

WHEREAS, Duluth and all Minnesota cities need greater resources, including an additional dedicated state funding source for transportation and flexible policies in order to meet growing demands for street capital improvements.

THEREFORE, BE IT RESOLVED, that the city of Duluth supports the League of Minnesota Cities' efforts to promote an omnibus transportation funding bill that provides additional

dedicated state funding for city streets, including funding that can be used for non-MSA city street maintenance, construction and reconstruction.

Resolution 15-0148 was unanimously adopted.

Approved March 9, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with TKDA, substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0309-08, for professional services in the Duluth public library facilities conceptual pre-design study, for an amount not to exceed \$80,000, payable from Orlich Estate Library Trust 242, Library 300, Other Professional Services 5319.

Resolution 15-0107 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved March 9, 2015

DON NESS, Mayor

- - -

### **INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR RUSS

15-014 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF PROPERTY IN LAKESIDE TO KNUTSON CUSTOM CONSTRUCTION, LLC, FOR RESIDENTIAL REDEVELOPMENT.

- - -

INTRODUCED BY COUNCILOR JULSRUD

15-015 - AN ORDINANCE REDEDICATING A STREET EASEMENT OVER A PORTION OF VACATED EIGHTH AVENUE WEST.

- - -

INTRODUCED BY COUNCILOR JULSRUD

15-016 - AN ORDINANCE AMENDING SECTION 43-67 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO REQUIRE THE PAYMENT OF A FILING FEE WHEN APPEALING THE DENIAL OF A STORMWATER UTILITY FEE ADJUSTMENT BY THE DIRECTOR OF PUBLIC WORKS AND UTILITIES.

- - -

INTRODUCED BY COUNCILOR JULSRUD

15-017 - AN ORDINANCE AMENDING SECTION 43-65 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO INCORPORATE THE DEFINITION OF IMPERVIOUS SURFACE PROVIDED FOR IN SECTION 50-41.9 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

At this time, Councilor Gardner left the meeting.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR RUSS

15-009 (10355) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM MU-N TO MU-B THE



PROPERTY LOCATED ALONG THE NORTH AND SOUTH SIDES OF AIRPORT ROAD BETWEEN AIRPORT APPROACH ROAD AND US TRUNK HIGHWAY 53 (CITY OF DULUTH).

Councilor Russ moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

At this time, Councilor Gardner returned to the meeting.

- - -

INTRODUCED BY COUNCILOR RUSS

15-010 (10356) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-2 TO R-P THE PROPERTY LOCATED AT THE CAMPUS PARK LOW DENSITY PLANNED DEVELOPMENT (CITY OF DULUTH).

Councilor Russ moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR RUSS

15-011 (10357) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-P THE PROPERTY LOCATED AT THE FOUNTAIN GATE (FORMERLY AUTUMN LEAVES) LOW DENSITY PLANNED DEVELOPMENT (CITY OF DULUTH).

Councilor Russ moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR RUSS

15-012 (10358) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1, RR-1 AND RR-2 TO P-1 FOR AMITY, AMITY CREEK, LESTER/AMITY, KITCHI GAMMI AND UNIVERSITY PARKS (CITY OF DULUTH).

Councilor Russ moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR SIPRESS

15-013 (10359) - AN ORDINANCE DEDICATING RIGHT-OF-WAY FOR TRAIL PURPOSES FOR CERTAIN PROPERTY IN WEST DULUTH.

Councilor Sipress moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

The meeting was adjourned at 8:23 p.m.

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10355**

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM MU-N TO MU-B THE PROPERTY LOCATED ALONG THE NORTH AND SOUTH SIDES OF AIRPORT ROAD BETWEEN AIRPORT APPROACH ROAD AND US TRUNK HIGHWAY 53 (CITY OF DULUTH).

The city of Duluth does ordain:

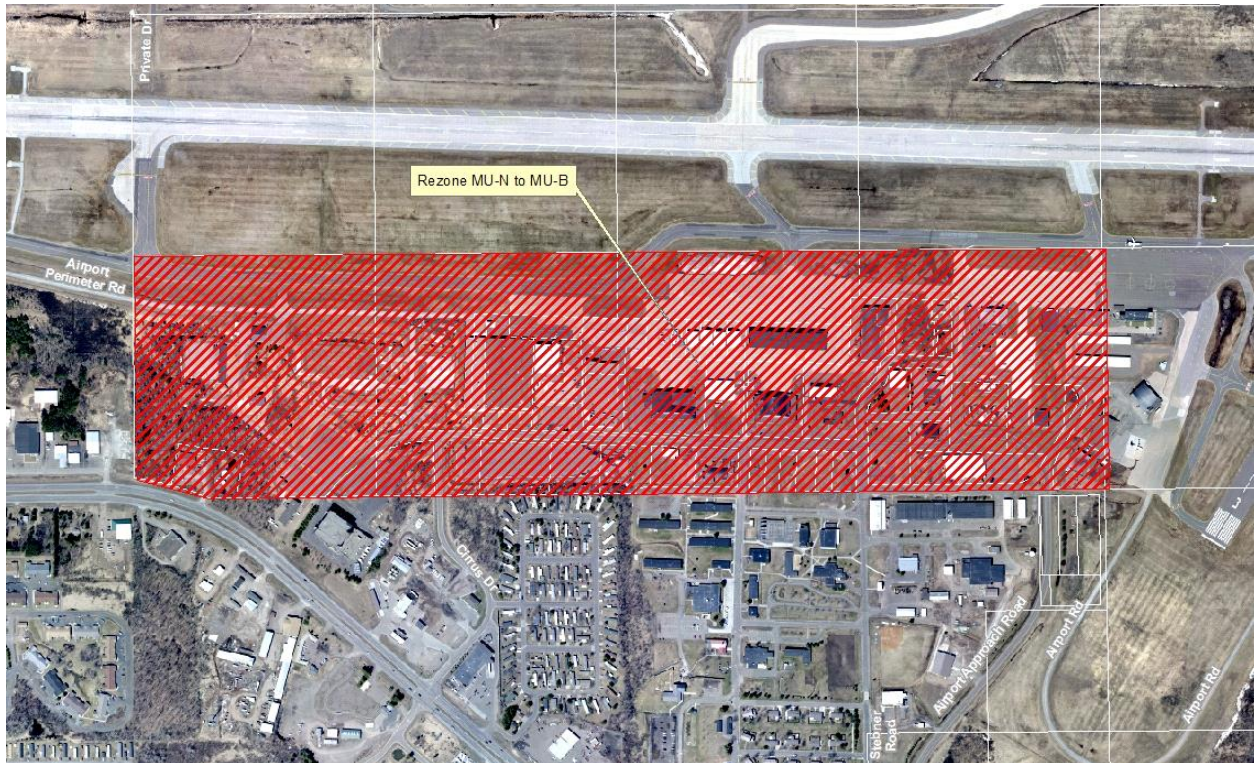
Section 1. That 197 acres of land located on the north and south side of Airport Road and as more particularly described as follows:

That part of Township 50 North, Range 15 West of the 4th Principle Meridian, described as follows:

- Southeast Quarter of Southwest Quarter of Section 1;
- Southwest Quarter of Southwest Quarter of Section 1;
- Southeast Quarter of Southeast Quarter of Section 2;
- Southwest Quarter of Southeast Quarter of Section 2;
- Southeast Quarter of Southwest Quarter of Section 2, except for US Trunk

Highway 53 right-of-way;

be reclassified from Mixed Use-Neighborhood (MU-N) to Mixed Use-Business (MU-B) and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, as amended, is amended to read as follows:



(Ref. File No. 15-004)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 10, 2015)

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

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

Nays: None -- 0

Absent: Councilor Gardner -- 1

Passed March 9, 2015

Approved March 9, 2015

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

### ORDINANCE NO. 10356

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-2 TO R-P THE PROPERTY LOCATED AT THE CAMPUS PARK LOW DENSITY PLANNED DEVELOPMENT (CITY OF DULUTH).

The city of Duluth does ordain:

Section 1. That the 13.37 acres of the Campus Park low density planned development property located on the east side of Rice Lake Road and north of Barnes Road and as more particularly described as follows:

Parcel ID: 010-2710-03947

PART OF SE1/4 OF NW1/4 DESCRIBED AS FOLLOWS COMM AT N 1/4 COR OF SEC 16 THENCE S00DEG02' 06"W ALONG E LINE OF FORTY 1314.79 FT TO NE COR OF SE1/4 OF NW1/4 THENCE CONT ALONG E LINE 501.76 FT THENCE S89DEG30'52"W 36 FT THENCE S00DEG02'06"W 764.03 FT THENCE S89DEG 30'52"W 189.49 FT TO PT OF BEG THENCE CONT S89DEG30'52"W 267.69 FT THENCE N06DEG26'59"W 27.06 FT ALONG ELY R.O.W. OF RICE LAKE RD THENCE S83DEG33'01"W 48.01 FT ALONG R.O.W. THENCE N58DEG18'58"W 78.66 FT ALONG R.O.W. THENCE N20DEG10'59"W 239.07 FT ALONG R.O.W. THENCE N69DEG40'21"E 129.13 FT THENCE N90DEG 00'00"E 346.84 FT THENCE S00DEG00'45"W 329.80 FT TO PT OF BEG

Parcel ID: 010-2710-03946

PART OF SE1/4 OF NW1/4 DESCRIBED AS FOLLOWS COMM AT N 1/4 OF SEC 16 THENCE S00DEG02'06"W ALONG E LINE OF NW COR 1314.79 FT TO NE COR OF FORTY BEING PT OF BEG THENCE S00DEG02'06"W ALONG E LINE 1314.79 FT TO SE COR OF NW1/4 THENCE S89DEG30'52"W ALONG S LINE OF NW COR 487.62 FT THENCE N06DEG26'59"W ALONG ELY R.O.W. OF RICE LAKE RD 76.33 FT THENCE S83DEG 33'01"W ALONG R.O.W. 48.01 FT THENCE N58DEG 18'58"W ALONG R.O.W. 78.66 FT THENCE N20DEG10'59"W ALONG ELY R.O.W. OF RICE LAKE RD 419.90 FT THENCE N42DEG56'14"E 1110.54 FT TO NE COR OF SE1/4 OF NW1/4 BEING PT OF BEG EX S 49 FT LYING E OF ELY R.O.W. OF RICE LAKE RD & EX E 36 FT OF N 764 FT OF S 813 FT & EX COMM AT N1/4 OF SEC 16 THENCE S00DEG02'06"W ALONG E LINE OF NW1/4 1314.79 FT TO NE COR OF SE1/4 OF NW1/4 THENCE CONT ALONG E LINE 501.76 FT THENCE S89DEG30'52"W 36 FT THENCE S00DEG02'06"W 764.03 FT THENCE S89DEG30'52"W 189.49 FT TO PT OF BEG THENCE CONT S89DEG30' 52"W 267.69 FT THENCE N06DEG26'59"W 27.06 FT ALONG ELY R O W OF RICE LAKE RD THENCE S83DEG33'01"W 48.01 FT ALONG R O W THENCE N58DEG18'58"W 78.66 FT ALONG R O W THENCE N20DEG10'59"W 239.07 FT ALONG R O W THENCE N69DEG40'21"E 129.13 FT THENCE N90DEG00'00"E 346.84 FT THENCE S00DEG00'45"W 329.80 FT TO PT OF BEG;

be reclassified from Residential-Urban (R-2) to Residential-Planned (R-P) and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, as amended, is amended to read as follows:



(Ref. File No. 14-180)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 10, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed March 9, 2015  
Approved March 9, 2015  
DON NESS, Mayor

- - -

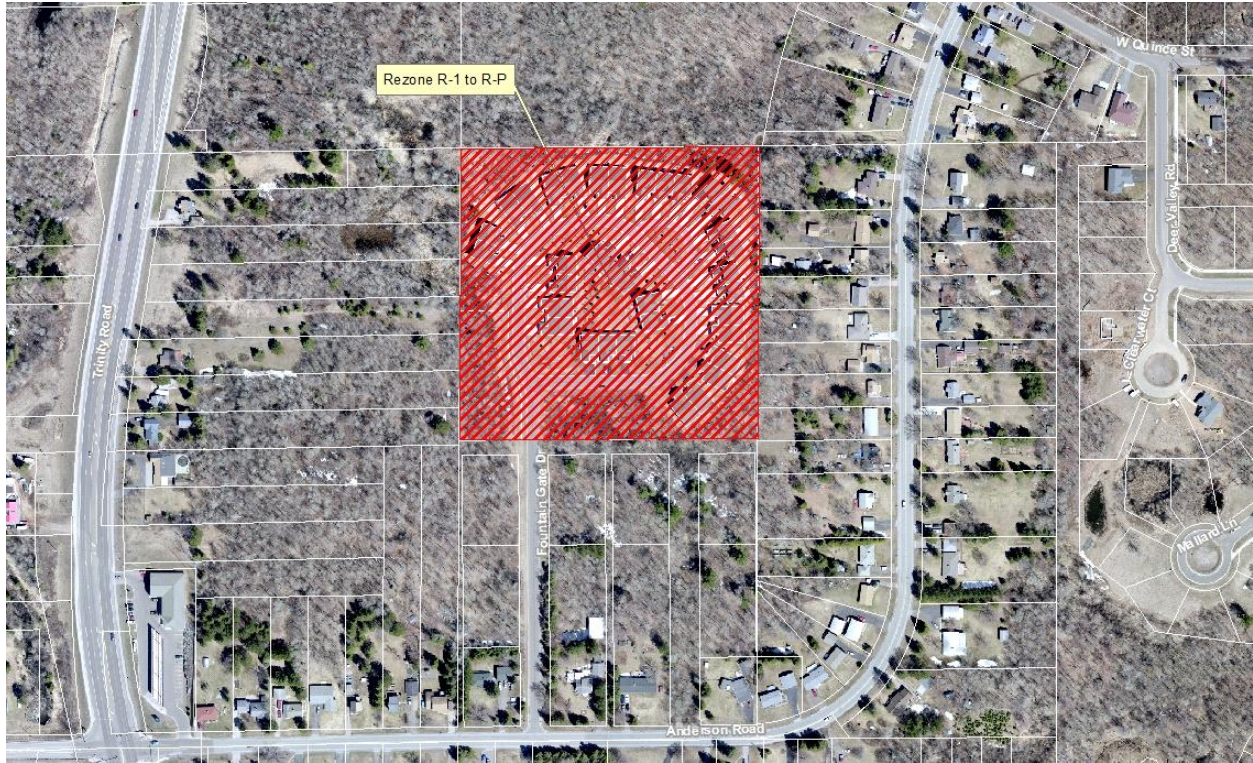
### **ORDINANCE NO. 10357**

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-P THE PROPERTY LOCATED AT THE FOUNTAIN GATE (FORMERLY AUTUMN LEAVES) LOW DENSITY PLANNED DEVELOPMENT (CITY OF DULUTH).

The city of Duluth does ordain:

Section 1. That the 9.75 acres of the Fountain Gate (formerly Autumn Leaves) low density planned development property located north and east of Anderson Road and as more particularly described as follows:

Northwest Quarter of Southwest Quarter of Southwest Quarter of Section 20, Township 50 North, Range 14 West, St. Louis County; be reclassified from Residential-Traditional (R-1) to Residential-Planned (R-P) and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, as amended, is amended to read as follows:



(Ref. File No. 15-003)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 10, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed March 9, 2015  
Approved March 9, 2015  
DON NESS, Mayor

- - -

**ORDINANCE NO. 10358**

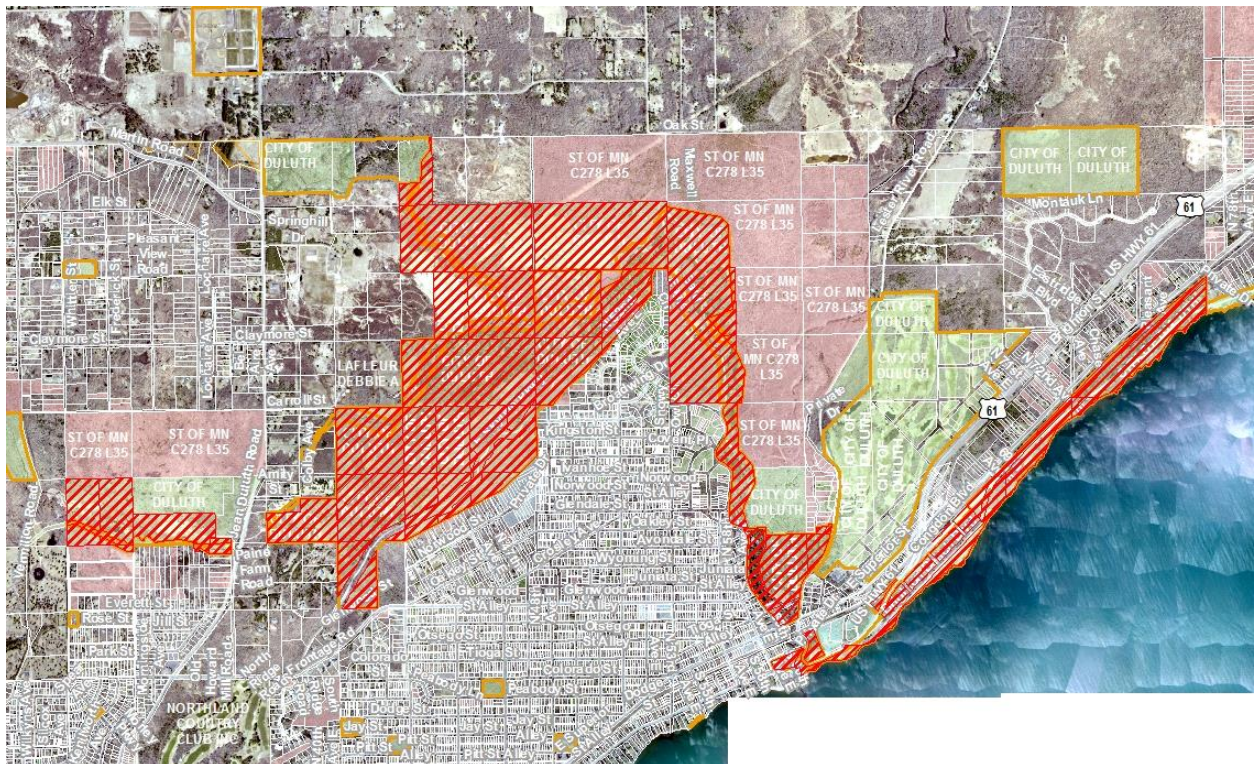
AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1, RR-1 AND RR-2 TO P-1 FOR AMITY, AMITY CREEK, LESTER/AMITY, KITCHI GAMMI AND UNIVERSITY PARKS (CITY OF DULUTH).

The city of Duluth does ordain:

Section 1. That the subject properties located on located on the eastern and northeast portions of the city and as more particularly described as follows:

010-2690-01580	010-1410-00060	010-2690-00997
010-2690-01590	010-1410-00080	010-2690-00990
010-2680-00010	010-3790-00130	010-2690-01000
010-2680-00030	010-3790-00310	010-2680-00085
010-2680-00040	010-1390-02130	010-2680-00080
010-2680-00050	010-2690-01180	010-2680-00120
010-1400-00370	010-2690-01165	010-2680-00090
010-1400-00460	010-2690-01155	010-2680-00130
010-1400-00300	010-2690-01090	010-2680-00280
010-1400-00230	010-2690-01110	010-2680-00310
010-1400-00160	010-2690-01000	010-2680-00105
010-1400-00460	010-2119-00690	010-2680-00100
010-1400-00430	010-2690-01130	010-2680-00110
010-1400-00410	010-2690-01140	010-2680-00340
010-1400-00420	010-2690-00730	010-2710-00020
010-2680-00075	010-2690-00740	010-2710-00040
010-2710-00090	010-3450-00600	010-2710-00160
010-2710-00080	010-0100-01105	010-3450-00640

be reclassified from Residential-Traditional (R-1), Residential-Rural 1 (RR-1) and Residential-Rural 2 (RR-2) to Park and Open Space (P-1) and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, as amended, is amended to read as follows:



(Ref. File No. 15-002)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 10, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

Passed March 9, 2015

Approved March 9, 2015

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

### **ORDINANCE NO. 10359**

#### **AN ORDINANCE DEDICATING RIGHT-OF-WAY FOR TRAIL PURPOSES FOR CERTAIN PROPERTY IN WEST DULUTH.**

The city of Duluth does ordain:

Section 1. That the city of Duluth does hereby dedicate to the general public a perpetual easement for trail right-of-way purposes over, under and upon the following described property in St. Louis County, Minnesota:

Area 1. Plat of Replat of Wilmington Addition to West Duluth.

A 100 foot wide strip of land for trail purposes over, under, and across that part of the recorded plat of REPLAT OF WILMINGTON ADDITION TO WEST DULUTH, Section 13, Township 49 North, Range 15 West, Duluth, MN, more specifically described as follows:

Commencing at the North Quarter Corner of said Section 13, thence running southerly along the westerly line of the NW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of Section 13, T 49 N, R 15 W a distance of 164.6 feet; thence deflect 44 degrees 9 minutes right in a southwesterly direction for a distance of 1477.3 feet to the beginning of a 2 degree tangential curve concave to the southeast having a central angle of 14 degrees 22 minutes; thence southwesterly along said curve for a distance of 126.96 feet to the southerly line of said NE  $\frac{1}{4}$  of the NW  $\frac{1}{4}$ ; thence continuing along said curve for a distance of 352.30 feet to the westerly line of the SE  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 13 and the point of beginning of the centerline of the easement; thence continuing southwesterly on said 2 degree curve a distance of 239.07 feet to the beginning of a line tangent to said curve; thence southwesterly on said tangent for a distance of 799.62 feet to a point, thence deflect 5 degrees 21 minutes 46 seconds left for a distance of 173.40 feet to the southerly line of the SW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  and there terminating. Excepting therefrom lots 6,7,17, and 18, Block 9, said plat of replat of Wilmington Addition of West Duluth.

The sidelines of said easement shall be shortened or prolonged so as to terminate on the southerly and easterly lines of said SW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$ . Subject to restrictions and easements of record. Containing approximately 2.84 acres.

Area 2. Plat of Carlton Place Addition to Duluth.

A 100 foot wide strip of land for trail purposes over, under, and across that part of the recorded plat of CARLTON PLACE ADDITION TO DULUTH, Section 13, Township 49 North, Range 15 West, Duluth, MN, more specifically described as follows:

Commencing at the North Quarter Corner of said Section 13, thence running southerly along the westerly line of the NW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of Section 13, T 49 N, R 15 W a distance of 164.6 feet; thence deflect 44 degrees 9 minutes right in a southwesterly direction for a distance of 1477.3 feet to the beginning of a 2 degree tangential curve concave to the southeast having a central angle of 14 degrees 22 minutes; thence southwesterly along said curve for a distance of 126.96 feet to the southerly line of said NE  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  and the point of beginning of the centerline of the easement; thence continuing southwesterly along said curve for a distance of 352.30 feet to the westerly line of the SE  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 13 and there

terminating. Said point of termination being 278.57 feet southerly of the NW corner of said SE  $\frac{1}{4}$  of NW  $\frac{1}{4}$  as measured along the westerly line of said SE  $\frac{1}{4}$  of NW  $\frac{1}{4}$ .

The sidelines of said easement shall be shortened or prolonged so as to terminate on the northerly and westerly lines of said SE  $\frac{1}{4}$  of the NW  $\frac{1}{4}$ . Subject to restrictions and easements of record. Containing approximately 0.81 acres.

NE  $\frac{1}{4}$  of NW  $\frac{1}{4}$  of Section 13, T 49 N, R 15 W

A 100 foot wide strip of land for trail purposes over, under, and across that part of the NE  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 13, Township 49 North, Range 15 West, Duluth, MN, more specifically described as follows:

Commencing at the North Quarter Corner of said Section 13, thence running southerly along the westerly line of the NW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of Section 13, T 49 N, R 15 W a distance of 164.6 feet to the point of beginning of the centerline of the easement; thence deflect 44 degrees 9 minutes right in a southwesterly direction for a distance of 1477.3 feet to the beginning of a 2 degree tangential curve concave to the southeast having a central angle of 14 degrees 22 minutes; thence southwesterly along said curve for a distance of 126.96 feet to the southerly line of said NE  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  and there terminating.

The sidelines of said easement shall be shortened or prolonged so as to terminate on the southerly and easterly lines of said NE  $\frac{1}{4}$  of the NW  $\frac{1}{4}$ . Subject to restrictions and easements of record. Containing approximately 3.68 acres.

Plat of Clinton Place Addition to Duluth.

A 100 foot wide strip of land for trail purposes over, under, and across that part of the recorded plat of CLINTON PLACE ADDITION TO DULUTH, Section 13, Township 49 North, Range 15 West, Duluth, MN, more specifically described as follows:

Commencing at the North Quarter Corner of said Section 13, thence running southerly along the westerly line of the NW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  thereof a distance of 164.6 feet to the point of beginning of the centerline of the easement; thence deflect 135 degrees 51 minutes left in a northeasterly direction for a distance of 228.69 feet to the northerly line of said NW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  and there terminating.

The sidelines of said easement shall be shortened or prolonged so as to terminate on the northerly and westerly lines of said NW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$ . Subject to restrictions and easements of record. Containing approximately 0.53 acres.

Plat of Stowells Addition to West Duluth.

A 100 foot wide strip of land for trail purposes over, under, and across that part of the recorded plat of STOWELLS ADDITION TO WEST DULUTH, Section 12, Township 49 North, Range 15 West, Duluth, MN, more specifically described as follows:

Commencing at the South Quarter Corner of said Section 12, thence running southerly along the westerly line of the NW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of Section 13, T 49 N, R 15 W a distance of 164.6 feet; thence deflect 135 degrees 51 minutes left in a northeasterly direction for a distance of 228.69 feet to the northerly line of said NW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  and the point of beginning of the centerline of the easement; thence continuing northeasterly for a distance of 1374.01 feet to the beginning of a 1 degree 30 minute tangential curve concave to the southeast having a central angle of 2 degrees 42 minutes; thence northeasterly along said curve a distance of 152.02 feet to the southwesterly line of Interstate 35, and there terminating. Excepting therefrom all portions of the above described strip lying within Lot 8, Block 7 of said plat of STOWELLS ADDITION TO WEST DULUTH.

The sidelines of said easement shall be shortened or prolonged so as to terminate on the southerly line of said SW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 12 and the southwesterly line of Interstate 35. Subject to restrictions and easements of record. Containing approximately 3.48 acres.



Area 3. Plat of MacFarlanes Grassy Point Addition to Duluth.

A 100 foot wide strip of land for trail purposes over, under, and across that part of the recorded plat of MACFARLANES GRASSY POINT ADDITION TO DULUTH, Section 12, Township 49 North, Range 15 West, Duluth, MN, more specifically described as follows:

Commencing at the South Quarter Corner of said Section 12, thence running southerly along the westerly line of the NW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of Section 13, T 49 N, R 15 W a distance of 164.6 feet; thence deflect 135 degrees 51 minutes left in a northeasterly direction for a distance of 228.69 feet to the northerly line of said NW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$ ; thence continuing northeasterly for a distance of 1374.01 feet to the beginning of a 1 degree 30 minute tangential curve concave to the southeast having a central angle of 2 degrees 42 minutes; thence northeasterly along said curve a distance of 152.02 feet to the southwesterly line of Interstate 35; thence northeasterly along said curve 27.98 feet to the beginning of a 3 degree curve concave to the southeast with a central angle of 19 degrees 44 minutes; thence along said curve a distance of 116.07 feet to the easterly line of the SW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 12, thence continuing northeasterly along said curve 124.89 feet to the northeasterly line of Interstate 35 and the point of beginning of the centerline of the easement; thence northeasterly along said curve 99.84 feet to the northerly line of the SE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 12 and there terminating. Said point of termination being easterly along said northerly line 179.36 feet from the NW corner of the SE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$ .

The sidelines of said easement shall be shortened or prolonged so as to terminate on the northeasterly line of Interstate 35 and the northerly line of said SE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$ . Subject to restrictions and easements of record. Containing approximately 0.23 acres.

Plat of Dodges Addition to Duluth.

A 100 foot wide strip of land for trail purposes over, under, and across that part of the recorded plat of DODGES ADDITION TO DULUTH, Section 12, Township 49 North, Range 15 West, Duluth, MN, more specifically described as follows:

Commencing at the South Quarter Corner of said Section 12, thence running southerly along the westerly line of the NW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of Section 13, T 49 N, R 15 W a distance of 164.6 feet; thence deflect 135 degrees 51 minutes left in a northeasterly direction for a distance of 228.69 feet to the northerly line of said NW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$ ; thence continuing northeasterly for a distance of 1374.01 feet to the beginning of a 1 degree 30 minute tangential curve concave to the southeast having a central angle of 2 degrees 42 minutes; thence northeasterly along said curve a distance of 152.02 feet to the southwesterly line of Interstate 35; thence northeasterly along said curve 27.98 feet to the beginning of a 3 degree curve concave to the southeast with a central angle of 19 degrees 44 minutes; thence along said curve a distance of 116.07 feet to the easterly line of the SW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 12, thence northeasterly along said curve 124.89 feet to the northeasterly line of Interstate 35; thence northeasterly along said curve 99.84 feet to the northerly line of the SE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 12 and the point of beginning of the centerline of the easement; thence continuing northeasterly along said 3 degree curve a distance of 294.39 feet to the southerly line of Green Street and there terminating.

The sidelines of said easement shall be shortened or prolonged so as to terminate on the southerly line of said NE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$ , the southerly line of Green Street, and the westerly line of 63rd Avenue West. Subject to restrictions and easements of record. Containing approximately 0.68 acres.

Section 2. That this ordinance shall take effect 30 days after its passage and publication or upon the city acquiring fee title in the underlying property, whichever is later.

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed March 9, 2015  
Approved March 9, 2015  
DON NESS, Mayor

- - -

**MINUTES OF THE REGULAR MEETING  
OF THE DULUTH CITY COUNCIL**

March 23, 2015

Duluth City Council meeting held on Monday, March 23, 2015, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Absent: None -- 0

- - -

The minutes of council meetings held on January 12 and 26, 2015, were unanimously approved.

- - -

**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

15-0323-04 Lori Glad communication regarding the proposed Fourth Street reconstruction project (15-0154R). -- Received

15-0323-05 William Lynch communication regarding the proposed conveyance of property in Lakeside (15-014-O). -- Received

15-0323-01 The following communications regarding the proposed recreation and tourism projects in the St. Louis River corridor (15-0160R, 15-0161R and 15-0175R): (a) Susan Darley-Hill; (b) Duluth Cross-Country Ski Club; (c) Healthy Duluth; (d) Lake Superior Water Trail Association; (e) William Lynch; (f) Margaret Torgerson. -- Received

- - -

**REPORTS FROM OTHER OFFICERS**

15-0323-02 Clerk application for excluded bingo to the Minnesota gambling control board from Order of Ahepa Chapter #267 on May 3 and November 15, 2015. -- Received

- - -

**REPORTS OF BOARDS AND COMMISSIONS**

15-0323-03 Planning commission minutes of February 10, 2015, meeting. -- Received

- - -

At this time, 7:02 p.m., the public hearing regarding the proposed modification to Development District No. 17; approving the adoption of a modification to the tax increment financing (TIF) plans for TIF district Nos. 15, 19, 21, 24, 25, 26 and 27; and approving the establishment of TIF District No. 28 and the adoption of a TIF plan therefor was called to order.

No one appeared who wished to be heard so at this time, 7:03 p.m., the public hearing was closed and the regular order of business was resumed.

- - -

**REPORT OF COUNCIL OPEN ISSUES**

Councilor Fosle presented the March 2015 Duluth Distinguished Artists award to Todd Eckart for his accomplished skill to inspire others with his bygone era and current music performances.

Todd Eckart thanked the council and gave a musical sampling of days gone by.

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**RESOLUTION TABLED**

Councilor Julsrud moved to remove Resolution 15-0130, amending Resolution 14-0599, adopting license, permit, fine, penalty and other charges for 2015, to amend the 2015 fee schedule to adopt a filing fee for appeals to the city council of stormwater utility fee adjustment denials, from the table, which motion was seconded by Councilor Gardner and carried unanimously.

Councilor Fosle moved to amend the resolution to change the fee from "\$350" to "\$200," which motion was seconded by Councilor Gardner and carried upon the following vote:

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Krug, Sipress and President Larson -- 7

Nays: Councilors Julsrud and Russ -- 2

Resolution 15-0130, as amended, was adopted as follows:

RESOLVED, that Resolution 14-0599 adopting license, permit, fine, penalty and other charges for 2015 be amended by adopting the following filing fee for appeals to the city council of the director of public works decisions to deny utility fee adjustments described and established pursuant to Section 43-67 of the Duluth City Code, 1959, as amended; said new adopted filing fee shall be effective upon the effective date of Ordinance File No. 15-016.

Public Works and Utilities	
Fee Name	New 2014 Fee
Appeals to city council - stormwater utility fee	\$200.00

Resolution 15-0130, as amended, was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

Councilor Julsrud moved to suspend the rules to consider Ordinance 15-016 at this time, which motion was seconded and unanimously carried.

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**INTRODUCTION AND CONSIDERATION OF ORDINANCE**

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR JULSRUD

15-016-O (10360) - AN ORDINANCE AMENDING SECTION 43-67 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO REQUIRE THE PAYMENT OF A FILING FEE WHEN APPEALING THE DENIAL OF A STORMWATER UTILITY FEE ADJUSTMENT BY THE DIRECTOR OF PUBLIC WORKS AND UTILITIES.

Councilor Julsrud moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

**MOTIONS AND RESOLUTIONS**

**CONSENT AGENDA**

*(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)*

President Larson moved passage of the consent agenda, which motion was seconded and unanimously carried.

BE IT RESOLVED, that the Duluth City Council approves the following temporary expansion of the designated serving area of the on sale intoxicating liquor license, subject to departmental approvals and the payment of sales and property taxes:

Grandma's Restaurant Company (Grandma's Saloon and Grill Canal Park), 522 Lake Avenue South, for June 20, 2015.

Resolution 15-0143 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale wine license for the period ending August 31, 2015, subject to departmental approvals, and the payment of sales and property taxes:

Loy Krathong, Inc. (Sala Thai Restuarant), 114 West First Street, transferred from 4023 Woodland Avenue.

Resolution 15-0144 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council issues the following on sale 3.2 percent malt liquor license for the period ending April 30, 2015, subject to departmental approvals and the payment of sales and property taxes:

Lester Park Golf Management, Inc. (Lester Park Golf Course), 1860 Lester River Road, with Billy Casper Golf, LLC, 100 percent owner.

Resolution 15-0145 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council issues the following on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 2015, subject to departmental approvals and the payment of sales and property taxes:

Enger Park Golf Management, LLC (Enger Park Golf Course), 1801 West Skyline Parkway, with Billy Casper Golf, LLC, 100 percent owner.

Resolution 15-0146 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

RESOLVED, that the abolishment of the wellness coordinator job classification from the confidential bargaining unit, which was approved by the chief administrative officer on February 26, 2015, is approved.

Resolution 15-0133 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of wellness coordinator, which were approved by the civil service board on June 3, 2014, and which are filed with the city clerk as Public Document No. 15-0323-06, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 128, \$3,400 to \$3,986 per

month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 15-0134 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of animal services technician, which were approved by the civil service board on March 3, 2015, and which are filed with the city clerk as Public Document No. 15-0323-07, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 21, \$2,822 to \$3,277 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 15-0135 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of animal control officer, which were approved by the civil service board on March 3, 2015, and which are filed with the city clerk as Public Document No. 15-0323-08, are approved; that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees, that the pay range will change from Pay Range 24, \$3,157 to \$3,685, to Pay Range 27, \$3,537 to \$4,140 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 15-0136 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of animal shelter leadworker, which were approved by the civil service board on March 3, 2015, and which are filed with the city clerk as Public Document No. 15-0323-09, are approved; that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees, that the pay range will change from Pay Range 30, \$3,976 to \$4,704, to Pay Range 31, \$4,140 to \$4,879 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 15-0137 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

BY COUNCILOR GARDNER:

RESOLVED, that the city council hereby reappoints Robert Prusak (at large) to the Duluth public utilities commission for a term expiring on March 31, 2018.

Resolution 15-0150 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

BY COUNCILOR GARDNER:

RESOLVED, that the reappointment of Linda Krug (city councilor) by the city council president to the Duluth parking commission for a term expiring on March 31, 2018, is hereby confirmed.

Resolution 15-0151 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

BE IT RESOLVED, by the City Council (the "Council") of the City of Duluth, Minnesota (the "City"), as follows:

Section 1. Recitals.

1.01. The City has heretofore established Development District No. 17 and adopted the Development Program therefor. It has been proposed by the Duluth economic development authority ("DEDA") and the City that the City adopt a Modification to the Development Program for Development District No. 17 (the "Development Program Modification"); approve the adoption of a Modification to the Tax Increment Financing Plans for Tax Increment Financing District Nos. 15, 19, 21, 22, 24, 25, 26, and 27 therein (the "TIF Plan Modifications"); and approve the establishment of Tax Increment Financing District No. 28 (the "District") therein and the adoption of a Tax Increment Financing Plan (the "TIF Plan") therefor (the Development Program Modification, the TIF Plan Modifications, and the TIF Plan are referred to collectively herein as the "Program and Plans"); all pursuant to and in conformity with applicable law, including Minnesota Statutes, Sections 469.090 to 469.1082 and Sections 469.174 to 469.1794, all inclusive, as amended, (the "Act") all as reflected in the Program and Plans, and presented for the Council's consideration.

1.02. The DEDA and City have investigated the facts relating to the Program and Plans and have caused the Program and Plans to be prepared.

1.03. The DEDA and City have performed all actions required by law to be performed prior to the establishment of the District and the adoption and approval of the proposed Program and Plans, including, but not limited to, notification of St. Louis County and Independent School District No. 709 having taxing jurisdiction over the property to be included in the District, a review of and written comment on the Program and Plans by the City Planning Commission, approval of the Program and Plans by the DEDA, and the holding of a public hearing upon published notice as required by law.

1.04. Certain written reports (the "Reports") relating to the Program and Plans and to the activities contemplated therein have heretofore been prepared by staff and consultants and submitted to the Council and/or made a part of the City files and proceedings on the Program and Plans. The Reports, including the redevelopment qualifications reports and planning documents, include data, information and/or substantiation constituting or relating to the basis for the other findings and determinations made in this resolution. The Council hereby confirms, ratifies and adopts the Reports, which are hereby incorporated into and made as fully a part of this resolution to the same extent as if set forth in full herein.

1.05. The City is expanding the boundaries of Development District No. 17 to include the District and is modifying the Development Program therefor.

Section 2. Findings for the Adoption and Approval of the Development Program Modification.

2.01. The Council approves the Development Program Modification, and specifically finds that: (a) the land within the Project area as expanded would not be available for redevelopment without the financial aid to be sought under this Development Program; (b) the Development Program, as modified, will afford maximum opportunity, consistent with the needs of the City as a whole, for the development of the Project by private enterprise; and (c) the

Development Program, as modified, conforms to the general plan for the development of the City as a whole.

Section 3. Modification to the Tax Increment Financing Plans for Tax Increment Financing District Nos. 15, 19, 21, 22, 24, 25, 26, and 27.

3.01. The DEDA and City have previously established Tax Increment Financing District Nos. 15, 19, 21, 22, 24, 25, 26, and 27 within Development District No. 17.

3.02. Pursuant to Minnesota Statutes, Section 469.175, Subd. 4(b)(1), the enlargement of Development District No. 17 is deemed to be a modification of the Tax Increment Financing Plans for Tax Increment Financing District Nos. 15, 19, 21, 22, 24, 25, 26, and 27.

3.03. The TIF Plan Modifications are amended to provide for the enlargement of Development District No. 17 as described in the Development Program Modification.

Section 4. Findings for the Establishment of Tax Increment Financing District No. 28.

4.01. The Council hereby finds that the District is in the public interest and is a "redevelopment district" under Minnesota Statutes, Section 469.174, Subd. 10(a)(1) of the Act.

4.02. The Council further finds that the proposed redevelopment would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future and that the increased market value of the site that could reasonably be expected to occur without the use of tax increment financing would be less than the increase in the market value estimated to result from the proposed development after subtracting the present value of the projected tax increments for the maximum duration of the District permitted by the TIF Plan, that the Program and Plans conform to the general plan for the development or redevelopment of the City as a whole; and that the Program and Plan will afford maximum opportunity consistent with the sound needs of the City as a whole, for the development or redevelopment of the District by private enterprise.

4.03. The Council further finds, declares and determines that the City made the above findings stated in this Section and has set forth the reasons and supporting facts for each determination in writing, attached hereto as Exhibit A, Public Document No. 15-0323-10.

Section 5. Public Purpose.

5.01. The adoption of the Program and Plans conform in all respects to the requirements of the Act and will help fulfill a need to stimulate the redevelopment of underutilized, blighted or obsolete land uses including rehabilitation or demolition of substandard structures, to encourage the development of commercial areas in the City that result in higher quality development or redevelopment and private investment, to achieve development on sites which would not be developed without assistance, and to enhance and diversify the City of Duluth's tax base; and thereby serves a public purpose. For the reasons described in Exhibit A, the City believes these benefits directly derive from the tax increment assistance provided under the TIF Plan. A private developer will receive only the assistance needed to make this development financially feasible. As such, any private benefits received by a developer are incidental and do not outweigh the primary public benefits.

Section 6. Approval and Adoption of the Program and Plans.

6.01. The Program and Plans, as presented to the Council on this date, including without limitation the findings and statements of objectives contained therein, are hereby approved, ratified, established, and adopted and shall be placed on file in the office of the Director of Business and Economic Development, and the establishment of the District is hereby approved.

6.02. The staff of the City, the City's advisors and legal counsel are authorized and directed to proceed with the implementation of the Program and Plans.

6.03. The Auditor of St. Louis County is requested to certify the original net tax capacity of the District, as described in the Program and Plans, and to certify in each year thereafter the amount by which the original net tax capacity has increased or decreased; and the City is authorized and directed to forthwith transmit this request to the County Auditor in



such form and content as the Auditor may specify, together with a list of all properties within the District, for which building permits have been issued during the 18 months immediately preceding the adoption of this resolution.

6.04. The Director of Business and Economic Development is further authorized and directed to file a copy of the Program and Plans with the Commissioner of the Minnesota Department of Revenue and the Office of the State Auditor pursuant to Minnesota Statutes 469.175, Subd. 4a.

Resolution 15-0157 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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RESOLVED, that the city council of the city of Duluth does hereby approve, pursuant to the provisions of Resolution No. 10-0229, the development agreement between the Duluth economic development authority (DEDA) and Lift Bridge Partners, LLC, (developer) for the development of the 21st Avenue East and London Road mixed use project, a copy of which agreement is on file in the office of the city clerk as Public Document No. 15-0323-11.

Resolution 15-0158 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council finds sufficient petitions were filed with the city requesting the vacations described in (d) 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 petitions were duly referred to the city planning commission and such commission gave due notice of public hearings and did consider same in public hearings and the city planning commission found that the unimproved rights-of-way are useless for all purposes; and

(c) The city planning commission, at its Tuesday, January 13, 2015, and Tuesday, March 10, 2015, regular meetings, recommended approval of the vacation petitions; and

(d) The city council of the city of Duluth approves the vacations of the following described utility and platted road easements described below and as described and depicted on Public Document No. 15-0323-12:

VACATION LEGAL DESCRIPTION (UTILITY):

All that part of the 20 foot wide utility right of way as shown in Condemnation Plat Book 1 on Page 94 and also recorded as Register's File No. 5708, and as Register's File No. 220, said utility right-of-way is located in Block 25 of ENDION DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota. Said parcel contains 8,024 square feet or 0.18 acres, more or less.

VACATION LEGAL DESCRIPTION (SOUTH STREET):

That part of the Northwesterly 33.00 feet of South Street as dedicated on ENDION DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota, lying Northeasterly of the Southeasterly extension of the Northeasterly line of Lot 15, Block 25, said ENDION DIVISION and lying Southwesterly of the Southeasterly extension of the Northeasterly line of Block 25, said ENDION DIVISION. Said parcel contains 9920.3 sq. ft. or 0.23 acres more or less;

and

That part of the Northwesterly 33.00 feet of South Street as dedicated on ENDION DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota, lying Northeasterly of the Southeasterly extension of the Northeasterly line of the Southwesterly 30.00 feet of Lot 16, Block 25, said ENDION DIVISION and lying Southwesterly of the

Southeasterly extension of the Northeasterly line of Lot 15, Block 25, said ENDION DIVISION. Said parcel contains 2320.3 sq. ft. or 0.05 acres more or less;

(e) The vacations are conditioned upon:

(1) The relocation of the municipal utility lines with an easement granted to the city over Lot 16, Block 25, Endion Division, and permission granted by MnDOT to construct municipal utilities in the south half of South Street;

(2) The proposed new utilities built to city standards and in a manner approved by the city engineer; and

(3) Record drawing are submitted and accepted by the city engineer;

(f) The vacation shall not be recorded in the St. Louis County recorder's office until the conditions of paragraph (e) above are met.

Resolution 15-0178 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an addendum to the MIF loan agreement substantially in the form of those on file in the office of the city clerk as Public Document No. 15-0323-13(a) and promissory note modification agreement substantially in the form of those on file in the office of the city clerk as Public Document No. 15-0323-13(b) with Northstar Machine and Tool, Inc., d.b.a. Northstar Aerospace ("Northstar").

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute an amendment to the grant agreement with the state of Minnesota, such amendment to reflect the amendment to the MIF loan agreement and promissory note modification agreement with Northstar.

Resolution 15-0179 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

RESOLVED, that pursuant to Section 61 of the City Charter, the city council hereby expresses its intent to cause the following portions of the streets named below to be improved as part of the city's 2015 street preservation project, and hereby requests that the mayor prepare or cause to have prepared plans, specifications and estimates therefor, and file such plans with the special assessment board, together with a recommendation as to what portion of the costs should be paid by special assessment and what portion of the costs should be a general obligation of the city, the number of installments in which assessments may be paid, and the lands with should be included in the special assessment:

Woodland Avenue from Fourth Street to Kent Road;

Woodland Avenue from Calvary Road to Martin Road;

46th Avenue West from Grand Avenue to Eighth Street;

Pecan Avenue from Central Entrance to Rice Lake Road;

40th Avenue East from London Road to Superior Street;

Raleigh Street from Central Avenue to Grand Avenue;

West Skyline Parkway from Seventh Street to Mesaba Avenue.

Resolution 15-0163 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept the dedication of an easement for street and highway, pedestrian and utility purposes from the Board of Education of Independent School District No. 709 over a portion of previously vacated Ensign

Street, Huseby's Division, First Addition, as shown on Public Document No. 15-0323-14, a copy of which is on file in the office of the city clerk.

Resolution 15-0166 was unanimously adopted.  
Approved March 23, 2015  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept the dedication of an easement for street and highway, pedestrian and utility purposes from Christ Lutheran Church, a Minnesota nonprofit corporation, over a portion of previously vacated Ensign Street in the NE 1/4 of the NW 1/4 of the SE 1/4 of Section 30, Township 50N, Range 14W, as shown on Public Document No. 15-0323-15, a copy of which is on file in the office of the city clerk.

Resolution 15-0167 was unanimously adopted.  
Approved March 23, 2015  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept the dedication of a drainage and utility easement from Kwik Trip, Inc., a Wisconsin corporation, in the form of Public Document No. 15-0323-16, on file in the office of the city clerk, dedicating to the general public a drainage and utility easement over part of Lots 17 and 18, Block 1, Duluth Heights Fifth Division, at no cost to the city.

Resolution 15-0168 was unanimously adopted.  
Approved March 23, 2015  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into amendments to city contract numbers 21494 and 21495, copies of which are on file in the office of the city clerk as Public Documents No. 15-0323-17(a) and 15-0323-17(b), with the Minnesota public facilities authority relating to water and wastewater projects in the Riverside neighborhood, extending the time for drawdown of funds to June 30, 2016.

Resolution 15-0171 was unanimously adopted.  
Approved March 23, 2015  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Hanco Utilities, Inc., for construction of the 2015 high pressure gas mains and services at various locations in the amount of \$1,054,056.21, payable out of Gas Utility Fund 520, Department/Agency 500 (public works and utilities), Division 1905 (capital improvements), Object 5533 (revenue), City Project No. 1391.

Resolution 15-0172 was unanimously adopted.  
Approved March 23, 2015  
DON NESS, Mayor

- - -

RESOLVED, as of August 1, 2016, both sides of Fourth Street between Sixth Avenue East and Seventh Avenue East are designated no parking zones, pursuant to Section 33-97(a) of the Duluth City Code, 1959, as amended.

Resolution 15-0174 was unanimously adopted.  
Approved March 23, 2015  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a three year agreement substantially in the form of that on file in the office of the city clerk as Public

Document No. 15-0323-18, with the College of St. Scholastica for the non-exclusive use of Wade Stadium for their baseball program with rent payments payable to Fund 210 (special projects), Agency 030 (finance), Object 3190 (special league), Revenue Source 4625-04 (rent of athletic fields baseball fields).

Resolution 15-0152 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a three year agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0323-19, with the St. James Home of Duluth Inc., d/b/a Woodland Hills, for the lease of space in the Washington Recreation Center with monthly rent of \$750 with an annual increase of five percent, payable to into Fund 110-121-1217-2120-4622 (general, public administration, maintenance operations, architecture and facilities, rent of buildings).

Resolution 15-0153 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

RESOLVED, that the city's chief administrative officer is hereby authorized to apply to Minnesota department of natural resources (MnDNR) for funding through the DNR regional trail program on behalf of the city.

FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the money, and the financial, technical and managerial capacity to ensure proper construction, operation and maintenance of the project for no less than 20 years.

FURTHER RESOLVED, that if the city of Duluth is awarded aforesaid grant, the city of Duluth agrees to accept the grant award and the proper city officials are authorized to enter into a grant agreement with the MnDNR.

FURTHER RESOLVED, that the city of Duluth estimates the total project cost to be \$500,000 including the grant amount of \$250,000; matching funds as follows: \$250,000 from the 1/2 and 1/2 tourism tax.

Resolution 15-0159 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

RESOLVED, that the city's chief administrative officer is hereby authorized to apply to Minnesota department of natural resources (MnDNR) for funding of through the local trail connections program on behalf of city.

FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the money, and the financial, technical and managerial capacity to ensure proper construction, operation and maintenance of the project for no less than 20 years.

FURTHER RESOLVED, that if the city of Duluth is awarded aforesaid grant, the city of Duluth agrees to accept the grant award and the proper city officials are authorized to enter into a grant agreement with the MnDNR.

FURTHER RESOLVED, that the city of Duluth estimates the total project cost to be \$300,000 including the grant amount of \$150,000; matching funds as follows: \$150,000 from the 1/2 and 1/2 tourism tax.

Resolution 15-0160 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into service agreements with the Over the Hill Nightriders Snowmobile Club and the Drift Toppers Snowmobile Club, substantially in the form of those on file in the office of the city clerk as Public Document Nos. 15-0323-20(a) and 15-0323-20(b), for trail maintenance and grooming services as required by the Minnesota department of natural resources trail grant for an amount not to exceed the amount of the grant award, payable from 110-121-1217-2145-4226 (general-public administration-maintenance operations-park maintenance-snowmobile trail grant).

Resolution 15-0173 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a ten-year lease agreement extension substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0323-21, with Ohana Holdings, LLC, for leased premises at Mount Royal with rent payments payable from Fund 110 (general), Agency 121 (public administration), Object 1218 (library services), Revenue Source 5412 (building rental).

Resolution 15-0176 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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RESOLVED, that the city of Duluth does hereby accept in trust for the general public a perpetual public right of use of that property legally described as Outlot A and Outlot F, Eastridge Estates, St. Louis County, Minnesota, from Beacon Bank for the purpose set forth in the instrument of dedication, on file in the office of the city clerk as Public Document No. 15-0323-22 and attached hereto as Exhibit A.

Resolution 15-0180 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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The following resolutions were also considered:

RESOLVED, that the proper city officials are hereby authorized to purchase of a 2015 Freightliner chassis, State Contract No. 77947, for a total amount of \$114,066, payable as follows:

\$28,516.50 - Water 510, Public Works and Utilities 500, Capital (including depreciation/debt service) 1905, Capital Equipment 5580;

\$85,549.50 - Sewer 530, Public Works and Utilities 500, Capital (including depreciation/debt service) 1905, Capital Equipment 5580.

Resolution 15-0156 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to purchase equipment and supplies from Crysteel Truck Equipment to outfit a city plow/sander truck, all installation and labor will be provided by the vendor, State Contract No. 80239, for a total amount not to exceed \$120,032.67; payable from Capital Equipment 250, Public Administration 015, Fiscal Year 2015, 2015 Capital Equipment 5580, Project: CE250-V1504 - Capital Equipment Fund 250, maintenance operations vehicles.

Resolution 15-0162 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to purchase a 2016 International 7500 SFA 4x2 (SA537) plow truck cab and chassis from Northstar International, State Contract No. 77941, the cab and chassis portion of this request is \$93,862.79; Minnesota motor vehicle tax is \$6,101.08; and the license, registration and plate fees are \$145, for a total amount of \$100,108.87; payable from Capital Equipment 250, Public Administration 015, Fiscal Year 2015, 2015 Capital Equipment 5580, Project: CE250-V1504 - Capital Equipment Fund 250, maintenance operations vehicles.

Resolution 15-0164 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to purchase a Case Wheel Loader Model 821F from Titan Machinery, Inc., a national joint powers alliance contract vendor, for a total amount of \$218,326.53; payable from Capital Equipment 250, Public Administration 015, Fiscal Year 2015, 2015 Capital Equipment 5580, Project: CE250-V1504 - Capital Equipment Fund 250, maintenance operations vehicles.

Resolution 15-0165 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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Resolution 15-0149, by Councilor Gardner, appointing \_\_\_\_\_ and \_\_\_\_\_ to the civil service board, replacing Portia Johnson and Michelle Hooey, was introduced.

Councilor Gardner moved to amend the title and body of the resolution to replace the blank lines with the names "Shelly M. Marquardt" and "Renee K. Van Nett," which motion was seconded and carried unanimously.

Resolution 15-0149, as amended, was adopted as follows:

BY COUNCILOR GARDNER:

RESOLVED, that the Duluth City Council hereby appoints Shelly M. Marquardt and Renee K. Van Nett to the civil service board for terms expiring on March 31, 2020, and 2021, respectively, replacing Portia Johnson and Michelle Hooey, whose terms have expired.

Resolution 15-0149, as amended, was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

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Resolution 15-0154, of support for typical section on the Fourth Street reconstruction project, was introduced by Councilor Julsrud for discussion.

Councilor Julsrud moved to suspend the rules to hear speakers on the resolution which motion was seconded and unanimously carried.

Councilor Sipress moved to amend the resolution by adding the following paragraph:

"BE IT FURTHER RESOLVED, that the city reserves the right to review and approve the tree replanting plan for Fourth Street as part of the municipal consent for the project;"

which motion was seconded and discussed.

Michelle Peterson, Ann Redelfs, Rod Klein, Mark Anderson and Myrna Matheson spoke of their concerns of this project, especially associated with the tree removal, and presented pictures supporting their viewpoint (Public Document No. 15-0323-26).

The amendment carried unanimously.

Resolution 15-0154, as amended, was adopted as follows:

RESOLVED, that the Duluth City Council supports the following typical section for the reconstruction of Fourth Street from Sixth Avenue East to Wallace Avenue (City Project No. 1360, S.P. 069-609-40):

(a) 46 feet in width, where parking will remain on both sides, to include two 11-foot driving lanes, two seven-foot parking lanes and two five-foot bike lanes;

(b) 39 feet in width, where parking will remain on one side to include two 11-foot driving lanes, one seven-foot parking lane and two five-foot bike lanes;

In general, existing parking areas to remain, with the exception of the 600 block, where parking is proposed to be prohibited from both sides.

BE IT FURTHER RESOLVED, that the city reserves the right to review and approve the tree replanting plan for Fourth Street as part of the municipal consent for the project.

Resolution 15-0154, as amended, was adopted upon the following vote:

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

Nays: Councilor Hanson -- 1

Approved March 23, 2015

DON NESS, Mayor

- - -

RESOLVED, that pursuant to Section 61 of the City Charter, the council hereby expresses its intent to cause the following portion of the streets named below to be improved and hereby requests that the mayor prepare or cause to have prepared plans, specifications and estimates therefor, and file such plans and estimates with the special assessment board, together with a recommendation as to what portion of the cost shall be paid by special assessment and what part, if any, should be a general obligation of the city, the number of installments in which assessments may be paid, and the lands which should include the special assessment:

Eastridge Boulevard from Minnesota Highway 61 to Montauk Lane;

Montauk Lane from Eastridge Boulevard to cul-de-sac.

Resolution 15-0155 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 15-0323-23, with Center for Energy and Environment for services related to the institution of a collaborative energy financing program in the city of Duluth with costs to be paid to the city with regard thereto to be deposited in Miscellaneous Operating Revenue Fund 520, Department 500, Division 1900, Account 4809.

Resolution 15-0169 was unanimously adopted.

Approved March 23, 2015

DON NESS, Mayor

- - -

RESOLVED, that the city's chief administrative office is hereby authorized to apply to the Minnesota department of natural resources (MnDNR) for funding through the DNR outdoor recreation program on behalf of the city.

FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the money, and the financial, technical and managerial capacity to ensure proper construction, operation and maintenance of the project for no less than 20 years.

FURTHER RESOLVED, that if the city of Duluth is awarded aforesaid grant, the city of Duluth agrees to accept the grant award and the proper city officials are authorized to enter into a grant agreement with the MnDNR.

FURTHER RESOLVED, that the city of Duluth estimates the total project cost to be \$200,000 including the grant amount of \$100,000; matching funds as follows: \$100,000 from the 1/2 and 1/2 tax.

Resolution 15-0161 was unanimously adopted.  
Approved March 23, 2015  
DON NESS, Mayor

- - -

Resolution 15-0175, of support to continue planning and design or recreation and tourism projects in the St. Louis River corridor, was introduced by Councilor Sipress for discussion.

Councilor Sipress moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

Dave Johnson, Brad Massengill, Chad Salmela, Brian Hayden, Greg Petry, Dave Pagel, Noah Hobbs, Karl Erbach, Pamela Schmidt, Carole Newkumet, Jena Vogtman, Mike Casey, Waylon Munch, Jim Perkins and Lucas Kramer spoke of their support for the resolution.

Resolution 15-0175 was adopted as follows:

WHEREAS, the state of Minnesota authorized the city of Duluth to impose a 1/2 of one percent food and beverage tax and a 1/2 of one percent hotel-motel tax for the purpose of funding an \$18 million bond issue for capital improvements to public facilities to support tourism and recreational activities in that part of Duluth lying west of 34th Avenue West; and

WHEREAS, pursuant to Section 42A-44 of the Duluth City Code, 1959, as amended, the city council in July of 2014 imposed the tax to be used for the state-authorized purposes; and

WHEREAS, contingent upon approval by the Minnesota state legislature in 2015, the authorized investment area will be amended to extend to 14th Avenue West; and

WHEREAS, the citizens of Duluth have, through nearly two dozen public plans and numerous meetings, conceived of an array of widely supported recreation and tourism-related capital projects in the authorized investment area; and

WHEREAS, the city of Duluth has developed and announced preliminary concept plans, cost estimates and financing goals for a slate of proposed recreation and tourism capital projects in the extended investment area, referenced in Public Document No. 15-0323-25; and

WHEREAS, in order to justify further investment of time and money in developing plans for these projects, the city of Duluth seeks confirmation that the projects and funding levels are generally in keeping with the city council's intent.

NOW, THEREFORE, BE IT RESOLVED, that the city council supports moving forward with the specified projects and funding levels as generally laid out.

Resolution 15-0175 was unanimously adopted.  
Approved March 23, 2015  
DON NESS, Mayor

- - -

## **INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR RUSS

15-018 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO P-1 FOR GROSVENOR SQUARE, KELSO PARK, PORTMAN COMMUNITY RECREATION CENTER, RUSSELL SQUARE AND WASHINGTON SQUARE (CITY OF DULUTH).

- - -



INTRODUCED BY COUNCILOR RUSS

15-019 - AN ORDINANCE AMENDING SECTION 50-37.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO ADMINISTRATIVE ADJUSTMENTS OF THE LAND USE SUPERVISOR.

- - -

INTRODUCED BY COUNCILOR RUSS

15-020 - AN ORDINANCE AMENDING SECTION 50-20.4 OF THE DULUTH CITY CODE, 1959, AS AMENDED, USE SPECIFIC STANDARDS OF MAJOR UTILITY OR WIRELESS TELECOMMUNICATIONS FACILITY.

- - -

INTRODUCED BY COUNCILOR RUSS

15-021(a) - AN ORDINANCE AMENDING SECTIONS 50-19.8, 50-20.2 AND 50-41.13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO AMEND THE PERMITTED USE TABLE TO ALLOW FOR MEDICAL CANNABIS LAND USES.

- - -

INTRODUCED BY COUNCILOR RUSS

15-021(b) - AN ORDINANCE ADDING SECTION 50-17.5, AND AMENDING SECTIONS 50-13.3, 50-19.1, 50-19.8 AND 50-41.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO AMEND THE PERMITTED USE TABLE TO ALLOW FOR A NEW AIRPORT ZONE DISTRICT.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR RUSS

15-014 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF PROPERTY IN LAKESIDE TO KNUTSON CUSTOM CONSTRUCTION, LLC, FOR RESIDENTIAL REDEVELOPMENT.

Councilor Russ moved to table the ordinance, which motion was seconded and unanimously carried.

- - -

INTRODUCED BY COUNICLOR JULSRUD

15-015 (10361) - AN ORDINANCE REDEDICATING A STREET EASEMENT OVER A PORTION OF VACATED EIGHTH AVENUE WEST.

Councilor Julsrud moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNICLOR JULSRUD

15-017 (10362) - AN ORDINANCE AMENDING SECTION 43-65 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO INCORPORATE THE DEFINITION OF IMPERVIOUS SURFACE PROVIDED FOR IN SECTION 50-41.9 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Julsrud moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

The meeting was adjourned at 9:25 p.m.

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10360**

AN ORDINANCE AMENDING SECTION 43-67 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO REQUIRE THE PAYMENT OF A FILING FEE WHEN APPEALING THE DENIAL OF A STORMWATER UTILITY FEE ADJUSTMENT BY THE DIRECTOR OF PUBLIC WORKS AND UTILITIES.

The city of Duluth does ordain:

Section 1. That Section 43-67 of the Duluth city code, 1959, as amended, is hereby amended to read as follows:

Sec. 43-67. Utility fee adjustments.

(a) Any person liable for the payment of stormwater utility fees on nonresidential property may, subject to the limitations set forth in the Section, apply to the director for a utility fee adjustment if the person believes the utility fee to be incorrect. The request for adjustment shall be made in writing and shall state, in detail, the grounds upon which relief is sought. The director may require the applicant for relief to submit, at applicant's expense, supplemental information including, but not limited to, survey data certified by a registered land surveyor and engineering reports certified by a registered professional engineer. The director may grant an adjustment if it is found that:

(1) A substantial error was made in the calculation of the impervious area on the nonresidential property;

(2) The stormwater runoff from the property never enters any facility of the stormwater drainage system;

(3) The property is subject to stormwater management practices that significantly improve the quantity or quality of the stormwater runoff from the property;

(b) Adjustments and denials of adjustments shall be made in writing by the director. No adjustment shall be made retroactively, except for initial appeals filed within six months of the effective date of this ordinance;

(c) Any person denied an adjustment by the director may appeal the denial to the city council by filing written notice of appeal with the city clerk within 30 days of receipt of the director's decision and by paying a filing fee in an amount established pursuant to Section 31-8 of this Code. The city council shall hear the appeal and affirm, modify or reverse the decision of the director, applying the standards for granting adjustments set forth in this Section.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 24, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed March 23, 2015  
Approved March 23, 2015  
DON NESS, Mayor

- - -

**ORDINANCE NO. 10361**

**AN ORDINANCE REDEDICATING A STREET EASEMENT  
OVER A PORTION OF VACATED EIGHTH AVENUE WEST.**

The city of Duluth does ordain:

Section 1. That the city of Duluth does hereby dedicate to the general public a perpetual easement for street and utility purposes over that portion of vacated Eighth Avenue West in St. Louis County, Minnesota, legally described on, and as shown on, Public Document No. 15-0323-24, on file in the office of the city clerk.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 24, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

Passed March 23, 2015

Approved March 23, 2015

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10362**

**AN ORDINANCE AMENDING SECTION 43-65 OF THE DULUTH  
CITY CODE, 1959, AS AMENDED, TO INCORPORATE THE  
DEFINITION OF IMPERVIOUS SURFACE PROVIDED FOR IN  
SECTION 50-41.9 OF THE DULUTH CITY CODE, 1959, AS  
AMENDED.**

The city of Duluth does ordain:

Section 1. That Section 43-65 of the Duluth city code, 1959, as amended, is hereby amended to read as follows:

Sec. 43-65. Definitions.

For the purpose of this Article, the following words and phrases shall have the meanings given them in this Section:

Budget. The budget of the stormwater utility. The budget shall include yearly operating and maintenance costs, capital costs, debt service and amounts necessary to meet unanticipated costs.

Capital costs. Costs reasonably incurred in connection with providing capital improvements to the system or any portion thereof, including but not limited to:

- (a) Acquisition of all property, real or personal and all interests in connection therewith, including all rights-of-way and easements therefor;
- (b) Physical construction, installation and testing, including the costs of labor, services, materials, supplies and utility services used in connection therewith;
- (c) Architectural, engineering, legal and other professional services;
- (d) Expenses of obtaining permits or approvals before construction or other project charges which become due during construction;
- (e) Any miscellaneous expenses incidental to a project.

Debt service. The principal and interest necessary to pay an indebtedness of the city related to the stormwater utility in any year.

Director. The director of public works or the director's designee.

Dwelling unit. A single unit that provides complete, independent living facilities for one or more persons including permanent provision for living, sleeping, eating, cooking and sanitation.

Equivalent residential unit or ERU. The average impervious area of residential property per dwelling unit located within the city.

ERU rate. A utility fee charged on each ERU as established by resolution of the Duluth public utilities commission as provided herein.

Impervious area. For purposes of this Section, "impervious area" shall mean the same as "impervious surface" as defined in Section 50-41.9 of the Duluth City Code, 1959, as may be amended.

Nonresidential property. Developed property that is classified by the city assessor as property types 3 and 5 pursuant to Minnesota Statutes Section 273.13. Property that has a mixture of residential and nonresidential uses shall be considered nonresidential.

Operating and maintenance costs. The current paid or accrued expenses of operation, maintenance and current repair of the system, as calculated in accordance with sound accounting practices and includes, without limitation, administrative expenses, labor, the cost of materials and supplies used for current operations and charges for the accumulation of appropriate reserves for current expenses not annually incurred but which are such as may be reasonably expected to be incurred in accordance with sound accounting practices.

Residential property. Developed property that is classified by the city assessor as land use types 1, 4 and 2a pursuant to Minnesota Statutes Section 273.13.

Stormwater drainage system or system. The existing constructed and natural stormwater drainage facilities and channels of the city and all improvements thereto which are the property and responsibility of the utility, to be operated by the utility to, among other things, conserve water, control discharges necessitated by rainfall events, incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation and water pollution or otherwise affect the quality and quantity of discharge from such system.

Stormwater utility or utility. The utility created by this article to operate, maintain and improve the stormwater drainage system.

Utility fee. A utility fee authorized by Minnesota law and this Article which is established to pay for operations and maintenance, extension and replacement and debt service.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 24, 2015)

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

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

Nays: Councilor Gardner -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed March 23, 2015  
Approved March 23, 2015  
DON NESS, Mayor

- - -

**MINUTES OF THE REGULAR MEETING  
OF THE DULUTH CITY COUNCIL**

Monday, April 13, 2015

Duluth City Council meeting held on Monday, April 13, 2015, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Absent: None -- 0

- - -

The minutes of council meetings held on February 9 and 23, 2015, were approved upon a unanimous vote.

- - -

At this time, 7:03 p.m., the public hearing regarding the proposed confirmation of assessment roll for the mill and overlay on North Second Avenue West from Second Alley to West Fourth Street was called to order. No one appeared who wished to be heard and the public hearing was closed.

- - -

At this time, 7:04 p.m., the public hearing regarding the proposed confirmation of assessment roll for the mill and overlay on North 21st Avenue West from Lower Michigan Street to West Third Street was called to order. No one appeared who wished to be heard and the public hearing was closed.

- - -

At this time, 7:05 p.m., the public hearing regarding the proposed confirmation of assessment roll for the mill and overlay on 40th Avenue West from Michigan Street to Grand Avenue was called to order. No one appeared who wished to be heard and the public hearing was closed.

- - -

At this time, 7:06 p.m., the public hearing regarding the proposed confirmation of assessment roll for the mill and overlay on West Superior Street from 40th to 46th Avenues West. No one appeared who wished to be heard and the public hearing was closed.

- - -

**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

15-0413-17 Noah Hobbs communication regarding the proposed medical cannabis land uses (15-021-O(a)). -- Received

15-0413-02 Lakehead Boat Basin, Inc., and Island Inn and Suites, by Craig A. Hanson, attorney, appeal of the planning commission decision to deny a variance from the MU-W height limit at 1001 Minnesota Avenue (15-0203R and 15-0203R). -- Committee 2 (planning and economic development)

15-0413-01 Christopher and Bethany Owen, et. al. (three signatures), by Steven C. Overom, attorney, appeals of the planning commission decisions with respect to two variances for the Center American Indian Resources project. -- Committee 2 (planning and economic development)

15-0413-03 The following communications regarding the variance appeal by Lakehead Boat Basin (15-0203R & 15-0204R): (a) Jan Cohen; (b) Jan Karon; (c) Jeff Stuermer. -- Received

- - -

### **REPORTS FROM THE ADMINISTRATION**

Chief Administrative Officer David Montgomery noted that the city is working with the school district regarding the parking and traffic problems at East High school.

- - -

### **REPORTS OF BOARDS AND COMMISSIONS**

15-0413-04 Duluth economic development authority minutes of February 24, 2015, meeting. -- Received

15-0413-05 Duluth transit authority: (a) Minutes of January 28, 2015, meeting; (b) January 2015 financial statement. -- Received

15-0413-06 Duluth public utilities commission: (a) Minutes of February 17, 2015, meeting; (b) Resolutions: (1) Establishing the customer charge and user charges for the city's wastewater facilities effective with meter readings after May 1, 2015; superseding all prior inconsistent or conflicting rates (15PUC-001); (2) Establishing fees for various utility-related services (15PUC-002); (3) Approving the 2015 capital improvement plan for the natural gas system (15PUC-003). -- Received

15-0413-07 Heritage preservation commission minutes of January 27, 2015, meeting. -- Received

15-0413-08 Housing and redevelopment authority of Duluth minutes: (a) October 28, 2014; (b) November 25, 2014; (c) January 27, 2015, annual; (d) January 27, 2015, regular, meetings. -- Received

15-0413-09 Spirit Mountain recreation area authority minutes of: (a) January 15, 2015; (b) February 19, 2015, meetings. -- Received

- - -

### **REPORTS OF COUNCIL OPEN ISSUES**

Councilor Gardner presented the April 2015 Duluth Distinguished Artists award to Julie Ahasay who has shared her talent, humor and creativity to entertain audiences and contribute to the growth of the Duluth theater community for the past four decades, and her collaboration with other artists and her inclusiveness are essential contributing factors that resulted in the city of Duluth becoming a major regional theater destination.

Ms. Ahasay commented about her experiences and thanked the council for this recognition.

- - -

### **OPPORTUNITY FOR CITIZENS TO BE HEARD**

Henry Banks presented the council with the Voices for Racial Justice 2015 racial equity agenda and related documents and commented on its importance (Public Document No. 15-0413-18).

- - -

### **MOTIONS AND RESOLUTIONS**

#### **CONSENT AGENDA**

*(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)*

President Larson moved passage of the consent agenda, which motion was seconded and unanimously carried.

RESOLVED, that the assessable rolls levied to defray the assessable portions of the following are hereby confirmed:

Mill and overlay on North Second Avenue West from Second Alley to West Fourth Street.

Contract 2014014 - total assessable amount of \$28,482 to be deposited in Fund 440.

Resolution 15-0182 was unanimously adopted.

Approved April 13, 2015

DON NESS, Mayor

- - -

RESOLVED, that the assessable rolls levied to defray the assessable portions of the following are hereby confirmed:

Mill and overlay on North 21st Avenue West from Lower Michigan Street to West Third Street.

Contract 2014013 - total assessable amount of \$36,057 to be deposited in Fund 440.

Resolution 15-0183 was unanimously adopted.

Approved April 13, 2015

DON NESS, Mayor

- - -

RESOLVED, that the assessable rolls levied to defray the assessable portions of the following are hereby confirmed:

Mill and overlay on West Superior Street from 40th to 46th avenues West.

Contract 2014006 - total assessable amount of \$112,768.31 to be deposited in Fund 440.

Resolution 15-0184 was unanimously adopted.

Approved April 13, 2015

DON NESS, Mayor

- - -

RESOLVED, that the assessable rolls levied to defray the assessable portions of the following are hereby confirmed:

Mill and overlay on 40th Avenue West from Michigan to Grand Avenue.

Contract 2014005 - total assessable amount of \$41,813.59 to be deposited in Fund 440.

Resolution 15-0185 was unanimously adopted.

Approved April 13, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute and implement a collective bargaining agreement with the city of Duluth Supervisory Association (CDSA), containing the same terms and conditions, and being substantially the same as that on file with the office of the city clerk as Public Document No. 15-0413-10, covering the years 2015 through 2017.

Resolution 15-0207 was unanimously adopted.

Approved April 13, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to amend Agreement 22394 with Great Lakes Aquarium (aquarium) for an additional \$75,000, for the construction of a



discovery center, payable from tourism tax fund balance.

Resolution 15-0214 was unanimously adopted.

Approved April 13, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to purchase Techrete, Techrete water based primer, Crafcoc sealant, leveling mastic and a three month rental of a patcher trailer from Brock White Company, State Contract No. 46779, for a total amount of \$173,512, payable from Street System Maintenance Utility 290, Public Works and Utilities 500, Gravel and Other Maintenance Materials 5224.

Resolution 15-0181 was unanimously adopted.

Approved April 13, 2015

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor license, subject to departmental approvals with any further restrictions and further subject to approval of the liquor control commissioner:

Marshall School, 1215 Rice Lake Road, for May 2, 2015, with Elizabeth Tessier, chief financial officer.

Resolution 15-0196 was unanimously adopted.

Approved April 13, 2015

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to Essentia Health Foundation and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a copy of this resolution to the Minnesota gambling control board immediately after its passage.

Resolution 15-0200 was unanimously adopted.

Approved April 13, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a grant from the Duluth legacy endowment fund in the amount of \$1,250 for the A.H. Zeppa Family Foundation's parklet pilot project Year 2, which will create a seasonal parklet for public use, funds to be deposited in the 262-020-4700 (community development, planning, other sources) and to execute any documents required to accept such grant.

FURTHER RESOLVED, that the proper city officials are hereby authorized to accept a grant from the Duluth legacy endowment fund in the amount of \$2,500 for the Duluth public library's West Duluth Branch's furniture purchase, which will create a gathering space for area youth, funds to be deposited in the 240-300-SG80-4270 (library, special gifts, library, miscellaneous) and to execute any documents required to accept such grant.

FURTHER RESOLVED, that the proper city officials are hereby authorized to accept a grant from the Duluth legacy endowment fund in the amount of \$2,500 for the GND Development Alliance's facility audio-visual upgrades, which will increase utility of a community facility, funds to be deposited in the 205-130-1219-4270 (parks fund, community resources, parks operating, miscellaneous grants) and to execute any documents required to accept such grant.

FURTHER RESOLVED, that the proper city officials are hereby authorized to accept a grand from the Duluth legacy endowment fund in the amount of \$2,500 for the Lake Superior

Zoological Society's addition of a public address system, funds to be deposited in the 205-130-1219-4270 (parks fund, community resources, parks operating, miscellaneous grants) and to execute any documents required to accept such grant.

Resolution 15-0195 was unanimously adopted.

Approved April 13, 2015

DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council finds that a sufficient petition was filed with the city requesting the vacation described in (d) 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 public hearing and the city planning commission found that the undeveloped right-of-way is useless for all purposes; and

(c) The city planning commission, at its Tuesday, March 10, 2015, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the platted road easement described below and as described and depicted on Public Document No. 15-0413-11:

VACATION LEGAL DESCRIPTION:

That portion of 66th Avenue West in the plat of HUNTER'S GRASSY POINT ADDITION TO DULUTH, THIRD DIVISION, which lies between the northwesterly line of Block 14 and the southeasterly line of said Block 14 and Block 17, in said plat; and

(e) 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 No. 15-0413-11 showing the platted easement to be vacated.

Resolution 15-0201 was unanimously adopted.

Approved April 13, 2015

DON NESS, Mayor

- - -

RESOLVED, that proper city officials are hereby authorized to accept the dedication of an easement for drainage and utility purposes from Kwik Trip, Inc., a Wisconsin corporation, over a portion of vacated 66th Avenue West, Hunter's Grassy Point Addition to Duluth, Third Division, and over a portion of unplatted property in part of the Northeast Quarter of Section 13, Township 49 North, Range 15 West, as shown and described on the attached Exhibit A and as shown on Public Document No. 15-0413-12, a copy of which is on file in the office of the city clerk.

Resolution 15-0202 was unanimously adopted.

Approved April 13, 2015

DON NESS, Mayor

- - -

RESOLVED, that the council finds as follows:

(a) The building official of the city of Duluth duly issued condemnation orders for structures located upon the below described parcel of land located within the city of Duluth after determining that the criteria of Section 10-3 of the city of Duluth Legislative Code was met in each case:

1025 West Second Street, Tax Parcel Number 010-1160-00730. Notification of order for condemnation for to owner John Vos by hand delivery to the latest address of record and by certified mail sent to latest address of record and by posting on the site of the

condemned building all on January 14, 2015, and by publication in the Duluth News Tribune on February 16 and 23, 2015;

(b) The order is now final; and

(c) The cost for demolition of the structure has been estimated to not exceed \$25,000.

BE IT RESOLVED, that pursuant to Section 10-3(b) of the city of Duluth Legislative Code the building official is authorized to:

(a) Proceed with the work ordered or to contract to have the work done, payable from Fund 262 020 5434 CD13CD; and

(b) Should the sale of the salvage from such work exceed the cost of the demolition, the balance in excess of the cost shall be paid to the owner of said building or to such other persons as may by law be entitled thereto; and

(c) Submit to the city council a statement of the cost of such work for its further determination of the manner by which such costs shall be recouped as provided by Section 10-3(b) of the city of Duluth Legislative Code.

Resolution 15-0205 was unanimously adopted.

Approved April 13, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept the re-dedication of an easement for street and highway, pedestrian and utility purposes from Independent School District No. 709 over a portion of previously vacated Ensign Street, Huseby's Division, First Addition, as shown on Exhibit A and Public Document No. 15-0413-13, on file in the office of the city clerk.

RESOLVED FURTHER, that Resolution 15-0166 approved on March 23, 2015, is hereby rescinded.

Resolution 15-0206 was unanimously adopted.

Approved April 13, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to apply for a grant from the Minnesota department of employment and economic development (DEED) for a contamination investigation and response action plan development grant for the Garfield and Elm site located on Rice's Point.

Resolution 15-0212 was unanimously adopted.

Approved April 13, 2015

DON NESS, Mayor

- - -

RESOLVED, that pursuant to Minnesota Statutes 204B.16, subdivision 3, the following locations are designated as polling places in the city of Duluth for the September 15, 2015, municipal and school board primary election, and the November 3, 2015, municipal and school board general election, and until further notice:

#### POLLING PLACE LIST

	<b>POLLING PLACE</b>	<b>ADDRESS</b>
1.	St. Michael's Catholic Church (lower level)	4901 East Superior Street
2.	Lakeside Presbyterian Church (lower level)	4430 McCulloch Street
3.	Lutheran Church of the Good Shepherd (lower level)	1325 North 45th Avenue East

## POLLING PLACE LIST

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4.	Faith Lutheran Church (lower level)	1814 North 51st Avenue East
5.	Lakeview Covenant Church (lower level)	1001 Jean Duluth Road
6.	Woodland Community Club	3211 Allendale Avenue
7.	Glen Avon Presbyterian Church (lower level)	2105 Woodland Avenue
8.	Duluth Congregational Church (lower level)	3833 East Superior Street
9.	Pilgrim Congregational Church (lower level)	2310 East Fourth Street
10.	U.M.D. Kirby Student Center	1120 Kirby Drive
11.	Vineyard Christian Fellowship (auditorium)	1533 West Arrowhead Road
*12.	Unitarian Universalist Congregation of Duluth	835 West College Street
13.	Mt. Olive Lutheran Church (lower level)	2010 East Superior Street
14.	First Lutheran Church (lower level)	1100 East Superior Street
15.	Peace Church (Tenth Avenue entrance)	1015 East 11th Street
16.	First United Methodist Church (Lakeview social hall)	230 East Skyline Parkway
17.	Rainbow Senior Center (auditorium)	211 North Third Avenue East
18.	Lafayette Square (upper level)	3026 Minnesota Avenue
19.	Duluth Public Library (Green Room)	520 West Superior Street
20.	Duluth Gospel Tabernacle Church (lower level - west entrance)	1515 West Superior Street
21.	Lincoln Park Senior Center (lower level)	2014 West Third Street
22.	Shepherd of the Hills Lutheran Church (fellowship hall)	802 Maple Grove Road
23.	Duluth Heights Community Club	33 West Mulberry Street
24.	Christ Lutheran Church (rear lower level entrance)	2415 Ensign Street
25.	St. Lawrence Church	2410 Morris Thomas Road
26.	Holy Family Catholic Church	2430 West Third Street
27.	Harrison Community Club	3002 West Third Street
28.	City Center West	5830 Grand Avenue
29.	Faith Haven (recreation room)	4901 Grand Avenue
30.	Elim Lutheran Church (social hall)	6101 Cody Street
31.	Bayview Heights School (gym)	8702 Vinland Street
32.	Asbury United Methodist Church (lower level)	6822 Grand Avenue
33.	Goodfellowship Community Center (warming area)	1242-88th Avenue West
34.	Stowe School (Room 27)	715-101st Avenue West

\* New polling site location

BE IT FURTHER RESOLVED, that under the authority of Ordinance 8728, that an absentee ballot board shall be in effect and utilized as allowed for under Minnesota Statutes, for the September 15, 2015, and November 3, 2015, elections.

BE IT FURTHER RESOLVED, that the city agrees to indemnify and hold harmless any organization allowing the city to use its building for a polling place from any claims or damages for bodily injury or property damage that are not covered by the insurance of the property owner or property operator, and arise out of the claimants' activities in the polling place for the purpose of voting, but subject to municipal liability limits contained in state law.

Resolution 15-0192 was unanimously adopted.

Approved April 13, 2015

DON NESS, Mayor

- - -

BY PRESIDENT LARSON:

WHEREAS, the Minnesota National Guard 148th Fighter Wing Explosive Ordinance Disposal ("EOD") unit is located within the city limits of Duluth. Prior to 2012, the 148th Fighter Wing EOD unit was available for public use at the request of local law enforcement and worked well with local safety personnel. The city of Duluth provided a portion of a port security grant to the 148th Fighter Wing EOD unit to help purchase equipment; and

WHEREAS, a policy change occurred two years ago when the Minnesota National Guard prohibited local utilization of the EOD unit; and

WHEREAS, the closest bomb squad asset now available to the city of Duluth is located in the Twin Cities area or Crow Wing County, Minnesota; and

WHEREAS, because the city of Duluth is the hub of the second largest metropolitan area in Minnesota and has one of the busiest international ports in the United States, as well as an international airport, it is important that local law enforcement and safety officials are allowed to utilize the 148th Fighter Wing EOD unit.

THEREFORE BE IT RESOLVED, that the Duluth City Council calls upon Governor Mark Dayton to declare the Minnesota National Guard 148th Fighter Wing Explosive Ordinance Disposal unit a community asset and make the unit available to local law enforcement to enhance local public safety.

Resolution 15-0215 was unanimously adopted.

Approved April 13, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0413-14 with the commissioner of transportation, state of Minnesota, granting the city a limited use permit for the construction and maintenance of Fairmount Park/Lake Superior Zoo fence and landscaping in the state's right-of-way for Trunk Highway 23 (Grand Avenue) from 72nd Avenue West to 74th Avenue West.

Resolution 15-0141 was unanimously adopted.

Approved April 13, 2015

DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth desires to designate a portion of London Road, a portion of which that road hereinafter described should be designated a municipal state aid highway under the provisions of Minnesota law.

FURTHER RESOLVED, by the city of Duluth, that the road described as follows, to wit:  
London Road from Superior Street to 12th Avenue East, approximately 0.20 miles,  
be and hereby is established, located and designated a municipal state aid highway of said city, subject to the approval of the commissioner of transportation of the state of Minnesota.

FURTHER RESOLVED, that the city clerk is hereby authorized and directed to forward two certified copies of this resolution to the commissioner of transportation for his consideration, and that upon his approval the designation of said road or portion thereof, that same be constructed, improved and maintained as a municipal state aid highway of the city of Duluth, to be numbered Municipal State Aid Highway 193.

Resolution 15-0186 was unanimously adopted.

Approved April 13, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with MSA Professional Services, Inc., to provide engineering and design services for replacing the HVAC system in the water plant filtration building and other improvements including a dehumidification system for the filtration building. These services are payable from Water Fund 510, Public Works and Utilities 500, Capital (including depreciation/debt service) 1905, Capital Improvement-Revenue 5333.

Resolution 15-0187 was unanimously adopted.

Approved April 13, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized and directed to execute an agreement between the city of Duluth and the Minnesota department of transportation (MnDOT), a copy of which is on file in the office of the city clerk as Public Document No. 15-0413-15, to provide for payment by the city to the state of the city's share of the costs of the signal and emergency vehicle preemption (EVP) systems, Pond No. 3, utility, and S.A.P. 118-010-026 (CIMS) eligible work items construction to be performed upon, along and adjacent to Trunk Highway No. 23 from 590 feet north of Becks Road to Trunk Highway No. 35 within the corporate city limits under State Project No. 6910-89, at an estimated cost of \$1,434,047.83. The working fund is Permanent Improvement Fund 411, with the city's costs for this project payable from Federal funds, municipal state aid funds, and the respective utility funds.

Estimated construction, engineering and contingency costs from federal and municipal state aid funding is \$819,218.84.

Estimated construction and engineering costs from utility funding:

Water Utility Fund 510 - \$146,172.52;

Gas Utility Fund 520 - \$15,269.63;

Sanitary Sewer Fund 530 - \$444,850.35;

Stormwater Utility Fund 535 - \$8,536.50.

Resolution 15-0211 was unanimously adopted.

Approved April 13, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to execute and implement an agreement, substantially the same as that on file with the city clerk as Public Document No. 15-0413-16, between the city and Arrowhead Bowhunter's Alliance for conducting the annual deer control hunt in 2015, with options to renew for three additional years, at no net cost to the city

and establishing the rules to be applied to participants in management of the hunt.

Resolution 15-0208 was unanimously adopted.

Approved April 13, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to accept \$42,002 from the Arrowhead Library System for use in 2015 by the Duluth public library to purchase library materials, said sum to be deposited in Fund No. 110-121-1218-4654-02 (general, public administration, library services).

Resolution 15-0213 was unanimously adopted.

Approved April 13, 2015

DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 15-0191, confirming the appointments and reappointments of members to city boards and commission, was introduced by Councilor Gardner.

Councilor Gardner moved to suspend the rules to hear a speaker on the resolution, which motion was seconded and unanimously carried.

Janet Kennedy commented on the importance of representation on the boards and commission with equitable voices.

Councilor Gardner moved to return the resolution to the administration for further review which motion was seconded and unanimously carried.

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Ziegler for the lease of 20 motor graders Model 12M3 AWD for an annual lease amount for the first four years of \$351,648, and for a final six month lease amount of \$175,824, for a total lease amount of \$1,582,416, payable from General Fund 110, Public Administration 121, Maintenance Operations 1217, Street Maintenance 2140, Vehicle/Equip Lease (long-term) 5418.

Resolution 15-0209 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved April 13, 2015

DON NESS, Mayor

- - -

Resolution 15-0203, by Councilor Russ, affirming the decision of the planning commission to deny the application for a variance from the maximum height limitation by Island Inn & Suites LLC at 1001 Minnesota Avenue, was introduced for discussion.

Councilor Russ moved to suspend the rules to hear a speaker on the resolution, which motion was seconded and unanimously carried.

Elizabeth Hooper commented in support of the resolution.

Resolution 15-0203 was adopted as follows:

BY COUNCILOR RUSS:

RESOLVED, that the city council finds as follows:

(a) On February 9, 2015, Island Inn & Suites LLC applied for a variance that would allow for a hotel with a maximum height of 120 feet instead of the current maximum of 35 feet. The planning commission considered the request at its March 10, 2015, meeting and voted to deny the request. The basis for the commission's decision were its conclusions that:

(1) Currently the property is used as a marina. Marinas and hotels are permitted uses in the MU-W zone district. With the existing marina, applicant has a reasonable use of the property. A hotel could be built on the property within the existing height limit of 35 feet, as demonstrated by the neighboring hotel at 1003 Minnesota Avenue. Moreover, the MU-W zone district allows many additional uses that could be accommodated on this property. Thus, the height variance is not necessary for the preservation and enjoyment of a substantial property right;

(2) The applicant claimed that the variance request is needed to accommodate a previous development project; however, approvals for the earlier project have expired, and the new project is not eligible for any grandfathering considerations;

(3) Other commercial and residential buildings in the area meet the maximum height of 35 feet. Granting a variance to allow an additional 85 feet of height would alter the essential character of the area, which is typified by a mixture of residential (single-family and two-family), commercial (marinas and a hotel), and government (Army Corps of Engineers) uses, all located in low-rise buildings that are consistent with the purpose and dimensional standards of the appropriate zone districts per sections 50-14.5, 50-15.6, and 50-17.3 of the City of Duluth Legislative Code;

(4) The need for relief is not due to circumstances unique to this property. The applicant acknowledges there are no issues caused by exceptional narrowness, shallowness, shape or other physical conditions; and

(5) For the reasons stated above, this property does not meet the definition of practical difficulty;

(b) Island Inn & Suites LLC was provided written notice of the commission's action on March 11, 2015;

(c) Lakehead Boat Basin and Island Inn & Suites filed an appeal of the commission's decision to the city council on March 19, 2015, pursuant to Section 50-37.1.O(4) of the City Code; and

(d) The city council heard the appeal at its April 13, 2015, meeting.

RESOLVED FURTHER, that the decision of the planning commission to deny the application for the 85 foot height variance is affirmed on the following grounds:

(a) The request for the variance is not due to exceptional narrowness, shallowness, or shape of the applicant's property;

(b) The relief is not necessary for the preservation and enjoyment of a substantial property right;

(c) The variance would alter the essential character of the area, which is typified by a mixture of residential, commercial, and government uses, all located in low-rise buildings that are consistent with the purpose and dimensional standards of the appropriate zone districts per sections 50-14.5, 50-15.6, and 50-17.3 of the City of Duluth Legislative Code; and

(d) The applicant has not demonstrated practical difficulty.

Resolution 15-0203 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved April 13, 2015

DON NESS, Mayor

- - -

Resolution 15-0204, by Councilor Russ, reversing the decision of the planning commission to deny the application for a variance from the maximum height limitation by Island Inn & Suites LLC at 1001 Minnesota Avenue, was introduced.

Councilor Russ moved to remove this resolution from the agenda, because of the action on Resolution 15-0203, which motion was seconded and unanimously carried.



- - -

BY PRESIDENT LARSON:

RESOLVED, that the Duluth City Council supports consultation and discussion between administration and public works officials with the city of Duluth and St. Louis County regarding use of transportation sales and use tax revenue for projects that benefit both the county and the city of Duluth.

Resolution 15-0189 was unanimously adopted.  
Approved April 13, 2015  
DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth accepts a bequest by Jerome Clarence Miller of \$100,000 to the Duluth public library; said funds to be deposited in Fund 240-300-SG80-4660 (library, special gifts, library miscellaneous).

Resolution 15-0190 was unanimously adopted.  
Approved April 13, 2015  
DON NESS, Mayor

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES**

**ORDINANCE TABLED**

INTRODUCED BY COUNCILOR RUSS

15-014 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF PROPERTY IN LAKESIDE TO KNUTSON CUSTOM CONSTRUCTION, LLC, FOR RESIDENTIAL REDEVELOPMENT.

Councilor Russ moved to remove the ordinance from the table and return it to the administration, which motion was seconded and unanimously carried.

- - -

The following entitled ordinance was read for the first time:

INTRODUCED BY COUNCILOR RUSS

15-022 - AN ORDINANCE AMENDING SECTION 2-177 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE METHODS OF CONVEYANCE OF REAL PROPERTY.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR RUSS

15-018 (10363) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO P-1 FOR GROSVENOR SQUARE, KELSO PARK, PORTMAN COMMUNITY RECREATION CENTER, RUSSELL SQUARE AND WASHINGTON SQUARE (CITY OF DULUTH).

Councilor Russ moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR RUSS

15-019 (10364) - AN ORDINANCE AMENDING SECTION 50-37.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO ADMINISTRATIVE ADJUSTMENTS OF THE LAND USE SUPERVISOR.

Councilor Russ moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR RUSS

15-020 (10365) - AN ORDINANCE AMENDING SECTION 50-20.4 OF THE DULUTH CITY CODE, 1959, AS AMENDED, USE SPECIFIC STANDARDS OF MAJOR UTILITY OR WIRELESS TELECOMMUNICATIONS FACILITY.

Councilor Russ moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR RUSS

15-021(a) - AN ORDINANCE AMENDING SECTIONS 50-19.8, 50-20.2 AND 50-41.13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO AMEND THE PERMITTED USE TABLE TO ALLOW FOR MEDICAL CANNABIS LAND USES.

Councilor Fosle moved to amend both subsections 50-20.2.B.3 and 50-20.2.D.3 of the ordinance by:

- (a) Deleting "200 feet of" and inserting "1,500 feet from";
- (b) Adding the phrase "at a density of greater than one unit per five acres" to the end of the subsections;

which motion was seconded and unanimously carried.

*Editor's Note: With the amendment, the ordinance was now considered as having a new first reading.*

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INTRODUCED BY COUNCILOR RUSS

15-021(b) (10366) - AN ORDINANCE ADDING SECTION 50-17.5, AND AMENDING SECTIONS 50-13.3, 50-19.1, 50-19.8 AND 50-41.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO AMEND THE PERMITTED USE TABLE TO ALLOW FOR A NEW AIRPORT ZONE DISTRICT.

Councilor Russ moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

The meeting was adjourned at 8:01 p.m.

JEFFREY J. COX, City Clerk

- - -

### **ORDINANCE NO. 10363**

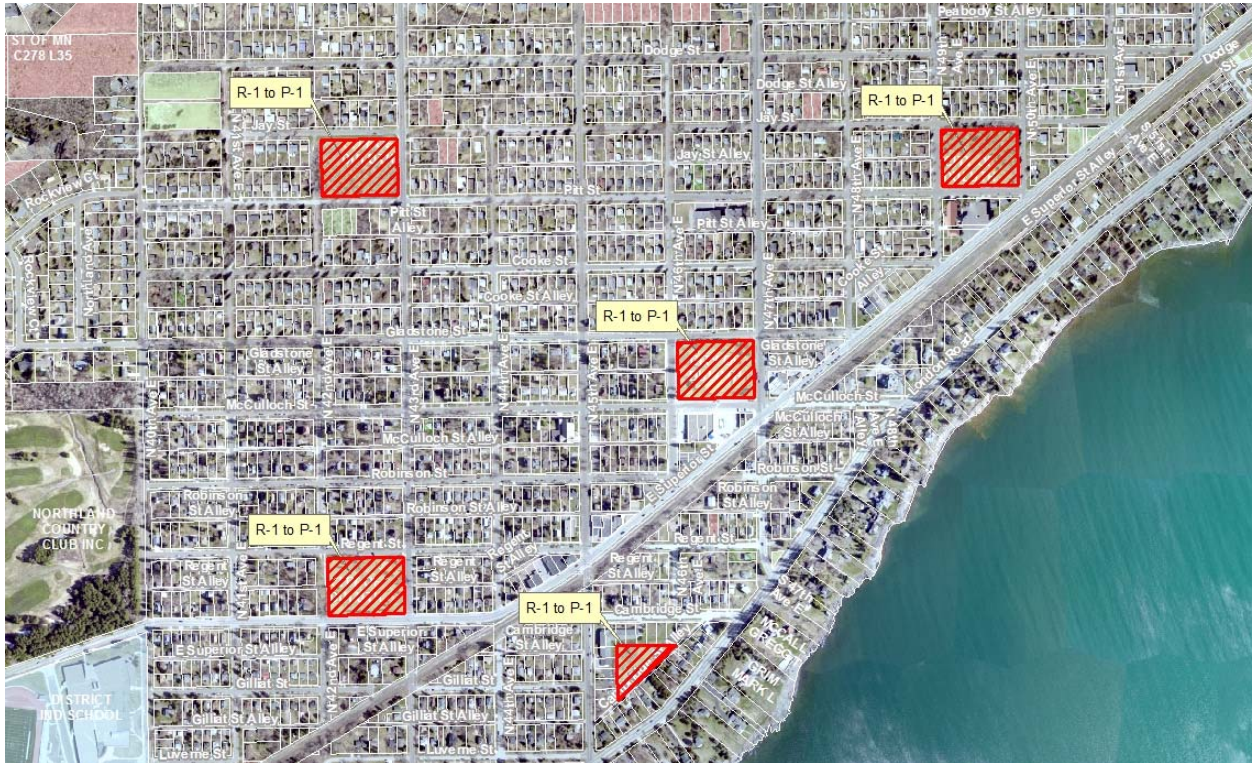
AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO P-1 FOR GROSVENOR SQUARE, KELSO PARK, PORTMAN COMMUNITY RECREATION CENTER, RUSSELL SQUARE AND WASHINGTON SQUARE (CITY OF DULUTH).

The city of Duluth does ordain:

Section 1. That the subject properties located on located on the eastern and northeast portions of the city and as more particularly described as follows:

010-2970—00320                      010-3030-03025                      010-3030-02035  
010-2990-01326                      010-3010-03605

be reclassified from Residential-Traditional (R-1) to Park and Open Space (P-1) and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



(Ref. File No. 15-033)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: May 16, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed April 13, 2015  
Approved April 13, 2015  
DON NESS, Mayor

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**ORDINANCE NO. 10364**

AN ORDINANCE AMENDING SECTION 50-37.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO ADMINISTRATIVE ADJUSTMENTS OF THE LAND USE SUPERVISOR.

The city of Duluth does ordain:

Section 1. That Section 50-37.1 of the Duluth City Code, 1959, as amended, be amended as follows:

50-37.1 Common procedures and requirements.

**A. Pre-application meetings.**

A pre-application meeting is an informal discussion between a potential applicant, interested citizen, city staff and the heritage preservation commission (if applicable) regarding a possible project subject to this Chapter. The purpose of the pre-

application meeting is to assist the applicant by identifying the types of approval needed to complete the project, application material and impact studies required, applicable comprehensive plan provisions and applicable review criteria. A pre-application meeting may include a site visit at the request of the city. Pre-application meetings are required for the following types of applications:

1. UDC zoning map amendment;
2. District plan adoption or amendment;
3. Subdivision concept plan;
4. Vacation of street;
5. Concurrent use of streets permit.
6. Historic resource designation;
7. Special use or interim use permit;

**B. Authority to file applications.**

1. A property owner or a contract purchaser may apply for any type of permit or approval unless a more specific application is stated in this Section 50-37.1.B or in sections 50-37.2 through 16 below. In the event of a conflict between the provisions of this Section 50-37.1.B and the provisions of sections 50-37.2 through 16, the provisions of sections 50-37.2 through 16 shall govern;
2. An agent of the property owner, or a resident of the property, may apply for any type of permit or approval provided the agent or resident has written authority of the property owner to do so;
3. Applications for designation of a historic resource are governed by Section 50-37.8;
4. Any person may request an interpretation of this Chapter, and the land use supervisor may issue interpretations of this Chapter as needed and shall post issued interpretations on the city web site;

**C. Application materials and fees.**

1. Each application for a permit or approval, or for a modification of a permit or approval, pursuant to this Chapter, shall include all those application materials listed for that type of application or modification listed in the UDC application manual for this Chapter and a fee in the amount listed for that type of application or modification shown in the latest schedule of fees approved by council;
2. The city may reject applications not meeting the requirements of this Chapter, the UDC application manual, or as required or authorized by MSA 15.99;
3. Any and all representations made by the applicant to the city on the record during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the city;
4. The schedule of fees shall be adopted from time to time by the council by resolution, pursuant to Section 31-6 of the Code, to defray estimated staff costs and expenses of processing applications;
5. The schedule of fees may provide for additional fees if an applicant submits more than two applications that are incomplete, pursuant to Section D below, for the same proposed development;
6. All fees are non-refundable regardless of whether the applicant withdraws the application prior to a decision or whether the application is approved, approved with conditions or denied;

**D. Determination of completeness.**

A determination of completeness shall be made for each application pursuant to MSA 15.99;

**E. Inactive complete applications.**

If an application has been determined to be complete, but review of the application reveals possible additional impacts on the surrounding area, any request by the city for additional materials necessary to evaluate those impacts shall comply with the provisions of MSA 15.99;

**F. Withdrawal of applications.**

An applicant may withdraw an application at any time prior to a decision by the city by filing a written request to withdraw the application with the city. Any resubmission is subject to the provisions of subsection 50-37.1.G below. If the application is later resubmitted, it shall be treated as a new application for purposes of review and scheduling. Any fees paid for a withdrawn application shall not be refunded;

**G. Successive applications.**

If an application pursuant to this Chapter has been denied by the city, an application requesting the same or essentially the same approval shall not be accepted during the next 12 months;

**H. Public notice.**

1. Types of notice.

The city uses one or more of the following methods to notify the public about pending applications where there is an opportunity for public comment on the application. The type(s) of notice provided for different types of applications are shown in Table 50-35-1.

(a) Newspaper notice means the publication of one notice in a newspaper of general circulation within the city at least ten days before the date of the public hearing, except in the case of amendments to the text of this Chapter or zoning map, in which case the notice shall be published at least once each week for three successive weeks before the date of the public hearing;

(b) Mailed notice means a letter mailed by first class mail to property owners within 350 feet of the applicant's parcel at least ten days prior to the date of the public hearing. In the case of an application for vacation of a street, the notice shall be mailed to the owners of all properties abutting (a) the portion of the street proposed to be vacated, and (b) the portion of that street extending 350 feet from the ends of the portion proposed to be vacated. In the case of an application for rezoning an area of five acres or less, the notice shall be mailed to each property owner in the area to be rezoned and each owner of property located partly or entirely within 350 feet of the area to be rezoned. Failure to give mailed notice as required by this Section or any defect in the notice given shall not invalidate any action of the planning commission or council, provided that a bona fide attempt to comply with this Section has been made;

(c) Sign notice means a sign with minimum dimensions of 24 inches by 30 inches posted as close as reasonably possible to each street frontage on the applicant's property with the text between three and five feet above grade level, with a title line reading "Zoning Notice" in letters at least three inches tall, and with the remainder of the text in letters at least 1/2 inch tall. Each sign must be posted at least two weeks before the date of the public hearing, and must remain in place and legible through the date of the public hearing as shown on the

sign. If the sign will not be legible at the stated height due to snow accumulations it may be placed higher, but at the lowest elevation that will be legible to the public. If snow obscures the sign during the posting period, the snow shall be removed and/or the sign shall be relocated so as to be legible within 24 hours after snowfall ends. Evidence produced at or before the public hearing that one or more of the required signs were not in place or legible throughout that period shall be grounds for postponement of the public hearing and a requirement to repost the property. Required signs may not be posted in any portion of the public right-of-way;

2. Content of notice.

Each required notice shall include the following information:

- (a) The name of the applicant;
- (b) The address of the property;
- (c) A narrative description of the project including the proposed land uses, size (in square feet) and height (in feet and stories) of any proposed buildings or building expansions;
- (d) The type of permit or approval being sought;
- (e) Contact information where additional information can be obtained from the applicant (which may be an address, telephone number, web site, or e-mail address or other electronic site or method);
- (f) Contact information for the assigned city staff member;
- (g) The date, time and place of the public hearing;

3. Special notice provision for appeals.

In the case of an appeal to the planning commission or council pursuant to Section 50-37.1.O, mailed notice shall be provided to any interested parties that were notified of the original application and the right to receive notice of any appeal, and who have notified the city in writing that they would like to receive notice of the appeal;

I. Public hearings.

1. Public hearings before the planning commission and public hearings before the council on matters related to this Chapter shall be conducted pursuant to rules and practices established by each of those bodies and in compliance with state law;
2. Attendance shall be open to the public;
3. All hearing and decision timeframes shall comply with MSA 15.99;

J. Review criteria.

1. The planning commission shall approve or recommend approval of an application if it makes a written finding that:
  - (a) The application is consistent with the adopted comprehensive land use plan, as that plan may have been amended after adoption;
  - (b) The application complies with all applicable requirements of this Chapter, as those requirements may have been varied through a variance approved pursuant to Section 50-37.9;
  - (c) The application complies with all additional approval criteria listed in Section 50-37.2 below;
2. If the planning commission determines that the criteria in subsection 1 have not been met, the commission shall deny or recommend denial of the application or approve it with conditions to bring the application into conformance with the above criteria;

3. The council is encouraged, but not required, to make decisions on applications under this Chapter pursuant to the criteria listed in subsection 1. In no case may the city's final action result in the approval of a use variance;
4. The applicant bears the burden of proof that an application complies with all applicable standards and criteria in this Chapter;

**K. Conditions on approval.**

1. As an alternative to denying an application, the building official and the land use supervisor are authorized to approve applications with conditions necessary to bring them into compliance with the requirements of this Chapter or with any previously approved district plan for the property;
2. As an alternative to denying an application, the planning commission is authorized to recommend or impose conditions on approvals that it determines are necessary to (a) bring the application into compliance with the requirements of this Chapter, the purposes of the zone district where the property is located or any previously approved district plan for the property, or (b) prevent or minimize adverse effects upon surrounding areas or upon public facilities and services;
3. All conditions imposed on approved applications shall be reasonably related to the anticipated impacts of the proposed development or land use and to the purposes of this Chapter;
4. In the case of decisions made by the planning commission or council, where mitigation of the impacts of a proposed plan or development requires an applicant to dedicate land or pay money to a public entity in an amount that is not calculated according to a formula applicable to a broad class of applicants, any condition imposed shall be roughly proportional both in nature and extent to the anticipated impacts of the proposed development, as shown through an individualized determination of impacts;
5. Any conditions on approved applications shall be listed in or attached to the approval document, and violation of any approved condition shall be a violation of this Chapter;

**L. Administrative adjustments.**

Where an application concerns development or redevelopment of a lot and the applicant demonstrates practical difficulty in designing the redevelopment to comply with all requirements of this Chapter, the land use supervisor is authorized to approve applications that diverge from the requirements of this Chapter in up to two of the following ways:

- 1 The front, side or rear setbacks of a new or modified structure is one foot smaller than the minimum setbacks required by this Chapter;
- 2 For properties zoned Residential-Traditional (R-1) or Residential-Urban (R-2), and have a lot frontage of 40 feet or less, the corner side yard setback is no less than five feet smaller than the minimum setback required by this Chapter;
- 3 The front, side, or rear setback for a new or modified city operated utility structure on existing utility lines is no less than five feet;
- 4 The height of a new or modified structure is no more than two feet taller than the maximum allowed by this Chapter;
- 5 For properties where Section 50-24 requires more than three off street parking spaces, and the property does not contain a single-family

residential structure (regardless of the use of that structure) the site may contains one less parking space than is required, or may contain one more parking space than the maximum allowed in Section 50-24.4;

- 6 Handicap accessibility structures can encroach into the yard setbacks;
- 7 For properties where Section 50-21.2 requires improved street frontage, exceptions limiting the street improvement to no more than 50 feet in length may be granted if the land use supervisor determines that further extension of the street is not anticipated due to topography, comprehensive land use plan or utility availability;
- 8 For properties where Section 50-21.2 requires that not more than 30 percent of the rear yard be occupied by any one accessory structure, exceptions may be granted for an accessory structure to occupy up to 40 percent of the rear yard;
- 9 The area of a new or modified sign is no more than ten percent larger than the maximum allowed by Section 50-27;

**M. Modifications of approvals.**

1. Application.

An applicant who has received a permit or approval from the city pursuant to this Chapter may apply to modify that approval pursuant to this Section 50-37.1. An application for a modification shall be made to the building official, who shall determine whether it requests a minor or major modification pursuant to the criteria in subsections 2 or 3, as applicable;

2. Minor modifications.

Minor modifications are those that (a) relate to redevelopment of a single building on one or more existing platted lot(s), (b) qualify as administrative adjustments pursuant to subsection 50-37.1.L or (c) that the city determines are otherwise consistent with any district plan approved for the zone district where the property is located. Applications for minor modifications may be approved by the city if it determines that the applicant would have practical difficulties designing or constructing the project without the minor modification. However, the city may require that an application meeting the criteria for a minor modification be treated as an application for a major modification if it determines that the application raises a significant public controversy on which numerous parties other than the owner of the property may want to offer testimony;

3. Major modifications.

Major modifications are those that do not qualify as administrative adjustments pursuant to subsection 50-37.1.L or minor modifications pursuant to subsection 2 above. Applications for major modifications shall be treated as a new application for an approval of the same type being modified. However, if the city determines that an application for modification is not consistent with a district plan applicable to the property, and that the inconsistency may materially and adversely affect other property owners subject to the same district plan, the city may require that the applicant obtain approval of a revised district plan instead of a major modification. In the case of a major modification involving a natural resources permit, the city may require additional reports and data necessary to evaluate the impacts of the modification;

**N. Lapsing of approvals.**



Some permits and approvals issued pursuant to this Chapter shall lapse and be of no further force or effect if the action approved in the permit or approval does not begin within a specific period of time, as listed below:

1. Approved preliminary plats for subdivision shall lapse unless a complete application for a final plat of at least 50 percent of the land covered by the preliminary plat is submitted within one year of the preliminary plat approval. Approved final subdivision plats shall lapse unless the approved final plat is recorded within two years after approval;
2. Approved minor subdivisions and boundary line adjustments shall lapse unless recorded within 180 days of approval;
3. Approved vacations of streets shall lapse unless a plat showing the vacation is recorded with the office of the county recorder within 90 days after final approval;
4. Approved planning reviews, zoning permits, special use permits, interim use permits, concurrent use of street permits, sidewalk use permits and variances shall lapse if the project or activity authorized by the permit or variance is not begun within one year of the permit date. The building official may extend this period one time for a period of up to one year if the property owner presents a written request showing the reasons for the delay was outside the owner's control;
5. Erosion and sediment control permits (ESCP) shall lapse one year after approval if all construction activities are not completed or the entire site is not fully stabilized with 70 percent successful establishment of vegetation. In case of a lapse of the ESCP, a new permit shall be obtained;
6. Approved building permits shall lapse one year after issuance unless construction has begun by that date;
7. The MS-4 statement of compliance and accompanying drainage report will be valid for two years from the date of approval. If permanent stormwater facilities (BMPs) are not fully constructed and operational within two years, and extension of one year may be granted if a written request is submitted and approved by the city engineer. The written request should document the reasons for the extension and the current state of completion of the project;

#### O. Appeals.

This Section is intended to comply with the provisions of MSA 462.357 and MSA 360.068 as amended, and shall be interpreted to comply with those provisions wherever possible.

1. General provisions for appeal to planning commission.
  - (a) Except as noted in subsection 2, any person aggrieved by, or any department of the city affected by, any decision of any city official engaged in the administration or enforcement of this Chapter may appeal that decision to the planning commission. The appeal must be filed within ten days after the decision by filing with the building official a written notice of appeal addressed to the commission and specifying the grounds of the appeal;
  - (b) If the appeal relates to a decision regarding the zoning of an airport or the Airport Overlay district, any person aggrieved by the decision, any taxpayer affected by the decision and any governing body of a municipality, county or airport zoning board, that believes the decision is an improper application of this Chapter as it concerns that governing body or board may appeal that decision to the airport board

of adjustment. The appeal must be filed within ten days after the decision by filing with the building official a written notice of appeal addressed to the board and specifying the grounds of the appeal. If the appellant is a person aggrieved or a taxpayer affected by the decision regarding the zoning of an airport or the Airport Overlay district, the applicant shall submit an appeal to the city clerk in the manner set forth in Minnesota Statutes 360.068, Subdivision 2. All appeals shall be pursuant to and consistent with the procedures in the Duluth International Airport Zoning Ordinance adopted by the city and four other jurisdictions, and in the event of an inconsistency between that Airport Zoning Ordinance and this Chapter, the provisions of the Airport Zoning Ordinance shall govern;

- (c) The building official shall promptly transmit to the commission, or to the airport board of adjustment, as applicable, the documents and records related to the decision being appealed;
  - (d) A timely appeal shall stay all proceedings involved in the appeal; and no appeal shall be deemed to permit the appellant to do or to continue doing, directly or indirectly, any act or thing prohibited by the decision being appealed. However, if the building official notifies the planning commission in writing that a stay would cause imminent peril to life or property, and provides written reasons for that opinion, the planning commission may order that proceedings not be stayed pending appeal;
  - (e) The commission shall fix a time for a hearing on the appeal, shall provide notice of the hearing pursuant to Section 50-37.1.H, and shall hold a public hearing pursuant to Section 50-37.1.I;
  - (f) Any party may appear at the hearing in person, by agent or by attorney. Notice of the decision of the board shall be mailed to the appellant;
  - (g) If the appeal alleges that the boundaries of a wetlands or shorelands area on the Natural Resources Overlay map in Section 50-18.1 are in error, the appellant shall bear the burden of proving the map erroneous by the production of clear and convincing technical evidence;
2. Exceptions.

- (a) An appeal from any decision regarding the interpretation or application of sign regulations in subsections 50-27.1.I, *No safety obstructions*, 50-27.1.L, *Attachment to buildings*, 50-27.1.M, *Wind pressure design*, 50-27.1.N, *Electrical wiring*, or 50-27.1, *Certification of structural engineer*, must be taken to the state building official as provided in the State Building Code;
- (b) An appeal from a decision regarding a building permit must be taken to the building appeals board created in Article IV of Section 10 of the City Code or to the state building official;
- (c) An appeal from any decision under the housing code provisions in Section 50-32 of this Chapter must be taken to the building appeals board;
- (d) If an applicant believes that the decision of staff regarding compliance with the requirements of the SP-O zone district is incorrect or deprives the applicant of the reasonable use of his or her property, or is unreasonable given the size and shape of the property and its

orientation to the protected views, the applicant may request review of the decision by the planning commission. The planning commission's review shall be based on the purpose and standards of this Section, but may authorize variations to those standards, in accordance with the procedures in Article V of this Chapter, if unusual site conditions not generally shared along Skyline Parkway make compliance with the standards unreasonable or ineffective to protect the intended views of Lake Superior, the St. Louis River and the harbor;

3. Powers of planning commission on appeal.
  - (a) The planning commission shall consider the record of the application and any testimony presented at the hearing regarding the application of this Chapter to the application and shall affirm, modify or reverse the decision appealed, and may make any orders, requirements, decisions or determinations that the building official or land use supervisor could have made regarding the application;
  - (b) In hearing permitted appeals of decisions regarding the sign regulations in Section 50-27, the planning commission shall have only the power to affirm, reverse or modify the decision of the building official;
  - (c) In the case of an appeal regarding the application of the NR-O Natural Resources Overlay district, no relief shall be granted that violates the limitations on variances applicable to that district;
  - (d) The decision of the planning commission shall be final unless a further appeal is filed pursuant to subsection 4 below;
4. Appeals of planning commission decisions to council.
  - (a) Except as provided in subsection 5 below, any person aggrieved by, or any department of the city affected by, any decision of the planning commission on an appeal pursuant to subsection 1 above may appeal that decision to the council;
  - (b) Any appeal must be filed within ten days after the planning commission's decision by filing with the city clerk a written notice of appeal addressed to the council and specifying the grounds for the additional appeal;
  - (c) The filing of a notice of appeal shall stay all proceedings in furtherance of the decision appealed from. However, if the building official notifies the council in writing that a stay would cause imminent peril to life or property, and provides written reasons for that opinion, the council may order that proceedings not be stayed pending appeal;
  - (d) The council shall hear the appeal at the next scheduled meeting with time available, and may affirm, modify or reverse the board's decision, and may make any orders, requirements, decisions, or determinations it deems appropriate regarding the appeal;
  - (e) No decision on an appeal or variance shall have the effect of allowing a use that is not a permitted or special use in the zone district where the property is located;
  - (f) If the appeal is regarding an application in any district where the approval of a district plan is required or requested prior to development, the council shall only approve development plans if it finds that the requirements for the district plan in that district will be satisfied;

5. Appeal of planning commission decisions to the courts.
  - (a) In the case of an appeal regarding the zoning of an airport or an Airport Overlay district, the appeal shall proceed pursuant to applicable state law and shall be perfected within 60 days after the decision appealed from is filed in the office of the planning commission;
  - (b) In case of decisions appealable to the district court pursuant to MSA 462.361, the appeal shall be perfected in 60 days after the decision appealed from is filed in the office of the planning commission;
  - (c) All other appeals not otherwise provided for above shall be pursuant to MSA 606.01;
6. Appeals of heritage preservation commission decisions to council.  
Where applicable, subsection 50-37.1.O.4 shall apply of heritage commissions decisions, when appealable to city council;

**P. Security for improvements.**

1. If the provisions of this Chapter or conditions attached to a permit or approval under this Chapter require the applicant to construct or make improvements to the property, to protect the city or adjacent property owners from injury or damage, or to return the property to a stated condition following the completion of operations or construction, and those actions have not been completed, then the city shall require the applicant to post security to ensure that those improvements are made in a timely manner, and that if the applicant fails to make those improvements the city will have adequate funds on hand to complete the improvements at the applicant's expense;
2. Security shall be posted in a form acceptable to the city, which may include but are not limited to cash, a promissory note, a letter of credit issued by a financial institution acceptable to the city, or a performance bond issued by a financial institution acceptable to the city. The security shall be in an amount equal to 110 percent of the estimated cost for the city to complete the improvements;
3. The city shall release posted financial security upon confirmation by the building official that the required improvements have been constructed in accordance with all applicable design and construction standards. In the case of any improvements to be dedicated to the city, the city shall release posted financial security upon acceptance of the improvements by the city. At the discretion of the building official, partial releases of financial security may be made after construction or dedication of some but not all of the required improvements, but financial security equal to 110 percent of the estimated cost of for the city to complete the improvements shall be retained;
4. As an alternative to requiring the posting of financial security, the city may authorize the issuance of a temporary certificate of occupancy for the property, provided that the applicant signs a development agreement with the city agreeing to pay the city a specific financial penalty per month if the required improvements are not constructed by a certain date. The amount of the penalty shall be calculated so that if the applicant does not construct the improvements within one year after the required date the penalties will equal at least that amount set in accordance with Section 31-8 of this Code of the estimated cost for the city to complete the improvements.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: May 16, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed April 13, 2015  
Approved April 13, 2015  
DON NESS, Mayor

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### ORDINANCE NO. 10365

AN ORDINANCE AMENDING SECTION 50-20.4 OF THE DULUTH CITY CODE, 1959, AS AMENDED, USE SPECIFIC STANDARDS OF MAJOR UTILITY OR WIRELESS TELECOMMUNICATIONS FACILITY.

The city of Duluth does ordain:

Section 1. That Section 50-20.4 of the Duluth City Code, 1959, as amended, be amended as follows:

50-20.4 Industrial uses.

**A. Airport and related facilities.**

1. In the R-C district, airport and related facilities are permitted only on land owned by the public or airport authority that is used for the exclusive purpose as an airport and only on land on which an airport was established on November 19, 2010;
2. In the I-G district, airport and related facilities are permitted only on land owned by the public or airport authority that is used for the exclusive purpose as an airport;

**B. Contractor's shop and storage yard.**

In the F-5 zone, this use is permitted only in the West Superior study area;

**C. Electric power transmission line or substation.**

The following standards shall apply, in addition to regular requirements of the special use permit process:

1. General corridor criteria:
  - (a) The public need for the route and facility as specifically proposed shall be demonstrated;
  - (b) Where possible, lines shall avoid existing and potential urban density residential neighborhoods;
  - (c) The applicant shall provide an evaluation of the future needs for additional transmission lines in the same general area as the proposed route and the advisability of utilizing structures capable of expansion of transmission capacity through multiple circuiting or design modification;
  - (d) When routing transmission lines, the following shall be avoided unless no reasonable alternative exists: slopes of 20 percent grade or greater; intrusions into scenic areas such as streams, open water, valleys, overviews, ridge crests and high points; wetlands; forests, by running along the fringe rather than through the forests, and by

- utilizing open areas in order to minimize cutting, although leaving a strip at the outside for screening purposes; soils susceptible to erosion that would create sedimentation and pollution problems; areas of unstable soils that would be subject to extensive slippages; areas with high water tables, especially if construction requires excavation; open space recreation areas, including parks, golf courses, etc.; long views of lines parallel to highways and trails; airports; and parkways;
- (e) Routes shall utilize or parallel existing railroads and highway rights-of-way if possible. If such highway rights-of-way are developed the line and structures shall be sufficiently set back and screened in order to minimize view of the line and structures from the highway;
2. Design criteria:
- (a) If a proposal would unduly harm adjacent property or property values, alternatives must be evaluated to determine whether a feasible alternative to the proposal exists. Such consideration of alternatives shall include the underground placement of the line. Any consideration of feasibility of such underground lines shall include economic, technological or land characteristic factors. Economic considerations alone shall not render underground placement not feasible;
  - (b) All structures shall be located and designed in such a way that they are compatible with surrounding land uses, scenic views and existing transmission structures with regard to height, scale, material, color and design;
  - (c) Lines shall meet or exceed the National Electric Safety Code;
  - (d) Electromagnetic noise and interference with radio and television reception, as well as audible hum outside the line right of way, shall be minimized;
  - (e) The cleared portion of the right-of-way shall be kept to a minimum and where vegetation will be removed, new vegetation consisting of native grasses, shrubs and low growing trees shall be planted and maintained. Vegetative screening shall be utilized to the maximum extent consistent with safety requirements;

**D. Junk and salvage services.**

- 1. Junk and salvage service operations and facilities shall comply with all state and Western Lake Superior Sanitary District requirements;
- 2. No junk or salvage service facilities, shall be permitted in a designated shoreland or flood plain zone nor in an identified wetland as these are defined or shown in Section 50-18.1, *Natural Resources Overlay*;
- 3. There shall be no burning of materials;

**E. Major utility or wireless telecommunications facility.**

1. Policy.

Overall policy and desired goals for special use permits for wireless telecommunications facilities. In order to ensure that the placement, construction and modification of wireless telecommunications facilities protects the city's health, safety, public welfare, environmental features, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in this Section 50-20.4.E, the city has adopted an overall policy with respect to a special use permit for wireless telecommunications facilities for the express purpose of achieving the following goals:

- (a) Requiring a special use permit for any new, co-location or modification of a wireless telecommunications facility;
- (b) Implementing an application process for person(s) seeking a special use permit for wireless telecommunications facilities;
- (c) Establishing a policy for examining an application for and issuing a special use permit for wireless telecommunications facilities that is both fair and consistent;
- (d) Promoting and encouraging, wherever possible, the sharing and co-location of wireless telecommunications facilities among service providers;
- (e) Promoting and encouraging, wherever possible, the placement, height and quantity of wireless telecommunications facilities in such a manner, including but not limited to the use of stealth technology, to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances;
- (f) That in granting a special use permit, the city has found that the facility shall be the most appropriate site as regards being the least visually intrusive among those available in the city;

2. Applicability and exemptions.

- (a) Except as otherwise provided by subsection (b) below, no person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of, wireless telecommunications facilities after July 25, 2010, without having first obtained a special use permit for wireless telecommunications facilities. All legally permitted wireless telecommunications facilities, constructed as permitted, existing on or before July 25, 2010, shall be allowed to continue as they presently exist, provided however, that any visible modification of an existing wireless telecommunications facility will require the complete facility and any new installation to comply with this Section 50-20.4.E. Any repair and maintenance of a wireless facility does not require an application for a special use permit;
- (b) The following shall be exempt from the requirements of this Section 50-20.4.E:
  - (i) The city's fire, police, department of transportation or other public service facilities owned and operated by the city or those owned and operated by county, the state or federal government;
  - (ii) Any facilities expressly exempt from the city's siting, building and permitting authority;
  - (iii) Over-the-air reception devices including the reception antennas for direct broadcast satellites (DBS), multichannel multipoint distribution (wireless cable) providers (MMDS), television broadcast stations (TVBS) and other customer-end antennas that receive and transmit fixed wireless signals that are primarily used for reception;
  - (iv) Facilities exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed

amateur radio and other similar non-commercial telecommunications;

- (v) Facilities exclusively for providing unlicensed spread spectrum technologies (such as IEEE 802.11a, b, g (Wi-Fi) and Bluetooth) where the facility does not require a new tower;

3. Location standards.

(a) Wireless telecommunications facilities shall be located, sited and erected in accordance with the following priorities, (i) being the highest priority and (vii) being the lowest priority:

- (i) On existing towers or other structures on city owned properties;
- (ii) On existing towers or other structures on other property in the city;
- (iii) A new tower on city owned properties, other than property designated for park use, or in the Park and Open Space (P-1) district;
- (iv) A new tower on city owned properties designated for park use, or in the Park and Open Space (P-1) district;
- (v) A new tower on properties in Industrial-General (I-G) and Industrial-Waterfront (I-W) districts;
- (vi) A new tower on properties in form districts or mixed use districts, other than the Mixed-Use Neighborhood (MU-N) district;
- (vii) A new tower on properties in residential, Mixed-Use Neighborhood (MU-N), and Airport (AP) districts;

(b) If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site;

(c) An applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected. An application shall address co-location as an option. If such option is not proposed, the applicant must explain to the reasonable satisfaction of the city why co-location is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of commercial impracticability or hardship;

(d) The applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application;

(e) The city may approve any site located within an area in the above list of priorities, provided that the city finds that the proposed site is in the best interest of the health, safety and welfare of the city and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood;

4. Other standards and requirements.

The following requirements are applicable to all wireless telecommunications facilities.



- (a) To the extent that the holder of a special use permit for wireless telecommunications facilities has not received relief, or is otherwise exempt from appropriate state or federal agency rules or regulations, then the holder of such special use permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any state or federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards;
- (b) To the extent that applicable rules, regulations, standards and provisions of any state or federal agency, including but not limited to the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting and security are changed or are modified during the duration of a special use permit for wireless telecommunications facilities, then the holder of such special use permit shall conform the permitted wireless telecommunications facilities to the applicable changed or modified rule, regulation, standard or provision within a maximum of 24 months of the effective date of the applicable changed or modified rule, regulation, standard or provision, or sooner as may be required by the issuing entity;
- (c) The wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and to harmonize with the natural surroundings; this shall include the utilization of stealth or concealment technology as may be required by the city. Facilities located within the migratory bird flight path shall utilize stealth or concealment technology;
- (d) All utilities at a wireless telecommunications facilities site shall be installed underground whenever possible and in compliance with all laws, ordinances, rules and regulations of the city, including specifically, but not limited to, the city and state building and electrical codes, where appropriate;
- (e) At a telecommunications site, an access road, turn-around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion;
- (f) All wireless telecommunications facilities shall be constructed, operated, maintained, repaired, provided for removal of, modified or restored in strict compliance with all current applicable technical, safety and safety-related codes adopted by the city, state, or federal government, including but not limited to the most recent editions of the ANSI Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health and land use codes. In the event of a conflict between or among any of the preceding, the more stringent shall apply;

- (g) A holder of a special use permit granted under this Section 50-20.4.E shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the city or other governmental entity or agency having jurisdiction over the applicant;
- (h) The holder of a special use permit shall notify the city of any intended modification of a wireless telecommunication facility and shall apply to the city to modify, relocate or rebuild a wireless telecommunications facility;
- (i) All new towers shall be structurally designed to accommodate at least four additional antenna arrays equal to those of the applicant, and located as close to the applicant's antenna as possible without causing interference. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower is not technologically feasible, is commercially impracticable or creates an unnecessary and unreasonable burden, based upon:
  - (i) The foreseeable number of FCC licenses available for the area;
  - (ii) The kind of wireless telecommunications facilities site and structure proposed;
  - (iii) The number of existing and potential licenses without wireless telecommunications facilities spaces/sites;
  - (iv) Available space on existing and approved towers;
- (j) New guyed towers are prohibited;
- (k) Tower condition inspections shall be conducted every three years for a guyed tower and five years for monopoles and self-supporting towers. All inspections shall be documented in a report such as an ANSI report as per Annex E, Tower Maintenance and Inspection Procedures, ANSI/TIA/EIA-222F or most recent version. The inspection report shall be provided to the building official within two days of a request by the city for such records;
- (l) The owner of a proposed new tower, and the owner's successors in interest, shall negotiate in good faith for the shared use of the proposed tower by other wireless service providers in the future, and shall:
  - (i) Respond within 60 days to a request for information from a potential shared-use applicant;
  - (ii) Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers;
  - (iii) Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference;
- (m) No tower constructed after July 25, 2010, including allowing for all attachments, shall exceed a height that shall permit operation without

- required artificial lighting of any kind in accordance with city, state or federal statute, law, code, rule or regulation;
- (n) No tower constructed after July 25, 2010, including allowing for all attachments, shall exceed 75 feet in height within the migratory bird flight path;
  - (o) Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by law;
  - (p) Towers shall be galvanized or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Section 50-20.4.E;
  - (q) Wireless telecommunications facilities and antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. All antennas, towers and other supporting structures, including guy anchor points and wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with. Transmitters and telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them;
  - (r) Wireless telecommunications facilities shall contain a sign no larger than four square feet in order to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. A sign of the same size is also to be installed to contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC registration sign as applicable is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted;
  - (s) All proposed towers and any other proposed wireless telecommunications facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the following distances: A distance equal to the height of the proposed tower or wireless telecommunications facility structure plus ten percent of the height of the tower or structure, or the existing setback requirement of the underlying zone district, whichever is greater. Any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated;
  - (t) The applicant and the owner of record of any proposed wireless telecommunications facilities property site shall, at its cost and expense, be jointly required to execute and file with the city a bond, or other form of security acceptable to the city as to type of security and the form and manner of execution, in an amount that shall be set in accordance with Section 31-6(a) of the City Code, and with such sureties as are deemed sufficient by the city to assure the faithful performance of the terms and conditions of this Section 50-20.4.E and

- conditions of any special use permit issued. The full amount of the bond or security shall remain in full force and effect throughout the term of the special use permit and until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original special use permit;
- (u) A holder of a special use permit for wireless telecommunications facilities shall secure and at all times maintain for the duration of the special use permit commercial general liability insurance for personal injuries, death and property damage, and umbrella insurance coverage in the following amounts: \$1,000,000 per occurrence/\$2,000,000 aggregate;
    - (i) For a wireless telecommunications facility on city property, the policy shall specifically include the city and its officers, employees, agents and consultants as additional insureds. The amounts of such coverage shall be established as a condition of the special use permit and shall be consistent with the liability limits provided in MSA 466.04;
    - (ii) The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with a Best's rating of at least A;
    - (iii) The insurance policies shall contain an endorsement obligating the insurance company to furnish the building official with at least 30 days prior written notice in advance of the cancellation of the insurance;
    - (iv) Renewal or replacement policies or certificates shall be delivered to the building official at least 15 days before the expiration of the insurance that such policies are to renew or replace;
    - (v) No permit necessary to the site preparation or construction of a permitted wireless telecommunications facilities may be issued until the holder of the special use permit shall file with the city building official a copy of the required policies or certificates representing the insurance in the required amounts;
    - (vi) Notwithstanding the requirements noted in this subsection no insurance shall be required in those instances where the city, county, state or a federal agency applies for and secures a special use permit for wireless telecommunications facilities.
  - (v) All special use permits approved for wireless telecommunication facilities located on city property after July 25, 2010, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the city, and its officers, employees, agents and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal or restoration of said facility, excepting, however, any portion of such claims, suits, demands, causes of action

or award of damages as may be attributable to the negligent or intentional acts or omissions of the city, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the city. An indemnification provision will not be required in those instances where the city itself applies for and secures a special use permit for wireless telecommunications facilities;

5. Additional provisions for special use permit review.

In addition to those standards and criteria in Section 50-37.1 *Common procedures* and Section 50-37.10 *Special and interim use permits*, each application for a special use permit for a wireless telecommunications facility shall comply with the following additional standards:

(a) The city may hire any consultant or expert necessary to assist the city in reviewing and evaluating an application for a special use permit for a wireless telecommunications facility, including the construction and modification of the site, once permitted, and any site inspections. An applicant shall deposit with the city funds sufficient to reimburse the city for all reasonable costs of consultant and expert evaluation and consultation to the city in connection with the review of any application including where applicable, the lease negotiation, the pre-approval evaluation, and the construction and modification of the site, once permitted. The initial deposit shall be set in accordance with Section 31-6(a) of the City Code;

(b) The placement of the deposit with the city shall precede the pre-application meeting. The city will maintain a separate escrow account for all such funds. The city's consultants shall invoice the city for its services related to the application. The total amount of the funds needed for the review of the application may vary depending on the scope and complexity of the project, the completeness of the application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification. If at any time during the process this escrow account has a balance less than \$2,500, the applicant shall immediately, upon notification by the city, replenish said escrow account so that it has a balance of at least \$5,000. Such additional escrow funds shall be deposited with the city before any further action or consideration is taken on the application. In the event that the amount held in escrow by the city is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall, upon request of the applicant, be refunded to the applicant;

(c) The land use supervisor will administratively approve an application to co-locate on an existing wireless telecommunication facility upon receiving a complete application, if the application meets all the requirements of the Chapter and would not substantially change the physical dimensions of the wireless telecommunication facility. Substantial changes shall mean:

(i) The mounting of the proposed antenna on the tower would increase the existing height of the tower by more than ten percent or by the height of one additional antenna array with separation from the nearest existing antenna not to

exceed 20 feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas; or

- (ii) The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or
  - (ii) The mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or
  - (iv) The mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property; or
  - (v) The mounting of the proposed antenna would defeat the concealment elements of the eligible support structure; or
  - (vi) The mounting of the proposed antenna would not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment;
- (d) At any stage prior to issuing a special use permit the city may require such additional information as it deems necessary to confirm compliance with this UDC;
  - (e) The city may refer any application or part of an application to any advisory, other committee or commission for a non-binding recommendation;
  - (f) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the city may disapprove an application for any of the following reasons:
    - (i) Conflict with safety and safety-related codes and requirements;
    - (ii) Conflict with the historic nature or character of a neighborhood or historical district;
    - (iii) The use or construction of wireless telecommunications facilities that is contrary to an already stated purpose of a specific zoning or land use designation;
    - (iv) The placement and location of wireless telecommunications facilities that would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the city or employees of the service provider or other service providers;
    - (v) Conflicts with the provisions of this Section 50-20.4.E;

- (vi) The failure of the applicant to provide additional requested information in sufficient time for the city to comply with the requirements of MSA 15.99;
  - (g) Except for necessary building permits, once a special use permit has been granted, no additional zoning approvals shall be required by the city for the wireless telecommunications facilities covered by the special use permit;
  - (h) In order to verify that the holder of a special use permit for wireless telecommunications facilities and any and all lessees, renters and licensees of wireless telecommunications facilities, place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building and zoning codes, laws, ordinances and regulations and other applicable requirements, the city may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, towers, antennas and buildings or other structures constructed or located on the permitted site;
6. Relief and appeal.

Any applicant desiring relief, waiver or exemption from any aspect or requirement of this Section 50-20.4.E may request relief, waiver or exemption in the submitted application for either a special use permit, or in the case of an existing or previously granted special use permit a request for modification of its tower and/or facilities. The requested relief, and any relief granted by the city, may be temporary or permanent, partial or complete. The burden of proving the need for the requested relief, waiver or exemption is solely on the applicant to prove. The applicant shall bear all costs of the city in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that if granted, the relief, waiver or exemption will have no significant effect on the health, safety and welfare of the city, its residents and other service providers;

**F. Manufacturing, light.**

In the MU-I district, this use is permitted provided it is related to and incidental to a permitted institutional primary use on the property;

**G. Manufacturing, hazardous or special.**

1. In permitting any such uses, the city may impose appropriate conditions and safeguards, including performance bonds, to protect the health, safety and welfare of the residents of the community and the environment;
2. All future use of the land and structures erected on the land shall be governed by and limited to the approved plans and conditions imposed by the city. Any subsequent change or addition to the plan or use shall be submitted for approval as if it were a new use;
3. Without limitation on other valid reasons for denying approval for such a use, the city may deny approval if it finds that the use would have negative environmental, health or safety impacts on the community or have little or no contiguity with existing or programmed development in the affected area;

**H. Mining, extraction, and storage.**

1. No special use permit for this use shall be issued until the city determines that:
  - (a) The city engineer has certified that the proposed extraction, removal or processing, and the proposed finished grades on the property, will not endanger the function of any public highway or utility easement of the city. If the city engineer proposes conditions and safeguards that are necessary to protect adjoining property, both city and privately owned, those conditions and safeguards have been included in the application or agreed to in writing by the applicant;
  - (b) The proposed excavation, removal or processing shall not result in the creation of any hazardous sharp pits, steep banks, soil erosion, drainage or sewerage problems or other conditions that would ultimately impair the use of the property in accordance with the general purpose and intent of the zoning regulations for that district;
  - (c) Finished slopes in the excavated area shall not exceed one foot vertical rise to two feet of run except in the case of dams or swimming pools, or where specifically approved in writing by the planning commission;
  - (d) No stagnant water shall be permitted to result from such removal, excavation or processing;
2. No earthmoving, processing or excavating equipment or trucks that are inoperative for more than 30 days shall be stored in the open on the property;
3. Upon completion of the excavation, processing or removal of earth materials in accordance with the approved proposed contour lines, the premises shall be cleared of all debris and, unless the excavated area is beneath water, a top layer of soil that will sustain the growth of turf shall be spread over the premises and shall be seeded with perennial rye or grasses;
4. All excavation, removal and processing, and the extent, limits, and time limits of each activity, shall comply with all terms and conditions in the approved special use permit;
5. The applicant shall post financial security pursuant to Section 50-37.1.P to ensure compliance with the terms and conditions of the permit, including but not limited to remediation of the site following excavation, removal and processing operations;

**I. Radio or television broadcasting tower.**

All radio or television broadcasting towers shall be located in the area of the city known as the tower farm within Section 28, Township 50, Range 14, so as to place the visual and safety impacts of the structure near similar structures, unless the applicant provides a report from a qualified specialist in the type of facility being constructed or the type of service being provided stating that it is technically not possible to construct the required structure or to provide the applicant's service from that area of the city;

**J. Solid waste disposal or processing facility.**

This use shall comply with the following standards:

1. All aspects of the solid waste disposal operation shall be setback from all property lines a minimum of 150 feet. Natural vegetation shall be retained in such setbacks where practical. All aspects of yard waste composting facilities shall be set back 100 feet from all property lines;



2. All solid waste disposal operations and facilities, including without limitation yard waste composting facilities, medical waste disposal facilities and petroleum soil disposal sites, shall comply with all state and Western Lake Superior Sanitary District requirements;
3. Solid waste disposal facilities for industrial waste shall only be allowed in I-G and I-W zones. Such facilities shall be approved in the special use permit only for specified types of industrial waste;
4. The special use permit shall specify the types of wastes authorized;
5. Solid waste disposal facilities for construction debris shall only be allowed in I-G and I-W zones’
6. Facilities for composting of yard waste shall not accept materials other than yard waste;
7. No solid waste disposal facilities, except composting facilities, shall be permitted in a designated shoreland or flood plain zone nor in an identified wetland as defined in Section 50-18.1 or Article VI;
8. All filled areas shall be covered and vegetated in accordance with an approved schedule for filling, covering and vegetating. Further, there shall be an approved plan as part of the special use permit for the vegetation and dust control of stockpiled cover material;
9. There shall be no burning of materials;
10. Facility locations shall have direct access to an arterial street and shall not access through a neighborhood. Increased traffic generated by the facility shall not have an adverse effect on the neighborhood. All roads leading to and from and within facilities located in RR-1 and MU-B zones shall be constructed with an approved dust-free material;
11. All vehicles transporting materials to or from the facility shall be covered;
12. Except for yard waste composting facilities there shall be no processing, separating or sorting of materials outside of covered structures;
13. Noise emanating from a building in which dumping, separating or other processing of material is performed shall not exceed state noise requirements at any property line that abuts property zoned other than I-G and I-W;
14. In the absence of other compliance funding required by state permitting agencies, there shall be a bond, letter of credit or other security (including an account to accept deposits of tipping fees) acceptable to the city, prior to the issuance of a permit to ensure compliance with the terms of the permit and to ensure proper closure of the facility. Such bond, letter of credit or other surety shall provide for the amount of the closure costs estimated and certified by the project engineer for each phase of operation and final closure;

**K. Storage warehouse.**

In the F-5 district, this use is only permitted in the West Superior portion of the F-5 district;

**L. Wholesaling.**

In the F-5 district, this use is only permitted in the West Superior portion of the F-5 district;

**M. Wind power facility.**

In all districts, wind power systems shall comply with the following requirements:

1. The base of the tower shall be set back from all property lines, public rights-of-way, and public utility lines a distance equal to the total extended height. A tower may be allowed closer to a property line than its total

- extended height if the abutting property owner(s) grants written permission and the installation poses no interference with public utility lines or public road and rail rights-of-way;
2. In the MU-B district, towers that are 50 feet or less in height are permitted by right; taller towers require a special use permit, and no tower shall be approved over 200 feet in height. In other districts where this use is listed as a permitted use, towers that are 200 feet or less in height are permitted by right; taller towers require a special use permit;
  3. Notwithstanding the provisions of subsection 2 above, no wind power facility shall be taller than 75 feet within any migratory bird flight path;
  4. Sound produced by the turbine under normal operating conditions, as measured at the property line of any adjacent property improved with a dwelling unit at the time of the issuance of the zoning certificate, shall not exceed 55 dba for any period of time. The 55 dba sound level may be exceeded during short-term events out of the owner's control such as utility outages or severe wind storms;
  5. The turbine and tower shall remain painted or finished in the color that was originally applied by the manufacturer;
  6. The blade tip or vane of any small wind energy system shall have a minimum ground clearance of 15 feet as measured at the lowest point of the arc of the blades;
  7. All signs on a wind generator, tower, building or other structure associated with a small wind energy system visible from any public road, other than the manufacturer's or installer's identification, appropriate warning signs or owner identification, shall be prohibited;
  8. No illumination of the turbine or tower shall be allowed unless required by the FAA;
  9. Any climbing feet pegs or rungs below 12 feet of a freestanding tower shall be removed to prevent unauthorized climbing. For lattice or guyed towers, sheets of metal or wood or similar barriers shall be fastened to the bottom tower section such that it cannot readily be climbed;
  10. Building permit applications for small wind energy systems shall be accompanied by standard drawings of the wind turbine structure and stamped engineered drawings of the tower, base, footings and foundation as provided by the manufacturer. Wet stamps shall not be required;
  11. No part of this use may project above any of the imaginary airspace surfaces described in FAR Part 77 of the FAA guidance on airspace protection;
  12. This use shall not be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator;
  13. If a wind turbine is inoperable for six consecutive months the owner shall be notified that it must, within six months of receiving the notice, restore their system to operating condition. If the owner(s) fails to restore their system to operating condition within the six month time frame, then the owner shall be required, to remove the wind turbine from the tower for safety reasons, at its expense. If the owner(s) fails to remove the wind turbine from the tower, the city may pursue legal action to have the wind generator removed at the owner's expense.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: May 16, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

Passed April 13, 2015  
 Approved April 13, 2015  
 DON NESS, Mayor

ATTEST:  
 JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10366**

AN ORDINANCE ADDING SECTION 50-17.5, AND AMENDING SECTIONS 50-13.3, 50-19.1, 50-19.8, AND 50-41.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO AMEND THE PERMITTED USE TABLE TO ALLOW FOR A NEW AIRPORT ZONE DISTRICT.

The city of Duluth does ordain:

Section 1. That Section 50-17.5 of the Duluth City Code, 1959, as amended, is added as follows:

50-17.5 Airport District (AP).

**A. Purpose.**

The AP district is intended to protect and reserve lands dedicated for airport operations. Structures and development (e.g., parking, hangars) that are incidental to and supportive of airport operations may be permitted.

**TABLE 50-17.5-1:  
 AP DISTRICT DIMENSIONAL STANDARDS**

LOT STANDARDS	
Minimum lot area	0 sq. ft.
Minimum lot frontage	0 ft.
STRUCTURE SETBACKS	
Minimum depth of front yard	5 ft.
Minimum width of side yard	5 ft.
Minimum depth of rear yard	5 ft.
STRUCTURE HEIGHT	
Maximum height of building	30 ft., or Per 50-18.2, whichever is greater

Section 50.21 *Dimensional standards* contains additional regulations applicable to this district.

Section 2. That Section 50-13.3 of the Duluth City Code, 1959, as amended, is amended as follows:

50-13.3 Zone districts established.

For the purposes of this Article, the city is hereby divided into districts, as follows:

Table 50-13.3-1: Zone Districts Established		
District Type	Abbreviation	District Name
Residential	R-C	Rural-Conservation

Table 50-13.3-1: Zone Districts Established

District Type	Abbreviation	District Name
	RR-1	Residential-Rural 1
	RR-2	Residential-Rural 2
	R-1	Residential-Traditional
	R-2	Residential-Urban
	R-P	Residential-Planned
Mixed Use	MU-N	Mixed Use-Neighborhood
	MU-C	Mixed Use-Commercial
	MU-I	Mixed Use-Institutional
	MU-B	Mixed Use-Business Park
	MU-W	Mixed Use-Waterfront
	MU-P	Mixed Use-Planned
Form Based	F-1	Form District 1
	F-2	Form District 2
	F-3	Form District 3
	F-4	Form District 4
	F-5	Form District 5
	F-6	Form District 6
	F-7	Form District 7
	F-8	Form District 8
	F-9	Form District 9
Special Purpose	I-G	Industrial-General
	I-W	Industrial-Waterfront
	P-1	Park & Open Space
	<u>AP</u>	<u>Airport</u>
Overlay	NR-O	Natural Resources Overlay
	A-O	Airport Overlay
	SP-O	Skyline Parkway Overlay
	HR-O	Historic Resources Overlay

Table 50-13.3-1: Zone Districts Established		
District Type	Abbreviation	District Name
	HE-O	Higher Education-Overlay

Section 3. That Section 50-19.1 of the Duluth City Code, 1959, as amended, is amended as follows:

50-19.1 General.

Table 50-19.8, use table, lists land uses and indicates whether they are allowed by right or with a special use permit, or prohibited in each base zone district. The use table also includes references to any additional regulations applicable to that use.

The following legend in Table 50-19.1 shall be referenced when using the Permitted Use Table in 50-19.8.

TABLE 50-19.1: Use Table Legend for 50-19.8	
Abbreviation	Reference
P	Permitted Use
S	Special Use
I	Interim Use
A	Accessory Use
U	Use <u>Permitted</u> in the Upper Stories of the Form District Building
<sup>1</sup>	May Require Planning Commission Review Hearing (MU-C, MU-I, and MU-W Only)
<sup>2</sup>	May Require Additional Development Standards and Planning Commission Review if in the Higher Education Overlay District (HE-O)
Notes:	
Additional restrictions may apply on uses within the natural resources, airport, historic resources, or skyline parkway overlay districts (NR-O, A-O, HR-O, SP-O)	
All permitted uses in the MU-N Zone District shall be considered as eligible for an interim use permit in R-1 or R-2 District for structures identified as a city of Duluth Local historic landmark, per Section 50-20.7.	

Section 4. That Section 50-19.8 of the Duluth City Code, 1959, as amended, is amended as follows:

50-19.8 Permitted use table.

**TABLE 50-19.8: USE TABLE**

	Residential						Mixed Use					Form									Special				Use-Specific Standards			
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-M	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1		AP		
<b>RESIDENTIAL USES</b>																												
<b>Household Living</b>																												
Dwelling, one-family	P	P	P	P	P	P	P				P	U	U	U	U	U	P	U	U	U								
Dwelling, two-family				P	P	P	P				P	U	U	U	U	U	P	U	U	U							50-20.1.A	
Dwelling, townhouse				S	P <sup>2</sup>	P	P <sup>2</sup>				P <sup>1</sup>	P															50-20.1.B	
Dwelling, multi-family					P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P	U	P	U	P	P	P	U	P	P						50-20.1.C	
Dwelling, live-work							P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P	P	P	P	P	P		P	P								
Manufactured home park				S	S <sup>2</sup>	P	S <sup>2</sup>																				50-20.1.F	
<b>Group Living</b>																												
Co-housing facility				S	S <sup>2</sup>	P	P <sup>2</sup>				P																	
Residential care facility/assisted living (6 or fewer )		P	P	P	P <sup>2</sup>	P	P <sup>2</sup>				P	U	P	U	P	P	U	U	P	P							50-20.1.D	
Residential care facility/assisted living (7 or more)				S	P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P	U	P	U	P	U	U	P	P							50-20.1.D	
Rooming house					S <sup>2</sup>		P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P	U	P	U	P	P	U	U	P	P						50-20.1.E	
<b>PUBLIC, INSTITUTIONAL AND CIVIC USES</b>																												
<b>Community and Cultural Facilities</b>																												
Bus or rail transit station							P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P	P	P	P	P	P	P	P	P								
Cemetery or mausoleum	S	S	S	S	S <sup>2</sup>	P	S <sup>2</sup>	S	S	S														S				
Club or lodge (private)					S <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P	P	P	P	P	P	P	P	P				S			50-20.2.A	
Government building or public safety facility		P	P	S	P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P	P	P <sup>1</sup>	P	P	P	P	P	P	P	P	P	P	S	S	S	P			
Museum, library or art gallery				S	S <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>		S	P <sup>1</sup>	P	P	P	P	P	P	P	P	P				S				

**TABLE 50-19.8: USE TABLE**

	Residential						Mixed Use					Form									Special				Use-Specific Standards	
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-M	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1		AP
Park, playground or forest reserve	P	P	P	P	P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P	P	P	P	P	P	P	P	P	P			P		
Religious assembly, small (less than 50,000 sq. ft.)		P	P	S	P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	S	P <sup>1</sup>	P	P	P	P	P	P	P	P	P						50-20.2.C
Religious assembly, large (50,000 sq. ft. or more)		S	S	S	S <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	S	P <sup>1</sup>	P	P	P	P	P	P	P	P	P						50-20.2.C
<b>Educational Facilities</b>																										
Business, art or vocational school							P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P	P	P	P	P	P	P	P	P						
School, elementary		P	P	P	P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>			P	U	P	U	P	P	U	U	U						50-20.2.D
School, middle or high		S	S	S	S <sup>2</sup>	P	S <sup>2</sup>	S <sup>1</sup>	S <sup>1</sup>			P	U	P	U	P	P	U	U	U						50-20.2.D
University or college									P <sup>1</sup>			P			U	P	P	U	U	U						
<b>Health Care Facilities</b>																										
Hospital									P <sup>1</sup>																	
Medical or dental clinic					S <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P	P	P	P	P	P	P	P	P						50-20.2.B
Nursing home					P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P		P		P										
Other institutional support uses not listed in this table									P <sup>1</sup>																	
<b>COMMERCIAL USES</b>																										
<b>Agriculture and Animal-Related</b>																										
Agriculture, general	P	P																								50-20.3.B
Agriculture, urban		P	P	P	P <sup>2</sup>	P	P <sup>2</sup>					P														
Kennel	S	S						S	S	P		P														
Riding stable	S	S	S			P					S												S			
Veterinarian or animal hospital	S	S			P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P	P	P	P	P	P								50-20.3.T	
<b>Food, Beverage and Indoor Entertainment</b>																										
Adult entertainment establishment																						P				50-20.3.A
Convention or event center								P <sup>1</sup>		P	P <sup>1</sup>	P				P	P		P	P	P					50-20.3.H

**TABLE 50-19.8: USE TABLE**

	Residential						Mixed Use					Form									Special				Use-Specific Standards	
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-M	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1		AP
Indoor entertainment facility								P <sup>1</sup>		P	P <sup>1</sup>	P		P		P	P		P	P	P					
Restaurant (less than 5,000 sq. ft.)					S <sup>2</sup>	S	S <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	S	P	P	P	P	P	P	P	P	P					50-20.3.Q
Restaurant (5,000 sq. ft. or more)						S		P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	S	P	P	P	P	P	P	P	P	P					50-20.3.Q
Theater							S <sup>2</sup>	P <sup>1</sup>			P <sup>1</sup>	P		P		P	P		P	P	P					
<b>Lodging</b>																										
Hotel or motel							S <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P		P		P	P		P	P	P					
Bed and breakfast				S	P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P		P		P		P								50-20.3.F
Seasonal camp or cabin	P	P				P					P <sup>1</sup>													S		50.20.3.S
Vacation dwelling unit		I	I	I	I <sup>2</sup>	I	I <sup>2</sup>										I									50-20.3.U
<b>Offices</b>																										
Bank							S <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	S	P	P	P	P	P	P	P	P	P	P					50-20.3.E
Office					S <sup>2</sup>		P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P	P	P	P	P	P	P	P	P	P					50-20.3.M
Data center							S <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	S	P	U	U	U	U	U	U	U	U	U	P				
<b>Outdoor Recreation &amp; Entertainment</b>																										
Golf course		S	S			P																		P		
Marina or yacht club											P <sup>1</sup>											S	S			
Recreational vehicle park	S	S	S								S													S		50.20.3.P
Other outdoor entertainment or recreation use not listed		S						S		S	S															50.20.3.N
<b>Personal Services</b>																										
Business park support activities										P		P														
Preschool		S	S	S	P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P	P	P	P	P	P	S	P	S						
Daycare facility, small (14 or fewer)	P	P	P	P	P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P	P	P	P	P	P	P	P	P					50-20.3.I	
Daycare facility, large (15 or more)		S	S	S	S <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P	P	P	P	P	P	S	P	S					50-20.3.I	
Funeral home or crematorium					S <sup>2</sup>		S <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P		P		P		P		P			P					
Mini-storage facility		S								P											P	P			50-20.3.L	



**TABLE 50-19.8: USE TABLE**

	Residential						Mixed Use					Form									Special				Use-Specific Standards
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-U	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1	
Personal service and repair, small (less than 10,000 sq. ft.)						P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P	P	P	P	P	P	P	P	P	P				
Personal service and repair, large (10,000 sq. ft. or more)							S <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P		P		P		P		P		P			
<b>Retail Sales</b>																									
Adult bookstore																							P		
Building materials sales								S		P		P													
Garden material sales		S						P <sup>1</sup>				P				P									
Grocery store, small (less than 15,000 sq. ft.)						P	P <sup>2</sup>	P <sup>1</sup>			P <sup>1</sup>	P		P		P	P	P	P	P					
Grocery store, large (15,000 sq. ft. or more)								P <sup>1</sup>				P													
Retail store not listed, small (less than 15,000 sq. ft.)					S <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P	P	P	P	P	P	P	P	P	P				
Retail store not listed, large (15,000 sq. ft. or more)								P <sup>1</sup>			P <sup>1</sup>	P		P		P	P		P	P					
<b>Vehicle-Related</b>																									
Automobile and light vehicle repair and service							S <sup>2</sup>	P <sup>1</sup>		P		P		P		P	P	P				P			
Automobile and light vehicle sales, rental, or storage								P <sup>1</sup>		P												P			
Filling station					S <sup>2</sup>	P	S <sup>2</sup>	P <sup>1</sup>		P	P <sup>1</sup>	P		P		P	P	P			P	P			
Parking lot or parking structure (primary use)								P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P	S	S	S	S	S	S	S	S	S	P	P		
Truck or heavy vehicle sales, rental, repair or storage										P												P			

**TABLE 50-19.8: USE TABLE**

	Residential						MU-N	Mixed Use					Form									Special				Use-Specific Standards
	R-C	RR-1	RR-2	R-1	R-2	R-P		MU-C	MU-I	MU-B	MU- M	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1	AP	
<b>INDUSTRIAL USES</b>																										
<b>Industrial Service</b>																										
Contractor's shop and storage yard										P	P					P						P	P			50-20.4.B
Dry cleaning or laundry plant										P												P				
Research laboratories									P <sup>1</sup>	P	P											P	P			
Industrial services										P												P	P			
<b>Manufacturing and Mining</b>																										
Manufacturing, light									P <sup>1</sup>	P	P					P						P				50-20.4.F
Manufacturing, heavy																						P				
Manufacturing, hazardous or special																						S				50-20.4.G
Mining, extraction and storage		S																				S	S			50-20.4.H
Water-dependent manufacturing, light or heavy																							P			
<b>Transportation-Related</b>																										
Airport and related facilities	S																					P		P		50-20.4.A
Railroad yard or shipyard and related facilities																						P	P			
Truck freight or transfer terminal										P												P	P			
<b>Utilities</b>																										
Electric power or heat generation plant																						P	P			

**TABLE 50-19.8: USE TABLE**

	Residential						MU-N	Mixed Use					Form									Special				Use-Specific Standards			
	R-C	RR-1	RR-2	R-1	R-2	R-P		MU-C	MU-I	MU-B	MU-M	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1	AP				
Electric power transmission line or substation	S	S	S	S	S <sup>2</sup>	P	S <sup>2</sup>	S	S	S	S	P	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	50-20.4.C
Major utility or wireless telecommunication facility	S	S	S	S	S <sup>2</sup>	P	S <sup>2</sup>	S	S	S	S	P	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	50-20.4.E
Radio or television broadcasting tower		S								S															S	S			50.20.4.I
Solar, geothermal or biomass power facility (primary use)		S				P		S	S	P		P													P	S			
Water or sewer pumping stations/reservoirs	S	S	S	S	S <sup>2</sup>	P	S <sup>2</sup>	S	S	S	S	P	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	
Water or sewer treatment facilities																									P	P			
Wind power facility (primary use)		S							S	S															P	S			50-20.4.M
<b>Waste and Salvage</b>																													
Junk and salvage services																									S	S			50.20.4.D
Recycling collection point (primary use)								S	S	S															P	P			
Solid waste disposal or processing facility		S								S															S	S			50-20.4.J
<b>Wholesale Distribution and Storage</b>																													
Storage warehouse										P							P								P				50.20.4.K
Wholesaling										P							P								P				50-20.4.L
Bulk storage not listed elsewhere																									P				
Water-dependent bulk storage or wholesaling not listed elsewhere																										P			

**TABLE 50-19.8: USE TABLE**

	Residential						Mixed Use					Form									Special				Use-Specific Standards	
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-U	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1		AP
<b>ACCESSORY USES</b>																										
Accessory agriculture roadside stand	A	A																						A		50.20.5.A
Accessory bed and breakfast	A	A	A	A	A	A	A		A		A															50-20.5.B
Accessory boat dock, residential	A	A	A	A	A	A	A	A	A		A															50-20.5.C
Accessory caretaker quarters										A												A	A	A		
Accessory communications tower for private use	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
Accessory day care facility	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A					
Accessory dwelling unit	A	A	A	A	A	A	A																		50-20.5.D	
Accessory heliport	A								A		A											A				50-25.5.E
Accessory home occupation	A	A	A	A	A	A	A	A	A		A	A	A	A	A	A	A	A	A	A	A					50-20.5.F
Accessory recycling collection point					A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			
Accessory sidewalk dining area					A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A					50-20.5.G
Accessory solar or geothermal power equipment	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.H	
Accessory uses and structures not listed elsewhere	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.I	
Accessory vacation dwelling unit		I	I	I	I	I	I										I								50-20.5.L	
Accessory wind power equipment	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.J	
Minor utilities and accessory wireless antennas attached to existing structures	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.K	
<b>TEMPORARY USES</b>																										

**TABLE 50-19.8: USE TABLE**

	Residential						Mixed Use					Form									Special				Use-Specific Standards		
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-U	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1		AP	
Temporary construction office or yard	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.6.A	
Temporary event or sales	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.6.B	
Temporary moveable storage container	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.6.C	
Temporary real estate sales office				A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A					50-20.6.D	
Temporary use not listed in this table	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
<b>FORM DISTRICT BUILDING TYPES</b>																											
Main Street Building I													P	P													
Main Street Building II															P	P	P	P									
Main Street Building III																			P	P							
Corridor Building I														P													
Corridor Building II																P	P										
Lakefront Corridor Building																					P						
Corridor Building III																					P						
Cottage Commercial I														P				P									
Cottage Commercial II																P											
Iconic Building														P		P	P	P		P							

Section 5. That Section 50-41.1 of the Duluth City Code, 1959, as amended, is amended as follows:

50-41.1. Definitions: A.

Accessory agriculture roadside stand. A structure erected for the display and sale of agriculture products grown on the premises and that is subordinate to the primary residential or agricultural use of the premises.

Accessory bed and breakfast. An owner-occupied building designed as a one-family dwelling that provides no more than five guest rooms for lodging accommodations by prior arrangements for compensation. The primary residence in the building or a separate, lawfully existing building located on the same site must be occupied by the building owner on a permanent basis. It may or may not include serving of meals to guests.

Accessory boat dock, residential. A personal use boating structure, subordinate to a primary residential use of property, that is built over or floats upon the water of a lake, river, or stream, and that serves one property owner for mooring boats or as a landing place for marine transport.

Accessory caretaker quarters. A subordinate dwelling unit intended for an employee or owner who looks after or takes charge of goods or property. The unit shall be either inside or attached to a main structure by a common wall. The unit is a complete, independent living facility with provisions for cooking, eating, sanitation and sleeping.

Accessory communications tower for private use. Any structure, subordinate to a primary use of land, that is designed and constructed primarily for the purpose of supporting one or more wireless analog or digital telecommunication facilities, that is located on the ground or anchored to the ground and exceeds 24 feet in height. Such a tower may have a variety of configurations, including a monopole, a lattice tower or a guyed tower.

Accessory day care facility. A private or public establishment licensed by the state that regularly provides one or more dependents with care, training, supervision, rehabilitation or developmental guidance on a regular basis, for periods less than 24 hours a day, for gain or otherwise, as a secondary and subordinate activity to a permitted or approved special use of the property.

Accessory dwelling unit. A subordinate dwelling unit added to, created within, or detached from a single-family residence, but located on the same lot or parcel as a primary residential structure, that provides basic requirements for living, sleeping, cooking and sanitation.

Accessory heliport. An area used or intended to be used for the landing and takeoff of helicopters that is secondary and incidental to, and is operated in support of, a permitted or approved special use on the same property, including operations facilities, such as maintenance, loading, and unloading, storage, fueling or terminal facilities.

Accessory home occupation. A business or occupation incidental and subordinate to the principal residential use. All home occupations must comply with the conditions in Section 50-20.5.F. Examples include but are not limited to: artist's studio; dressmaking; accessory beauty salon or barber shop, office of a physician or dentist for consultation or emergency treatment but not for general professional practice, lawyer, engineer, architect or accountant; teaching, with instruction limited to not more than two pupils at the same time. A home occupation shall not be interpreted to include accessory bed and breakfast, restaurants or tea rooms.

Accessory recycling collection point. A facility used for the collection and temporary storage of empty beverage containers, aluminum, glass, paper or clothing for recycling purposes conducted totally within an enclosed structure or container, and that is accessory to a permitted or approved special use in the zone district. This definition does not include processing except for can banks that crush cans as they are deposited.

Accessory sidewalk dining area. An outdoor eating and drinking area that is generally associated with and subordinate to a permitted or approved special use on the same property

and that is, located on a public sidewalk. This use may include removable tables, chairs, planters, or similar features and equipment.

Accessory solar or geothermal power equipment. Accessory uses and structures that are clearly subordinate in size and use to the primary use and structure on the property, and that are used to reduce energy consumption or to generate energy from non-fossil fuel and non-carbon dioxide emitting sources on the property. These structures and uses may include but are not limited to the following, and may be located at ground level or above or below ground unless specifically limited in this Chapter, provided that they meet all other applicable requirements of this Chapter: solar photovoltaic modules, solar thermal hot water collectors, solar arrays; and geothermal heat pumps, earth tubes, or downhole heat exchangers.

Accessory use or structure. A use or structure subordinate in use, area or purpose to the principal use or structure on the same lot and serving a purpose naturally and normally incidental to the principal use or structure and that is not included in a separate definition of an accessory use or structure in this Chapter. Where an accessory building is attached to the principal building in a substantial manner by a wall or a roof, it shall be considered part of the principal building. An accessory building or use may be permitted on a lot of record that abuts or is separated by a public easement of no more than 25 feet in width to another lot or lots on which the primary use is located, provided all lots are owned by the same owner and none of the parcels are severed, legally sold, conveyed, or used without the other parcels. Examples include but are not limited to: pet houses, storage sheds, swimming pools, garages, accessory uses and structures for energy conservation and renewable energy production, and accessory structures for stormwater management and water conservation.

Accessory vacation dwelling unit. An accessory dwelling unit as defined by this Chapter that is used for periods of occupancy from three to 21 days.

Accessory wind power equipment. A small scale accessory wind power generating or distribution system, that is clearly subordinate in size and use to the primary use and structure on the property, and that is used to reduce energy consumption or to generate energy from non-fossil fuel and non-carbon dioxide emitting sources on the property. Accessory wind power equipment is designed to generate no more than 10Kw of energy.

Accessory wireless antenna attached to existing structure. Any wireless service antenna located in or on the roof or upper facade of a structure that is not a telecommunications tower, such as a building, water tower, steeple, silo or utility pole.

Adjacent developed lots facing the same street. Where a dimensional standard is related to dimensions on "adjacent developed lots facing the same street" the measurement shall only include those lots that contain a primary structure and that share a side lot line with the subject property and shall not include corner lots where the primary structure faces a different street. If there is only one adjacent developed lot that fronts the same street, the measure shall refer only to the dimension on that lot. For purposes of this measurement, all contiguous lots in common ownership shall be considered as a single lot, not as separate platted lots.

Adult entertainment establishment. See definition in Chapter 5 of the City Code.

Adult bookstore. See definition in Chapter 5 of the City Code.

Agriculture, general. The production of livestock, dairy animals, dairy products, poultry or poultry products, fur-bearing animals, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, or bees and apiary products primarily for distribution and consumption beyond the Duluth/Superior area. This use also includes wetlands, pasture, forest land, wildlife land, and other uses that depend on the inherent productivity of the land, but not include a use meeting the definition of "agriculture, urban."

Agriculture, urban. The raising of crops and small livestock primarily for local sustenance, rather than commercial purposes, for sale and consumption within the immediate Duluth/Superior area.

Airport boundary. Those lands including the property owned by the city, state, and the United States, and their respective political subdivisions, that are used for aeronautical purposes and are contiguous with the runway and building area facilities. The Duluth International Airport boundaries are illustrated on Sheet 3, airport property map, of the approved set of airport layout plans on file in the offices of the Duluth Airport Authority. The Sky Harbor Municipal Airport boundaries are illustrated on Exhibit 50-18.2-2.

Airport elevation. The established elevation of the highest point on the usable landing area, which elevation is established to be 1,428 feet above mean sea level for Duluth International Airport and 610 feet above mean sea level for Sky Harbor Municipal Airport.

Airport hazard. Any structure, tree, or use of land that obstructs the air space required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land that is hazardous to persons or property because of its proximity to the airport.

Airport and related facilities. An area of land that is used or intended for the landing and takeoff of aircraft, and includes its buildings and facilities, if any. Accessory uses may include but are not limited to: car rental, aircraft servicing, fueling, or leasing, private aviation clubs or associations, and hotels.

Alley. A dedicated public right-of-way not more than 30 feet wide affording a secondary means of access to abutting property and not intended for general traffic circulation.

Alley line. The established side line of an alley easement.

Antenna. A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.

Apartment. A part of a building consisting of a room or suite of rooms intended, designed or used as a residence by an individual or a one-family, including full cooking and bathroom facilities for individual use.

Apartment hotel. A building designed for or containing not less than 20 apartments, individual guest rooms or suites and in which may be furnished services ordinarily furnished by hotels, such as drugstores, tea room, barbershop, cigar and newsstands when such uses are located entirely within the building with no separate entrance from the street, and having no sign or display visible from the outside of the building indicating the existence of such use.

Automobile and light vehicle sales, rental, or storage. The sale, display, lease, rental, or storage of light motor vehicles, including automobiles, vans, light trucks, light trailers, boats, and recreational vehicles. This shall not include salvage operations, scrap operations, vehicle impound yards, or commercial parking lots available for short-term use.

Automobile and light vehicle repair and service. Any building, structure, or lot used for the business of repairing automobiles and small engines or the sale and installation of tires, batteries, and other minor accessories and services for automobiles and small engines. This shall not include car washes, retail sale of automotive supplies, tires, or parts unrelated to repairs being performed on the premises, the retreading or vulcanizing of tires, filling stations, or convenience stores that sell gasoline or lubricating oil, but not other automotive accessories or services.

Average lot depth. The average of the lengths of the two side lot lines of a platted lot. In the case of flag lots (lots where the buildable portion of the lot is connected to a public street by an access or driveway 20 feet wide or less), the length of the access or driveway portion of the lot shall be ignored in measuring either side lot line.



Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: May 16, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed April 13, 2015  
Approved April 13, 2015  
DON NESS, Mayor

- - -

**MINUTES OF THE REGULAR MEETING  
OF THE DULUTH CITY COUNCIL**

April 27, 2015

Duluth City Council meeting held on Monday, April 27, 2015, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Absent: None -- 0

- - -

The minutes of council meetings held on March 9 and 23, 2015, were approved upon a unanimous vote.

- - -

**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

15-0427-03 Mark Anderson communication regarding the proposed vacation of part of 20th Avenue East (15-0226R). -- Received

15-0427-18 KZ Rish communication (supports by 32 signatures) regarding the proposed 2015 street preservation projects (15-0236R). -- Received

- - -

**REPORTS OF BOARDS AND COMMISSIONS**

15-0427-01 Charter commission minutes of: (a) April 9; (b) October 8, 2014, meetings. -- Received

15-0427-02 Duluth transit authority: (a) Minutes of February 25, 2015, meeting; (b) February 2015 financial statement. -- Received

- - -

**OPPORTUNITY FOR CITIZENS TO BE HEARD**

Julene Boe commented on the recent zoo presentation and her concerns.

- - -

Joe Westerberg, Jeanie Peterson and Michele Peterson expressed their concerns about the safety conditions with the parking and traffic at Ordean East High School on 40th Avenue East.

- - -

David Poulon, Lynn Clark Pegg, Dawn Buck and Bob Swanson commented on the Park Point street ends Tier Two plan associated with city council Resolution 14-0476.

- - -

**MOTIONS AND RESOLUTIONS**

**CONSENT AGENDA**

*(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)*

President Larson moved passage of the consent agenda, which motion was seconded and unanimously carried.

BE IT RESOLVED, that the city council of the city of Duluth hereby issues off sale 3.2 percent malt liquor license renewals for the period beginning May 1, 2015, and ending April 30,

2016, subject to departmental approvals and the payment of sales and property taxes, as provided for in the Duluth City Code, to the applicants listed on Public Document No. 15-0427-04.

Resolution 15-0197 was unanimously adopted.  
Approved April 27, 2015  
DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby issues on sale 3.2 percent malt liquor license renewals for the period beginning May 1, 2015, and ending April 30, 2016, subject to departmental approvals and the payment of sales and property taxes, as provided for in the Duluth City Code, to the applicants listed on Public Document No. 15-0427-05.

Resolution 15-0198 was unanimously adopted.  
Approved April 27, 2015  
DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following consumption and display license by the liquor control commissioner for the period beginning April 1, 2015, and ending March 31, 2016, subject to departmental approvals and the payment of sales and property taxes:

Duluth Woman's Club, 2400 East Superior Street.

Resolution 15-0199 was unanimously adopted.  
Approved April 27, 2015  
DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor license, subject to departmental approvals with any further restrictions and further subject to approval of the liquor control commissioner:

Grandma's Marathon-Duluth, Inc. (Grandma's Marathon), Canal Park Parking Lot surrounded by Canal Park Drive, Buchanan Street, Morse Street and Lake Avenue, for June 19 - 21, 2015, with Linda Hanson, manager, with the music and serving ending at 1:15 a.m.

Resolution 15-0216 was unanimously adopted.  
Approved April 27, 2015  
DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of a 2:00 a.m. alcohol beverage license for the following on sale intoxicating liquor license for the period ending August 31, 2015, subject to departmental approvals and the payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

Sir Benedict's IV, Inc. (Sir Benedict's Tavern on the Lake), 805 East Superior Street.

Resolution 15-0217 was unanimously adopted.  
Approved April 27, 2015  
DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale 3.2 malt liquor license for the period beginning May 1, 2015, ending April 30, 2016, subject to departmental approvals, and the payment of sales and property taxes:

Loy Krathong, Inc. (Sala Thai Restuarant), 114 West First Street, with Sumlee Beede, 100 percent owner.

Resolution 15-0218 was unanimously adopted.  
Approved April 27, 2015  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to purchase three high pressure steam Fisher Control valves, outfitted with Beck electric actuators from NovaSpect for a total amount of \$101,480, payable from Steam 540, Steam Department 920, Steam Non-Operating 1499, Improvements Other than Buildings 5530.

Resolution 15-0229 was unanimously adopted.  
Approved April 27, 2015  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to amend Agreement C22319 with Hovland, Inc., for construction of the exterior stair reconstruction/sidewalk repair at Duluth City Hall (the "city"), St. Louis County Courthouse (the "county"), and St. Louis County motor pool at 411 West First Street, Duluth, MN, 55802, an increase of \$190,000, for a revised total contract amount of \$565,000 payable as follows:

Capital Improvements 450, Finance Improvements Other Than Buildings 030-5530, 2014 Capital Projects CP2014 and 2015 Capital Projects CP2015, City Hall tuckpoint repair steps 1309B and 1409B.

Resolution 15-0238 was unanimously adopted.  
Approved April 27, 2015  
DON NESS, Mayor

- - -

RESOLVED, that pursuant to Section 2-68 of the Duluth City Code, 1959, as amended, the appointments and reappointments by Mayor Ness of members to city boards and commissions as listed on Public Document No. 15-0427-06, for terms expiring on March 31 of various years, are confirmed.

Resolution 15-0191 was unanimously adopted.  
Approved April 27, 2015  
DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of property and evidence specialist, which were approved by the civil service board on January 6, 2015, and which are filed with the city clerk as Public Document No. 15-0427-07, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 29, \$3,826 to \$4,493 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 15-0193 was unanimously adopted.  
Approved April 27, 2015  
DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of property and evidence technician, which were approved by the civil service board on January 6, 2015, and which are filed with the city clerk as Public Document No. 15-0427-08, are approved; that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees, that the pay range will change from Pay Range 22, \$2,924 to \$3,402, to Pay Range 24, \$3,157 to \$3,685 per month. The proper city

officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 15-0194 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (d) 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 this portion of the street easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, April 14, 2015, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the platted road easement described below and as described and depicted on Public Document No. 15-0427-09:

VACATION LEGAL DESCRIPTION:

All that part of the 80 foot wide 11th Street and all that part of the 80 foot wide Eastern Avenue and all that part of the 33 foot wide Cherry Street lying South of the North line of Chandler Park Addition to Duluth, according to the recorded plat thereof, St. Louis County, Minnesota. Excepting that part lying East of the Northwesterly extension of the Northeasterly right of way of Eastern Avenue, lying within the boundary of said plat, and retaining the Northeast 20 feet of the 38th Ave platted right of way as a utility easement. And excepting a 16 foot wide alley for public access purpose extending across the platted Eastern Avenue (38th Avenue West), projected northeasterly from the alley in Block 13 of said Chandler Park Addition. Said parcel contains 32,670 square feet or 0.75 acres, more or less;

(e) 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 No. 15-0427-09 showing the platted easement to be vacated.

Resolution 15-0224 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (d) 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 portion of the utility easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, April 14, 2015, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the platted utility easement described below and as described and depicted on Public Document No. 15-0427-11:

VACATION LEGAL DESCRIPTION:

The 20.00 foot wide utility easement lying over, under, and across the westerly 10.00 feet of Lot 2, Block 2 and the Easterly 10.00 feet of Lot 3, Block 2, AIRPORT DIVISION

according to the recorded plat thereof, St. Louis County, Minnesota. Said easement contains 4,475 sq. ft. or 0.10 acres more or less;

(e) 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 No. 15-0427-11 showing the platted easement to be vacated.

Resolution 15-0227 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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WHEREAS, on February 11, 2015, notice was published in the Duluth News Tribune, a newspaper of general circulation in both the township of Rice Lake ("township") and city of Duluth ("city"), of the intent to include 240 acres within the township of Rice Lake, legally described as the southeast quarter and south half of the northeast quarter of Section 25, Township 51 North, Range 14 West, St. Louis County, Minnesota, in the orderly annexation area at issue in the orderly annexation agreement between said township and the city, a copy of which is on file in the office of the city clerk as Public Document No. 15-0427-10; and

WHEREAS, at least ten days have passed since the notice was published in the Duluth News Tribune.

THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Minnesota Statutes, Section 414.0325, the board of supervisors of the township and the city council hereby designate 240 acres within the township of Rice Lake, the same as is described in the orderly annexation agreement between said township and said city, as in need of orderly annexation.

FURTHER RESOLVED, that the proper township and the proper city officials are hereby authorized to enter into the said orderly annexation agreement governing the conditions for the annexation of the 240 acres in the township by the city.

FURTHER RESOLVED, that the township clerk and the city clerk are hereby requested and directed to send copies of this resolution and the executed orderly annexation agreement to the chief administrative judge of the Minnesota state office of administrative hearings as provided for in Minnesota Statutes, Chapter 414.

FURTHER RESOLVED, that this resolution shall go into effect only after its approval by both the township and the city council of the city of Duluth.

Resolution 15-0225 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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RESOLVED, that the city of Duluth does hereby accept the conveyance, at no cost to the city, of a street easement from Justin and Rachael Cummins, joint tenants, for development of a hammerhead turnaround on Eastridge Boulevard, which easement is shown on Public Document No. 15-0427-12, on file in the office of the city clerk and legally described as:

An easement over the Westerly 40 feet of the Northerly eight feet of Lot 2, Block 1, Eastridge Estates.

Resolution 15-0231 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

- - -

RESOLVED, that Contract 22217 with LHB, Inc. for professional engineering services for design of the Congdon Boulevard slope repair to be constructed from 7801 Congdon Boulevard to 90th Avenue East be amended to include the construction phase and to increase the amount by an estimated amount of \$15,752 for a new total of \$107,560, payable from Disaster

Recovery Fund 225, Department 125 (finance), Division 1808 (disaster aid and revenues, Object 5530 (improvements other than buildings), City Project No. 1324.

Resolution 15-0232 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into the agreements listed below and attached hereto as exhibits 1 through 23 inclusive with the property owners in the Plat of Eastridge Estates named in said exhibits 1-23 inclusive with regard to the properties in Eastridge Estates legally described in said exhibits 1 through 23 inclusive, pursuant to which the City agrees to cause certain improvements as generally described in said agreements to be made to roads and drainage systems on property within said plat and agrees to accept said roads and drainage improvements as public and said property owners agree to accept assessment against their respective properties for the cost thereof as described in said agreements:

EXHIBIT	OWNER	LEGAL DESCRIPTION
1	Joe and Ryann Signorelli	Lot 1 Block 1 (Partial Legal–See Exhibit)
2	Justin S and Rachael Cummins	Lot 2 Block 1
3	David A and Amy D Pipho	Lot 1 Block 2
4	Philip and Jill Holsinger	Lot 2 Block 2
5	Sharnell Rae Valentine	Lot 1 Block 3
6	Mathew J and Linh Royal	Lot 2 Block 3
7	Justin L and Lurae J Hill	Lot 3 Block 3
8	Christopher P Carlson and Amy E Grey Carlson	Lot 4 Block 3
9	Jeffrey M and Tamara L Rengel	Lot 1 Block 4
10	Beacon Bank	Lot 2 Block 4
11	Beacon Bank	Lot 1 Block 5
12	Beacon Bank	Lot 2 Block 5
13	Beacon Bank	Lot 3 Block 5
14	Beacon Bank	Lot 1 Block 6
15	Beacon Bank	Lot 2 Block 6
16	Beacon Bank	Lot 3 Block 6
17	Beacon Bank	Lot 1 Block 7
18	Beacon Bank	Lot 2 Block 7
19	Beacon Bank	Lot 1 Block 8 (Partial Legal–See Exhibit)
20	Joshua J and Amy L Rother	Lot 1 Block 8 (Partial Legal–See Exhibit)
21	Joshua J and Amy L Rother	Lot 2 Block 8
22	Wade and Julie Ann Kubat	Lot 1 Block 9
23	Wade and Julie Ann Kubat	Lot 2 Block 9
24	Thomas J and Rebecca K Rishavy	Lot 3 Block 9

Resolution 15-0233 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with A-Plus Landscaping, LLC, for construction of gas and water main replacements in 26th Avenue West in the amount of \$175,635, with \$122,944.50 payable from Water Utility Fund 510, Department/Agency 500 (public works and utilities), Division 1905 (capital improvements),

Object 5533 (revenue) and \$52,690.50 payable from Gas Utility Fund 520, Department/Agency 500 (public works and utilities), Division 1905 (capital improvements), Object 5533 (revenue), City Project No. 1309.

Resolution 15-0234 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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RESOLVED, that it is deemed necessary for public convenience and safety, and it is hereby ordered, that Eastridge Boulevard and Montauk Lane (City Project No. 1435) be improved.

FURTHER RESOLVED, that said work be done by contract and that the estimated total cost of said improvement as estimated by the city engineer will not exceed \$460,000, payable from Special Assessment Fund 410, and of these costs the actual costs in an amount not to exceed \$460,000 will be assessed to benefitting properties.

FURTHER RESOLVED, that assessments shall be levied upon lands benefitting per the preliminary assessment roll, Public Document No. 15-042-13, and may be paid in 15 annual installments at the municipal bond index fund rate plus 1.50 percent.

FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 61 of the City Charter and that said improvement be hereby ordered.

Resolution 15-0235 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages from 8:00 a.m. to 3:00 p.m. in public places in the areas bounded by Canal Park Drive and Lake Avenue between the Aerial Lift Bridge and Railroad Street during the marathon on June 20, 2015, to coincide with Grandma's Marathon special events license, provided that all alcoholic beverages consumed outside of the designated service areas of licensed establishments be consumed only from paper or plastic cups.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the licensee and approved by the administration.

Resolution 15-0219 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

- - -

RESOLVED, that city council hereby amends allocation of funding for the contract authorized in Resolution 15-0006 with A Plus Landscaping for the demolition of four structures in the amount of \$123,715 to be payable as follows:

Decrease allocation of \$49,715 from General Building Demolition Fund 010 132 1304 5453. Increase allocation of \$49,715 from Community Development 262; Planning 020; Grants and Awards 5434; Project: CDBG 2013 CD13CD, Public Facility Improvement Projects 2013 PFAC, Demolition Blighted Properties PF07, for a total amount not to exceed \$123,715.

Resolution 15-0220 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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The following resolutions were also considered:

Resolution 15-0228, approving the budget for the fiscal year May 1, 2015 to April 30, 2016 in the amount of \$5,495,479 for the Spirit Mountain recreation area authority, was introduced by Councilor Filipovich for discussion

A motion to suspend the rules was seconded and unanimously carried to hear from Brandy Ream, Spirit Mountain executive director.

Councilor Hanson moved to amend the resolution by "requesting that the Spirit Mountain recreation area authority would submit a balanced budget for 2015 and 2016 fiscal years," which motion failed for lack of a second.

Resolution 15-0228 was adopted as follows:

RESOLVED, that the budget for fiscal year May 1, 2015 to April 30, 2016, in the amount of \$5,495,479 as set out in the budget on file with the city clerk as Public Document No. 15-0427-14, for the Spirit Mountain recreation area authority is hereby approved.

Resolution 15-0228 was adopted upon the following vote:

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

Nays: Councilor Hanson -- 1

Approved April 27, 2015

DON NESS, Mayor

- - -

At this time, Councilor Gardner left the meeting.

- - -

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (d) 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 pedestrian easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, April 14, 2015, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth, finding that the described pedestrian easement is useless for all purposes and that a new pedestrian easement will be dedicated, approves the vacation of the pedestrian easement and dedication of a new pedestrian easement described below and as described and depicted on Public Document No. 15-0427-16:

VACATION LEGAL DESCRIPTION:

The 20.00 foot wide pedestrian easement lying over, under and across Lot 5, Block 2, GLEN PLACE DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota. Said easement contains 11,569 sq. ft or 0.27 acres.

NEW PEDESTRIAN EASEMENT LEGAL DESCRIPTION:

A 20.00 foot wide pedestrian easement lying over, under and across Lot 5, Block 2, GLEN PLACE DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota; the centerline of said easement is described as follows:

Commencing at a Northwesterly corner of said Lot 5, Block 2; thence on an assumed bearing of South 48 degrees 21 minutes 04 seconds East, along the Southerly line of said Lot 5, Block 2, a distance of 86.11 feet to the Point of Beginning of the centerline to be described; thence North 41 degrees 38 minutes 56 seconds East, a distance of 71.93 feet;

thence North 24 degrees 02 minutes 13 seconds West, a distance of 111.03 feet; thence North 24 degrees 38 minutes 25 seconds East, a distance of 155.71 feet; thence North 41 degrees 44 minutes 57 seconds East, a distance of 222.05 feet; thence South 48 degrees 24 minutes 55 seconds East, a distance of 108.20 feet; thence North 88 degrees 35 minutes 13 seconds East, a distance of 152.12 feet to the Easterly line of said Lot 5 and there terminating. The side lines of said easement are to be prolonged or shortened to terminate on the Southerly line of said Lot 5, Block 2 and the Easterly line of said Lot 5, Block 2. Said easement contains 16,421.9 sq. ft or 0.38 acres;

(e) 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 No. 15-0427-16 showing the platted easement to be vacated and the new pedestrian easement to be dedicated.

Resolution 15-0222 was adopted upon the following vote:

Yeas: Councilors Filipovich, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 7

Nays: Councilor Fosle -- 1

Absent: Councilor Gardner -- 1

Approved April 27, 2015

DON NESS, Mayor

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RESOLVED, that the city council makes the following findings:

(a) The city council adopted the Duluth comprehensive land use plan on June 26, 2006, via Resolution 06-0491, which outlined the desired arrangement of land uses for the next 20 years; and

(b) The city planning division, which is implementing the comprehensive land use plan by implementing zoning regulations, has studied how, in some situations, amending the comprehensive land use plan to enable the eventual rezoning of an area will encourage new and appropriate development, encourage the reuse of previously developed lands and the adaptive reuse of existing infrastructure; and

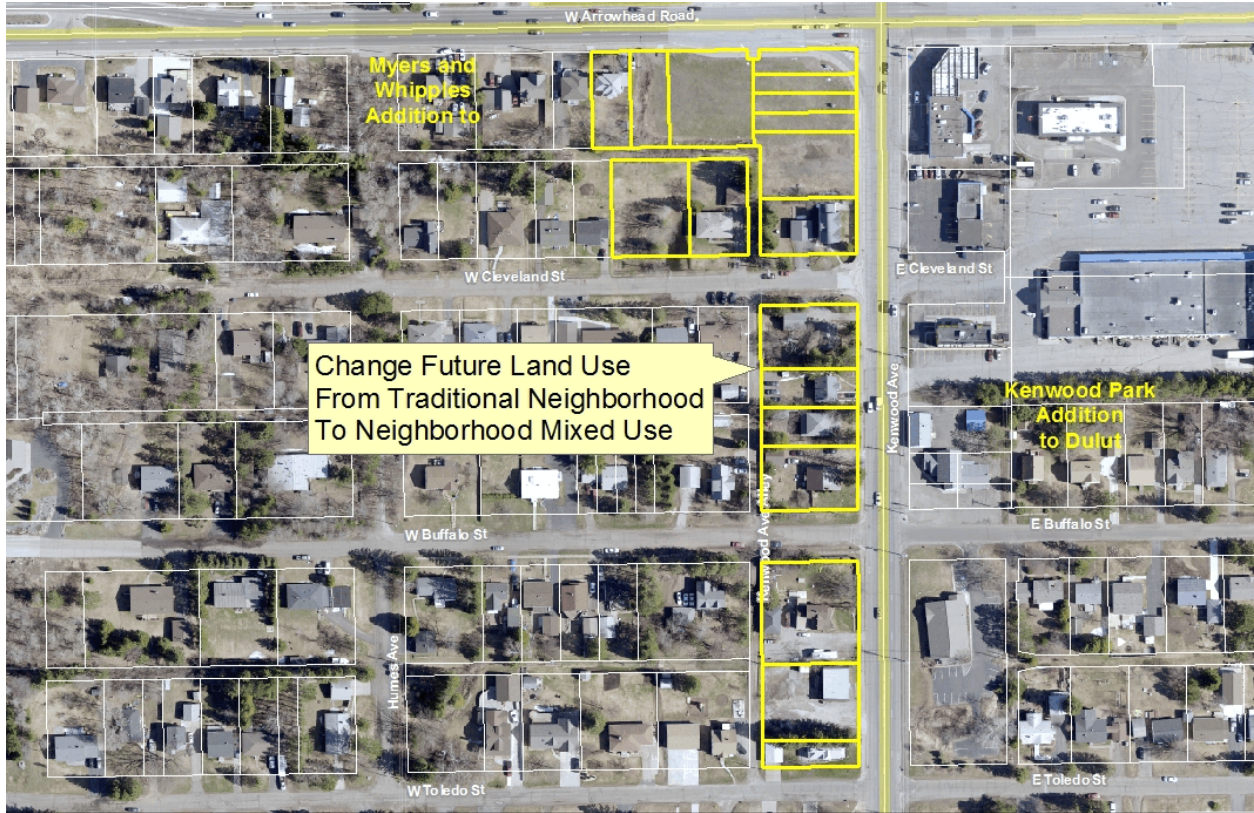
(c) Based on a review of this area completed by the city planning division, staff recommended to the city planning commission that the future land use map be amended for the area adjacent and to the west of Kenwood Avenue, from Arrowhead Road to West Toledo Street, as described below and shown in the map, from Traditional Neighborhood to Neighborhood Mixed Use; and

(d) The city planning commission has reviewed this future land use amendment, conducted a public hearing on April 14, 2015, at their regular planning commission meeting, and recommends city council adoption of the proposed future land use map amendment; and

(e) The city council action shall be by resolution, with the affirmative votes of at least two-thirds of those members constituting a quorum required to take action.

IT IS FURTHER RESOLVED, that the adopted comprehensive land use plan - future land use map, is amended from Traditional Neighborhood to Neighborhood Mixed Use as follows:

Block 1, Myers and Whipples Addition to Duluth, Lots 1 to 10;  
Block 2, Myers and Whipples Addition to Duluth, Lots 1 to 8;  
Block 11, Myers and Whipples Addition to Duluth, Lots 1 to 7;  
Block 12, Myers and Whipples Addition to Duluth, Lots 1 to 10;  
Block 23, Myers and Whipples Addition to Duluth, Lots 1 to 10.



(Ref. File No. 15-052)

Resolution 15-0223 was unanimously adopted.  
 Approved April 27, 2015  
 DON NESS, Mayor

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At this time, Councilor Gardner returned to the meeting.

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Resolution 15-0226, vacating 108 feet of improved street right-of-way of 20th Avenue East between Fourth Street and Woodland Avenue (city of Duluth, engineering department), was introduced by Councilor Russ for discussion.

A motion to suspend the rules to hear from a speaker was seconded and unanimously carried.

Mark Anderson spoke in opposition to this vacation.

Councilor Russ moved to amend subparagraph (d) of the resolution to add the phrase, "effective August 1, 2015," after the public document number, which motion was seconded and carried as follows:

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

Nays: Councilor Gardner -- 1

Resolution 15-0226, as amended, was adopted as follows:

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (d) 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 this portion of the street easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, April 14, 2015, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the platted road easement described below and as described and depicted on Public Document No. 15-0427-15, effective August 1, 2015:

VACATION LEGAL DESCRIPTION:

That portion lying between 4th Street and Woodland Avenue, adjoining Lot 16, Block 11, Highland Park addition;

(e) 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 No. 15-0427-15 showing the platted easement to be vacated.

Resolution 15-0226, as amended, was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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BY COUNCILOR RUSS:

RESOLVED, that the city council finds as follows:

(a) On February 13, 2015, the Fond du Lac Development Corporation applied for a variance related to a proposed new structure on their property on the north side of the 200 block of West Fourth Street. The variance was to allow for two driveway accesses off of West Fourth Street, where the building form standards for a Main Street II building allow no driveway access onto the street if alley access is available;

(b) The public hearing was noticed as required by the unified development chapter. Sixty public notice letters were mailed by the city to property owners with 350 feet of the subject area on February 25, 2015, and two public notice signs were posted by the applicant on February 23, 2015;

(c) The planning commission considered the request at its March 10, 2015 meeting, and voted to approve the variance. The basis for the commission's decision was its conclusion that:

(1) Because of exceptional topographic conditions related to the property, the strict application of the form district building code standards would result in peculiar and practical difficulties to the property owner. The property has significant elevation challenges, with an approximately 25 feet increase from the front to the back of the property, and presence of significant bedrock on site, that present practical difficulties to use and development of the property;

(2) The special circumstances that create the need for relief were not directly or indirectly created by the property owner;

(3) The special circumstances applying to the land are peculiar to the immediately adjoining properties;

(4) The relief is necessary for the preservation of a substantial property right;

(5) The relief will not impair an adequate supply of light and air to adjacent properties nor will it unreasonably increase congestion in public streets. The proposed structure will be three stories and 42 feet tall, which is below the maximum height limit of four stories/55 feet for the Main Street II building in the F-6 zone district;

(6) The variance for two driveway accesses can be granted without substantially impairing the intention of the zoning code;

(d) Christopher and Bethany Owen, Biju Philip and Kathleen Russell filed an appeal of the commission's decision to the city council on March 20, 2015, pursuant to Section 50-37.1.O(4) of the City Code;

(e) The city council heard the appeal to the granting of the variance at its May 27, 2015, meeting.

RESOLVED FURTHER, that the decision of the planning commission to grant the application for the variance is affirmed on the following grounds:

(a) Request for the variance is due to the exceptional topography of the property, including the presence of significant bedrock and steep elevation change;

(b) The relief is necessary for the preservation and enjoyment of a substantial property right; and

(c) The variance would not alter the essential character of the area, which is typified by larger sized institutional structures built close to the front lot line.

Resolution 15-0240 was adopted upon the following vote:

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

Nays: Councilor Hanson -- 1

Approved April 27, 2015

DON NESS, Mayor

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Resolution 15-0241, by Councilor Russ, reversing the decision of the planning commission to grant a variance to permit two driveway accesses when alley access is available, by the Fond du Lac Development Corporation, failed upon the following vote (Public Document No. 15-0427-19):

Yeas: Councilor Hanson -- 1

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

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BY COUNCILOR RUSS:

RESOLVED, that the city council finds as follows:

(a) On February 13, 2015, the Fond du Lac Development Corporation applied for a variance related to a proposed new structure on their property on the north side of the 200 block of West Fourth Street. The application was to allow a variance from the requirement of occupied space on the ground floor, where the building form standards for a Main Street II building require the first 30 feet of the ground floor facing a primary space to be occupied space. Occupied space is the area of the building that must be occupied by the users on a regular basis, which typically includes uses such active uses as restaurant or office, but not off-street parking spaces for vehicles;

(b) The public hearing was noticed as required by the unified development chapter. Sixty public notice letters were mailed by the city to property owners with 350 feet of the subject area on February 25, 2015, and two public notice signs were posted by the applicant on February 23, 2015;

(c) The planning commission considered the request at its March 10, 2015, meeting, and voted to approve the variance. The basis for the commission's decision was its conclusion that:

(1) Because of exceptional topographic conditions related to the property, the strict application of the form district building form standards would result in peculiar and practical difficulties to the property owner. The property has significant elevation challenges, with an approximately 25 feet increase from the front to the back of the property, and presence of significant bedrock on site, that present practical difficulties to use and development of the property;

(2) The special circumstances that create the need for relief were not directly or indirectly created by the property owner;

(3) The special circumstances applying to the land are peculiar to the immediately adjoining properties;

(4) The relief is necessary for the preservation of a substantial property right;

(5) The relief will not impair an adequate supply of light and air to adjacent properties nor will it unreasonably increase congestion in public streets. The proposed structure will be three stories and 42 feet tall, which is below the maximum height limit of four stories/55 feet for the Main Street II building in the F-6 zone district;

(6) The variance from the form district building form standards requirement for 30 feet occupied space on the ground floor can be granted without substantially impairing the intention of the zoning code;

(d) Christopher and Bethany Owen, Biju Philip and Kathleen Russell filed an appeal of the commission's decision to the city council on March 20, 2015, pursuant to Section 50-37.1.O(4) of the City Code;

(e) The city council heard the appeal to the granting of the variance at its May 27, 2015 meeting.

RESOLVED FURTHER, that the decision of the planning commission to grant the application for the variance is affirmed on the following grounds:

(a) Request for the variance is due to the exceptional topography of the property, including the presence of significant bedrock and steep elevation change;

(b) The relief is necessary for the preservation and enjoyment of a substantial property right; and

(c) The variance would not alter the essential character of the area, which is typified by larger sized institutional structures built close to the front lot line.

Resolution 15-0242 was adopted upon the following vote:

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

Nays: Councilor Hanson -- 1

Approved April 27, 2015

DON NESS, Mayor

- - -

Resolution 15-0243, by Councilor Russ, reversing the decision of the planning commission to grant a variance from the requirement to have the first 30 feet of the ground floor of a structure be occupied space, by the Fond du Lac Development Corporation, failed upon the following vote (Public Document No. 15-0427-20):

Yeas: Councilor Hanson -- 1

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

- - -

Resolution 15-0230, accepting dedication of a street easement from Joe and Ryann Signorelli, was introduced by Councilor Julsrud for discussion.

Councilor Julsrud moved to amend the title and body of the resolution by deleting the names "Joe and Ryann Signorelli" and inserting "David A. Piphon and Amy D. Piphon," which motion was seconded and carried as follows:

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

Nay: Councilor Fosle -- 1

Resolution 12-0230, as amended, was adopted as follows:

RESOLVED, that the city of Duluth does hereby accept the conveyance, at no cost to the city, of a street easement from David and Amy Pipho, joint tenants, for development of a hammerhead turnaround on Eastridge Boulevard, which easement is shown on Public Document No. 15-0427-17, on file in the office of the city clerk and legally described as:

An easement over the Westerly 40 feet of the Southerly 20 feet of Lot 1, Block 2, Eastridge Estates.

Resolution 15-0230, as amended, was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

- - -

Resolution 15-0236, ordering the improvement of the 2015 street preservation projects at an estimated cost of \$2,848,735.43, was introduced by Councilor Julsrud for discussion.

Councilor Fosle moved to amend the resolution to split the resolution in order to vote on the Raleigh Street separately 15-0236(b), which motion was seconded and unanimously carried.

A motion to suspend the rules to hear from speakers was seconded and unanimously carried.

KZ Rish submitted a petition (Public Document No. 15-0427-18) and spoke in opposition to Raleigh street being improved at this time and the associated assessment.

Sergei Katsev spoke in opposition to the assessment amount for the Woodland Avenue improvement.

Councilor Hanson moved to amend Resolution 15-0236(b) to add the wording "that these predesignated MSA dollars for the Raleigh Street project will be used in the western corridor," which motion failed for lack of a second.

Resolution 15-0236(a) was adopted as follows:

RESOLVED, that it is deemed necessary for public convenience and safety and it is hereby ordered that the following streets be improved:

Project No. 1044 (estimate \$1,278,682.33)

Woodland Avenue from Fourth Street to Kent Road (S.P. 118-157-020)

Woodland Avenue from Calvary Road to Martin Road (S.P. 118-161-008)

Project No. 1336 (estimate \$835,494.88)

46th Avenue West from Grand Avenue to Eighth Street (S.A.P. 118-111-008)

40th Avenue East from London Road to Superior Street (S.A.P. 118-166-003)

Pecan Avenue from Central Entrance to Rice Lake Road (S.A.P. 118-182-006)

Project No. 1034 (estimate \$314,303.62)

Skyline Parkway from Seventh Street to Mesaba Avenue

FURTHER RESOLVED, that said work be done by contract and that the estimated cost of said project as estimated by the city engineer is \$2,428,480.83, payable from Permanent Improvement Fund 411, Department/Agency 035 (capital projects accounts), Object 5530 (improvements other than buildings). The funding sources for these projects will be as follows: \$920,000 federal, \$1,194,177.21 MSAS Fund 90 and street system maintenance utility fee \$314,303.62, and of these project costs, \$607,120.20 will be assessed to benefitting properties.

FURTHER RESOLVED, that assessments shall be levied upon lands benefitting per the preliminary assessment roll and may be paid in five annual installments for assessments less than \$5,000, and in ten annual installments for assessments of \$5,000 or more, at municipal bond index fund rate plus 1.50 percent interest.

Resolution 15-0236(a), as amended, was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

- - -

Resolution 15-0236(b) failed unanimously (Public Document No. 15-0427-21).

- - -

Resolution 15-0244, creating a Level 2 diagnostic home energy assessment program and authorizing the director of public works and utilities to administer the program with funds previously approved for the existing advanced home energy audit program, was introduced by Councilor Julsrud.

Councilor Julsrud moved to table the resolution in order to work out some details, which motion was seconded and unanimously carried.

- - -

### **INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinances were read for the first time:

BY COUNCILOR GARDNER

15-023 - AN ORDINANCE AMENDING SECTIONS 47-16, 47-17.1, 47-18, 47-20, 47-22, 47-27, AND 47-33 AND DELETING SECTION 47-37 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO TAXICABS.

- - -

INTRODUCED BY COUNCILOR RUSS

15-024 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 AND RR-1 TO P-1 FOR COBB PARK, DOWNER PARK, JANETTE POLLAY PARK, MORNINGSIDE PARK AND PLEASANT VIEW PARK (CITY OF DULUTH).

- - -

INTRODUCED BY COUNCILOR RUSS

15-025 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO MU-C THE PROPERTY LOCATED 213 NORTH ARLINGTON AVENUE (JOSEPH KLEIMAN).

- - -

INTRODUCED BY COUNCILOR RUSS

15-026 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF PROPERTY IN LAKESIDE TO ONE ROOF COMMUNITY HOUSING FOR RESIDENTIAL REDEVELOPMENT.

Councilor Russ moved to suspend the rules to hear a speaker on the ordinance, which motion was seconded and unanimously carried.

William Lynch spoke of his concerns about this ordinance.

- - -

BY COUNCILOR SIPRESS

15-027 - AN ORDINANCE APPROVING THE CONVEYANCE BY THE DULUTH AIRPORT AUTHORITY OF ALERT HANGAR 11/12 AND RATIFYING AND APPROVING THE CONVEYANCE OF ALERT HANGAR 13/14 TO MONACO AIR DULUTH, LLC.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR RUSS

15-021(a) (10367) - AN ORDINANCE AMENDING SECTIONS 50-19.8, 50-20.2 AND 50-41.13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO AMEND THE PERMITTED USE TABLE TO ALLOW FOR MEDICAL CANNABIS LAND USES.



The ordinance, as amended, was adopted upon the following vote:  
Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug and President Larson -- 7  
Nays: Councilors Russ and Sipress -- 2

- - -

INTRODUCED BY COUNCILOR RUSS  
15-022 (10368) - AN ORDINANCE AMENDING SECTION 2-177 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE METHODS OF CONVEYANCE OF REAL PROPERTY.

Councilor Russ moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

The meeting was adjourned at 8:58 p.m.

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10367**

AN ORDINANCE AMENDING SECTIONS 50-19.8, 50-20.2, 50-41.13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO AMEND THE PERMITTED USE TABLE TO ALLOW FOR MEDICAL CANNABIS LAND USES.

The city of Duluth does ordain:

Section 1. That Section 50-19.8 of the Duluth City Code, 1959, as amended, is amended as follows:

50-19.8 Permitted use table.

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**TABLE 50-19.8: USE TABLE**

	Residential						Mixed Use					Form									Special			Use-Specific Standards		
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1		
<b>RESIDENTIAL USES</b>																										
<b>Household Living</b>																										
Dwelling, one-family	P	P	P	P	P	P	P					P	U	U	U	U	U	P	U	U	U					
Dwelling, two-family				P	P	P	P					P	U	U	U	U	U	P	U	U	U					50-20.1.A
Dwelling, townhouse				S	P <sup>2</sup>	P	P <sup>2</sup>				P <sup>1</sup>	P														50-20.1.B
Dwelling, multi-family					P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P	U	P	U	P	P	P	U	P	P					50-20.1.C
Dwelling, live-work							P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P	P	P	P	P	P	P		P	P					
Manufactured home park				S	S <sup>2</sup>	P	S <sup>2</sup>																			50-20.1.F
<b>Group Living</b>																										
Co-housing facility				S	S <sup>2</sup>	P	P <sup>2</sup>					P														
Residential care facility/assisted living (6 or fewer )		P	P	P	P <sup>2</sup>	P	P <sup>2</sup>					P	U	P	U	P	P	U	U	P	P					50-20.1.D
Residential care facility/assisted living (7 or more)				S	P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P	U	P	U	P	P	U	U	P	P					50-20.1.D
Rooming house					S <sup>2</sup>		P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P	U	P	U	P	P	U	U	P	P					50-20.1.E
<b>PUBLIC, INSTITUTIONAL AND CIVIC USES</b>																										
<b>Community and Cultural Facilities</b>																										
Bus or rail transit station							P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P	P	P	P	P	P	P	P	P	P					
Cemetery or mausoleum	S	S	S	S	S <sup>2</sup>	P	S <sup>2</sup>	S	S	S															S	
Club or lodge (private)					S <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P	P	P	P	P	P	P	P	P					S	50-20.2.A
Government building or public safety facility		P	P	S	P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P	P	P <sup>1</sup>	P	P	P	P	P	P	P	P	P	P	S	S	S		
Museum, library or art gallery				S	S <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>		S	P <sup>1</sup>	P	P	P	P	P	P	P	P	P	P				S	
Park, playground or forest reserve	P	P	P	P	P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P	P	P	P	P	P	P	P	P	P				P	
Religious assembly, small (less than 50,000 sq. ft.)		P	P	S	P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	S	P <sup>1</sup>	P	P	P	P	P	P	P	P	P						50-20.2.E

**TABLE 50-19.8: USE TABLE**

	Residential						Mixed Use						Form									Special			Use-Specific Standards
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1	
Religious assembly, large (50,000 sq. ft. or more)		S	S	S	S <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	S	P <sup>1</sup>	P	P	P	P	P	P	P	P	P					50-20.2.F
<b>Educational Facilities</b>																									
Business, art or vocational school							P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P	P	P	P	P	P	P	P	P					
School, elementary		P	P	P	P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>			P	U	P	U	P	P	U	U	U					50-20.2.G
School, middle or high		S	S	S	S <sup>2</sup>	P	S <sup>2</sup>	S <sup>1</sup>	S <sup>1</sup>			P	U	P	U	P	P	U	U	U					50-20.2.G
University or college									P <sup>1</sup>			P			U	P	P	U	U	U					
<b>Health Care Facilities</b>																									
Hospital									P <sup>1</sup>																
Medical or dental clinic					S <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P	P	P	P	P	P	P	P	P					50-20.2.E
Nursing home					P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P		P											
Medical cannabis distribution facility																						!			50-20.2.B
Medical cannabis laboratory																						!			50-20.2.C
Medical cannabis manufacturer																						!			50-20.2.D
Other institutional support uses not listed in this table									P <sup>1</sup>																
<b>COMMERCIAL USES</b>																									
<b>Agriculture and Animal-Related</b>																									
Agriculture, general	P	P																							50-20.3.B
Agriculture, urban		P	P	P	P <sup>2</sup>	P	P <sup>2</sup>					P													
Kennel	S	S						S	S	P		P													
Riding stable	S	S	S			P					S												S		
Veterinarian or animal hospital	S	S			P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P	P	P	P	P	P								50-20.3.T
<b>Food, Beverage and Indoor Entertainment</b>																									
Adult entertainment establishment																						P			50-20.3.A
Convention or event center								P <sup>1</sup>		P	P <sup>1</sup>	P			P	P		P	P	P					50-20.3.H

**TABLE 50-19.8: USE TABLE**

	Residential						Mixed Use					Form									Special			Use-Specific Standards	
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W		P-1
Indoor entertainment facility								P <sup>1</sup>		P	P <sup>1</sup>	P		P		P	P		P	P	P				
Restaurant (less than 5,000 sq. ft.)					S <sup>2</sup>	S	S <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	S	P	P	P	P	P	P	P	P	P				50-20.3.Q
Restaurant (5,000 sq. ft. or more)						S		P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	S	P	P	P	P	P	P	P	P	P				50-20.3.Q
Theater							S <sup>2</sup>	P <sup>1</sup>			P <sup>1</sup>	P		P		P	P		P	P	P				
<b>Lodging</b>																									
Hotel or motel							S <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P		P		P	P		P	P	P				
Bed and breakfast				S	P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P		P		P		P							50-20.3.F
Seasonal camp or cabin	P	P				P					P <sup>1</sup>													S	50.20.3.S
Vacation dwelling unit		I	I	I	I <sup>2</sup>	I	I <sup>2</sup>										I								50-20.3.U
<b>Offices</b>																									
Bank							S <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	S	P	P	P	P	P	P	P	P	P	P				50-20.3.E
Office					S <sup>2</sup>		P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P	P	P	P	P	P	P	P	P	P				50-20.3.M
Data center							S <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	S	P	U	U	U	U	U	U	U	U	U	P			
<b>Outdoor Recreation &amp; Entertainment</b>																									
Golf course		S	S			P																		P	
Marina or yacht club											P <sup>1</sup>												S	S	
Recreational vehicle park	S	S	S								S													S	50.20.3.P
Other outdoor entertainment or recreation use not listed		S						S		S	S														50.20.3.N
<b>Personal Services</b>																									
Business park support activities										P		P													
Preschool		S	S	S	P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P	P	P	P	P	P	P	S	P	S				
Daycare facility, small (14 or fewer)	P	P	P	P	P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P	P	P	P	P	P	P	P	P	P				50-20.3.I
Daycare facility, large (15 or more)		S	S	S	S <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P	P	P	P	P	P	P	S	P	S				50-20.3.I
Funeral home or crematorium					S <sup>2</sup>		S <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P		P		P		P		P				P			
Mini-storage facility		S								P												P	P		50-20.3.L

**TABLE 50-19.8: USE TABLE**

	Residential						Mixed Use					Form									Special			Use-Specific Standards
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	
Personal service and repair, small (less than 10,000 sq. ft.)						P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P	P	P	P	P	P	P	P	P	P			
Personal service and repair, large (10,000 sq. ft. or more)							S <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P		P		P		P		P		P		
<b>Retail Sales</b>																								
Adult bookstore																							P	
Building materials sales								S		P		P												Chapter 5
Garden material sales		S						P <sup>1</sup>				P				P								50-20.3.G
Grocery store, small (less than 15,000 sq. ft.)						P	P <sup>2</sup>	P <sup>1</sup>			P <sup>1</sup>	P		P		P	P	P	P	P				50-20.3.K
Grocery store, large (15,000 sq. ft. or more)								P <sup>1</sup>				P												50-20.3.K
Retail store not listed, small (less than 15,000 sq. ft.)					S <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P	P	P	P	P	P	P	P	P	P			50-20.3.R
Retail store not listed, large (15,000 sq. ft. or more)								P <sup>1</sup>			P <sup>1</sup>	P		P		P	P		P	P				50-20.3.R
<b>Vehicle-Related</b>																								
Automobile and light vehicle repair and service							S <sup>2</sup>	P <sup>1</sup>		P		P		P		P	P	P				P		50-20.3.C
Automobile and light vehicle sales, rental, or storage								P <sup>1</sup>		P												P		50-20.3.D
Filling station					S <sup>2</sup>	P	S <sup>2</sup>	P <sup>1</sup>		P	P <sup>1</sup>	P		P		P	P	P				P	P	50-20.3.J
Parking lot or parking structure (primary use)								P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P	S	S	S	S	S	S	S	S	S	P	P	50.20.3.O
Truck or heavy vehicle sales, rental, repair or storage										P												P		
<b>INDUSTRIAL USES</b>																								
<b>Industrial Service</b>																								
Contractor's shop and storage yard										P		P					P					P	P	50-20.4.B
Dry cleaning or laundry plant										P												P		
Research laboratories									P <sup>1</sup>	P		P										P	P	

**TABLE 50-19.8: USE TABLE**

	Residential						Mixed Use					Form									Special			Use-Specific Standards	
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W		P-1
Industrial services										P												P	P		
<b>Manufacturing and Mining</b>																									
Manufacturing, light									P <sup>1</sup>	P	P						P					P			50-20.4.F
Manufacturing, heavy																						P			
Manufacturing, hazardous or special																						S			50-20.4.G
Mining, extraction and storage		S																				S	S		50-20.4.H
Water-dependent manufacturing, light or heavy																							P		
<b>Transportation-Related</b>																									
Airport and related facilities	S																					P			50-20.4.A
Railroad yard or shipyard and related facilities																						P	P		
Truck freight or transfer terminal										P												P	P		
<b>Utilities</b>																									
Electric power or heat generation plant																						P	P		
Electric power transmission line or substation	S	S	S	S	S <sup>2</sup>	P	S <sup>2</sup>	S	S	S	S	P	S	S	S	S	S	S	S	S	S	S	S	S	50-20.4.C
Major utility or wireless telecommunication facility	S	S	S	S	S <sup>2</sup>	P	S <sup>2</sup>	S	S	S	S	P	S	S	S	S	S	S	S	S	S	S	S	S	50-20.4.E
Radio or television broadcasting tower		S								S												S	S		50.20.4.I
Solar, geothermal or biomass power facility (primary use)		S				P		S	S	P	P											P	S		
Water or sewer pumping stations/reservoirs	S	S	S	S	S <sup>2</sup>	P	S <sup>2</sup>	S	S	S	S	P	S	S	S	S	S	S	S	S	S	S	S	S	

**TABLE 50-19.8: USE TABLE**

	Residential							Mixed Use					Form									Special			Use-Specific Standards	
	R-C	RR-1	RR-2	R-1	R-2	R-P		MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W		P-1
Water or sewer treatment facilities																							P	P		
Wind power facility (primary use)		S							S	S													P	S		50-20.4.M
<b>Waste and Salvage</b>																										
Junk and salvage services																							S	S		50.20.4.D
Recycling collection point (primary use)								S	S	S													P	P		
Solid waste disposal or processing facility		S								S													S	S		50-20.4.J
<b>Wholesale Distribution and Storage</b>																										
Storage warehouse										P						P							P			50.20.4.K
Wholesaling										P						P							P			50-20.4.L
Bulk storage not listed elsewhere																							P			
Water-dependent bulk storage or wholesaling not listed elsewhere																								P		
<b>ACCESSORY USES</b>																										
Accessory agriculture roadside stand	A	A																						A		50.20.5.A
Accessory bed and breakfast	A	A	A	A	A	A	A		A		A															50-20.5.B
Accessory boat dock, residential	A	A	A	A	A	A	A	A	A		A															50-20.5.C
Accessory caretaker quarters										A													A	A	A	
Accessory communications tower for private use	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Accessory day care facility	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A					
Accessory dwelling unit	A	A	A	A	A	A	A																			50-20.5.D

**TABLE 50-19.8: USE TABLE**

	Residential						Mixed Use					Form									Special			Use-Specific Standards				
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W		P-1			
Accessory heliport	A								A			A													A			50-25.5.E
Accessory home occupation	A	A	A	A	A	A	A	A	A		A	A	A	A	A	A	A	A	A	A	A							50-20.5.F
Accessory recycling collection point					A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	A		
Accessory sidewalk dining area					A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A							50-20.5.G
Accessory solar or geothermal power equipment	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.H
Accessory uses and structures not listed elsewhere	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.I
Accessory vacation dwelling unit		I	I	I	I	I	I									I												50-20.5.L
Accessory wind power equipment	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.J
Minor utilities and accessory wireless antennas attached to existing structures	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.K
<b>TEMPORARY USES</b>																												
Temporary construction office or yard	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.6.A
Temporary event or sales	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.6.B
Temporary moveable storage container	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.6.C
Temporary real estate sales office				A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A							50-20.6.D
Temporary use not listed in this table	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
<b>FORM DISTRICT BUILDING TYPES</b>																												
Main Street Building I														P	P													
Main Street Building II																P	P	P	P									



**TABLE 50-19.8: USE TABLE**

	Residential							Mixed Use					Form									Special			Use-Specific Standards
	R-C	RR-1	RR-2	R-1	R-2	R-P		MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	
Main Street Building III																			P	P					
Corridor Building I														P											
Corridor Building II																P	P								
Lakefront Corridor Building																					P				
Corridor Building III																				P					
Cottage Commercial I														P				P							
Cottage Commercial II																P									
Iconic Building														P		P	P	P		P					

Section 2. That Section 50-20.2 of the Duluth City Code, 1959, as amended, is amended as follows:  
50-20.2 Public, institutional, and civic uses.

A. Club or lodge (private).

1. In the P-1 and R-2 district, the club or lodge shall be operated by a not-for-profit civic, cultural or educational organization, and the primary activity cannot be any service that is customarily carried on as a business;
2. In the RR-1 district, any such buildings shall occupy not more than ten percent of the total area of the lot and shall be set back from all yard lines a distance of not less than two feet for each foot of building height;
3. In the RR-1, RR-2 and R-1 zone districts, the sum of all structures on the lot shall be not more than 50,000 square feet;
4. In the R-1 and R-2 zone districts, each property boundary with a lot occupied by a residential use shall be buffered with a dense urban screen;

B. Medical cannabis distribution facility.

1. An interim use permit shall be required to operate a medical cannabis distribution facility. The maximum length of an interim use permit shall be three years. Interim use permits granted pursuant to this Section are not transferable and terminate upon sale of the facility or discontinuance of use;
2. In addition to the interim use permit requirements provided for under state law and Section 50-37 of the UDC, an applicant seeking to operate a medical cannabis distribution facility must submit a security plan stating how the facility will address public health, welfare and safety concerns including, but not limited to: parking, traffic flow, security, fencing, lighting, window and door placement, landscaping, and hours of operation;
3. The distance limitations on location of a medical cannabis distribution facility in relation to a public or private school provided for under Minn. Stat. § 152.29, as may be amended, are incorporated herein. A medical cannabis distribution facility shall not be closer than 1,500 feet from a zoning district that allows single family, two-family, townhomes or multi-family dwellings as a permitted use at a density of greater than one unit per five acres;
4. A medical cannabis distribution facility shall be setback from all property lines a minimum of 25 feet;
5. Medical cannabis distribution facilities are prohibited from operating drive-throughs;
6. Parking, design standards, and other applicable requirements under the unified development chapter for this use will be the same as for other medical or dental clinics;

C. Medical cannabis laboratory.

1. An interim use permit shall be required to operate a medical cannabis laboratory. The maximum length of an interim use permit shall be three years. Interim use permits granted pursuant to this section are not transferable and terminate upon sale of the facility or discontinuance of use;
2. In addition to the interim use permit requirements provided for under state law and Section 50-37 of the UDC, an applicant seeking to operate a

medical cannabis laboratory must submit a security plan stating how the facility will address public health, welfare and safety concerns including, but not limited to: parking, traffic flow, security, fencing, lighting, window and door placement, landscaping, and hours of operation;

3. A medical cannabis laboratory shall be setback from all property lines a minimum of 25 feet;
4. Parking, design standards, and other applicable requirements under the unified development chapter for this use will be the same as for other medical or dental clinics;

**D. Medical cannabis manufacturer.**

1. An interim use permit shall be required to operate a medical cannabis manufacturing facility. The maximum length of an interim use permit shall be three years. Interim use permits granted pursuant to this section are not transferable and terminate upon sale of the facility or discontinuance of use;
2. In addition to the interim use permit requirements provided for under state law and Section 50-37 of the UDC, an applicant seeking to operate a medical cannabis distribution facility must submit a security plan stating how the facility will address public health, welfare and safety concerns including, but not limited to: parking, traffic flow, security, fencing, lighting, window and door placement, landscaping, hours of operation, and odor produced by the manufacturing process;
3. The distance limitations on location of a medical cannabis manufacturing facility in relation to a public or private school provided for under Minn. Stat. § 152.29, as may be amended, are incorporated herein. A medical cannabis manufacturer shall not be closer than 1,500 feet from a zoning district that allows single family, two-family, townhomes or multi-family dwellings as a permitted use at a density of greater than one unit per five acres;
4. A medical cannabis manufacturing facility shall be setback from all property lines a minimum of 50 feet;
5. No odor produced by a medical cannabis manufacturing facility shall be detectable at the manufacturer's property lines surrounding the facility;
6. Parking, design standards, and other applicable requirements under the Unified Development Chapter for this use will be the same as for other medical or dental clinics;

**E Medical or dental clinic.**

1. In the residential districts, the clinic shall occupy 10,000 square feet or less in total floor area;
2. In the MU-N district, the clinic shall occupy 20,000 square feet or less in total floor area;

**E Religious assembly.**

1. In the RR-1 district, any such buildings shall occupy not more than ten percent of the total area of the lot and shall be set back from all yard lines a distance of not less than two feet for each foot of building height;
2. In the RR-1, RR-2 and R-2 zone districts, the sum of all structures on the lot shall not exceed 50,000 square feet without a special use permit. A special use permit is required for all religious assemblies in the R-1 zone districts;

3. In the R-1 and R-2 zone districts, each property boundary with a lot occupied by a residential use shall be buffered with a dense urban screen;

**G School, elementary, middle or high.**

1. In the RR-1, RR-2 and R-1 districts, the school shall have a curriculum similar to that ordinarily given in public schools and having no rooms regularly used for housing or sleeping purposes, except staff quarters, when located on the premises for the school;
2. In the RR-1, RR-2, R-1, R-2, MU-N and MU-C districts, any such building shall be located not less than 40 feet from any side or rear lot line;
3. Notwithstanding any lower maximum height stated in Article II, in all zone districts except the form districts, the maximum height for this use shall be 45 feet.

Section 3. That Section 50-41.13 of the Duluth City Code, 1959, as amended, be amended as follows:

50-41.13 Definitions: M.

Maintenance agreement. A legally recorded document that acts as a property deed restriction, and that provides for long-term maintenance of stormwater BMPs.

Major system. In the context of stormwater management, one of the 42 major watercourses, or tributaries, as described by the Urban Study for Duluth Area Stormwater Flooding March 1976. Includes Lester/Amity Creeks, Tischer Creek, Brewery, Oregon, Miller, Coffee, Kingsbury, Knowlton, Stewart, Sargent, Mission, Buckingham, Chester and other systems as designated by the city.

Manufactured home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."

Manufacturing, light. A facility or area used for the assembly, fabrication, or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication, or processing takes place, where such processes are housed entirely within a building, or where the area occupied by outside operations or storage of goods and materials used in the assembly, fabrication, or processing does not exceed 25 percent of the floor area of buildings on the lot. Examples include but are not limited to: food processing, electronic equipment assembly and manufacturing and assembly from finished products.

Manufacturing, heavy. An establishment or use of land that includes the assembly, fabrication, or processing of goods and materials using processes that ordinarily have impacts on the environment or significant impacts on the use and enjoyment of surrounding properties in terms of noise, smoke, fumes, odors, glare, or health or safety hazards, or any use where the area occupied by outside storage of goods and materials used in the assembly, fabrication, or processing exceeds 25 percent of the floor area of buildings on the lot. Examples include but are not limited to: battery, chemicals, machinery, and plastics manufacture; mushroom plant; batching plant; beverage bottling and distribution, packaging plant; slaughterhouse; and rendering plant. This use does not include any use that meets the definition of "light manufacturing" or "hazardous or special manufacturing", or a solid waste disposal site, or a yard waste compost facility, and does not include any use that constitutes a public nuisance.

Manufacturing, hazardous or special. An establishment or business that uses hazardous inputs or creates hazardous by-products in the course of manufacturing, assembly, fabrication, or materials treatment, or that uses manufacturing, assembly, fabrication, or treatment processes that create potentially hazardous impacts on the environment or

surrounding areas. Examples include but are not limited to: acid manufacture; acid bulk storage; cement, lime, gypsum or plaster of paris manufacture; central concrete mixing or concrete proportioning plant; distillation, manufacture or refining of bones, coal or tar asphalt; explosives, manufacture or storage; fat, grease, lard or tallow rendering or refining; fertilizer manufacture from organic matter; glue or size manufacture; paper manufacture; petroleum or asphalt refining or storage; smelting of tin, copper, zinc or iron ores; storage or processing raw hides or fur; and stockyards or slaughter of animals other than poultry.

Marina or yacht club. A facility or area for storing, servicing, fueling, berthing, securing, and launching of private pleasure craft that may include the sale of fuel and incidental supplies for the boat owners, crews and guests. Accessory uses may include restaurants and bars.

Maximum extent practicable (MEP). The statutory standard (33 U.S.C. 1342(p)(3)(B)(iii)) that establishes the level of pollutant reductions that an Owner or Operator of Regulated MS4s must achieve. The USEPA has intentionally not provided a precise definition of MEP to allow maximum flexibility in MS4 permitting. The pollutant reductions that represent MEP may be different for each Small MS4, given the unique local hydrologic and geologic concerns that may exist and the differing possible pollutant control strategies. Therefore, each permittee will determine appropriate BMPs to satisfy each of the six minimum control measures through an evaluative process. The USEPA envisions application of the MEP standard as an iterative process.

Medical cannabis. Medical cannabis shall mean the definition for same provided under Minn. Stat. § 152.22, subd. 6, as may be amended.

Medical cannabis distribution facility. Medical cannabis distribution facility shall mean a facility operated by a medical cannabis manufacturer for purposes of distributing medical cannabis in accordance with Minn. Stat. § 152.29, subd. 1(a), as may be amended, and the requirements of the commissioner of the Minnesota department of health or other applicable state law.

Medical cannabis laboratory. Medical cannabis laboratory shall mean an independent laboratory permitted to test medical cannabis produced by a medical cannabis manufacturer in accordance with Minn. Stat. § 152.29, subd. 1(b), as may be amended, and the requirements of the commissioner of the Minnesota department of health or other applicable state law.

Medical cannabis manufacturer. Medical cannabis manufacturer shall mean the definition for same provided under Minn. Stat. § 152.22, subd. 7, as may be amended.

Medical or dental clinic. An establishment where patients who are not lodged overnight are admitted for examination and treatment by a group of licensed health care practitioners, dentists, or licensed health care practitioners and dentists in practice together.

Migratory bird flight path. The zone of jurisdictional land located from the Lake Superior and Saint Louis River shorelines to no less than two miles inland or where Skyline Parkway runs parallel to the shoreline, an area from the shoreline to Skyline Parkway or two miles inland, whichever is greater.

Mining, extraction and storage. The extraction, removal or the processing of sand, clay, loam, gravel, rock, top soil or fill materials (exclusive of sod) for commercial purposes, except as a necessary incident to any construction on the premises.

Mini-storage facility. A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual, compartmentalized and controlled access units or lockers.

Minor system. Those other city drainage systems that empty into the major system, which mainly consists of storm sewer, culverts and smaller open channel sections such as swales and small ditches.

Minor utilities. A piece or system of service equipment or infrastructure that is necessary to support development within the immediate vicinity and that involves only small structures.

Employees typically are not located at the site on an ongoing basis. Examples include but are not limited to: electric transformer stations, gas regulator stations, telephone exchange buildings, cable equipment boxes, district power distribution lines, electric utility boxes, and well, water and sewer pumping stations.

Mixed use structure. A structure containing a mix of the four major land uses, as defined by the permitted use table in UDC Section 50-19 (residential, public, commercial, and industrial). To be considered a mixed use structure, a structure must have at least 20 percent of its total square footage used by one of the four major land uses that is different than its principal use.

Modify or modification. When used in the context of wireless telecommunications facility, the addition, removal or change of any of the physical and visually discernable components or aspects of a wireless facility, such as antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernable components, vehicular access and parking. Adding a new wireless carrier or service provider to a telecommunications tower or telecommunications site as a co-location is a modification. A modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything, nor does it include upgrades or changeouts of equipment or antennas where the replacement is of similar size and appearance.

Motor vehicle. Any self-propelled vehicle designed primarily for transportation of person or goods. It does not include an electric personal wheelchair.

Municipal separate storm sewer system (MS4). A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains):

A. Owned or operated by a state, city, town, borough, county, parish, district, association or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial water, stormwater or other wastes. Including special district, or similar entity or an Indian tribe or an authorized Indian tribal organization or a designated and approved management agency under Section 208 of the CWA (33 U. S. C.1288) that discharges to waters of the United States;

B. Designed or used for collecting or conveying stormwater;

C. That is not a combined sewer; and

D. That is not part of a publicly owned treatment works (POTW) as defined in 40 CFR 122.2.

MPCA. Minnesota pollution control agency.

Museum, library, or art gallery. A facility or area that is open to the public and is intended for the acquisition, preservation, study, and exhibition of works of artistic, historical or scientific value.

Section 4. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: May 29, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug and President Larson -- 7

Nays: Councilors Russ and Sipress -- 2

ATTEST:  
JEFFREY J. COX, City Clerk

Passed April 27, 2015  
Approved April 27, 2015  
DON NESS, Mayor

- - -

**ORDINANCE NO. 10368**

**AN ORDINANCE AMENDING SECTION 2-177 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE METHODS OF CONVEYANCE OF REAL PROPERTY.**

The city of Duluth does ordain:

Section 1. That Section 2-177 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 2-177. Methods of conveyance.

Conveyances under this Article may be accomplished or implemented in the following manners:

(a) Conveyance to the highest responsible bidder pursuant to Section 2-177.1 below;

(b) Conveyance to the highest responsible bidder at auction pursuant to Section 2-177.2 below;

(c) Conveyance to another governmental agency by sale or exchange at an amount other than market value pursuant to Section 2-177.3 below;

(d) Conveyance to a party other than another governmental agency at an amount at or less than market value in order to further other city interests pursuant to Section 2-177.4 below;

(e) Conveyance to an adjacent property owner or owners of property which cannot be developed pursuant to Section 2-178 below;

(f) Reconveyance to the state of Minnesota of tax forfeit property acquired by the city under a conditional use deed shall be by resolution of the city council.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: May 29, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed April 27, 2015  
Approved April 27, 2015  
DON NESS, Mayor

- - -

**MINUTES OF THE REGULAR MEETING  
OF THE DULUTH CITY COUNCIL**

May 11, 2015

Duluth City Council meeting held on Monday, May 11, 2015, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Sipress and President Larson -- 8

Absent: Councilor Russ -- 1

- - -

The minutes of council meetings held on April 13, 2015, were approved upon a unanimous vote.

- - -

**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

15-0511-01 Minnesota state auditor audit report for Duluth entertainment and convention center authority for the years ended December 31, 2014, and 2013. -- Received

15-0511-18 Mike Conlan communication regarding the proposed low income housing tax credit resolutions (15-0258R, 15-0259R and 15-0264R). -- Received

- - -

**REPORTS FROM OTHER OFFICERS**

15-0511-02 Clerk application for exempt permit to the Minnesota gambling control board from Lake Superior Marine Museum Association on November 7, 2015 (raffle). -- Received

- - -

**REPORTS OF BOARDS AND COMMISSIONS**

15-0511-03 Duluth airport authority minutes of March 17, 2015, meeting. -- Received

15-0511-04 Duluth economic development authority minutes of March 23, 2015, meeting. -- Received

15-0511-05 Duluth public utilities commission minutes of March 17, 2015, meeting. -- Received

15-0511-06 Housing and redevelopment authority of Duluth minutes of February 24, 2015, meeting. -- Received

15-0511-07 Library board minutes of March 24, 2015, meeting. -- Received

15-0511-08 Spirit Mountain recreation area authority minutes of March 19, 2015, meeting. -- Received

- - -

**RESOLUTION TABLED**

Councilor Julsrud moved to remove Resolution 15-0244, creating a Level 2 diagnostic home energy assessment program and authorizing the director of public works and utilities to administer the program with funds previously approved for the existing advanced home energy audit program, from the table, motion was seconded and unanimously carried.

Resolution 15-0244 was adopted as follows:

BY COUNCILOR JULSRUD:

WHEREAS, there is a need for all energy consumers to work to conserve valuable



energy resources; and

WHEREAS, it is in the best interests of the citizens of the city of Duluth ("city"), both as the owners of a natural gas utility and as partners in the greater Minnesota community, to encourage such conservation; and

WHEREAS, the city and Minnesota Power (MP), a division of ALLETE, Inc., currently offer basic energy auditing services to users of natural gas and electrical services in the city at no cost; and

WHEREAS, there is a need to offer more comprehensive home audit services to those consumers; and

WHEREAS, it is in the best interests of the city to join with MP in establishing and funding a more comprehensive energy audit program to encourage the conservation of energy resources, especially natural gas resources; and

WHEREAS, customers can select an energy auditing contractor for the Level 2 audits from the list of approved contractors for Level 1 or Level 3 audits. This list of contractors is approved by the department director and MP to perform home energy check ups or advanced home energy audits, and is determined through a request for proposal on an annual basis.

THEREFORE, BE IT RESOLVED, that the city council authorizes the establishment of a Level 2 diagnostic home energy assessment program as described in the program guidelines, a copy of which is on file in the office of the city clerk as Public Document No. 15-0511-10.

FURTHER RESOLVED, that said program guidelines are hereby approved.

FURTHER RESOLVED, that the director of public works and utilities, or his or her designee, is hereby authorized to implement and administrate the Level 2 diagnostic home energy assessment program for consumers of natural gas from the city's natural gas utility by June 30, 2015, under the terms and conditions set forth in the program guidelines, using up to the amount of funding available for the advanced home energy audit program, payable from the Public Works and Utilities Fund 555, Agency 500, Account No. 5441.

Resolution 15-0244 was unanimously adopted.

Approved May 11, 2015

DON NESS, Mayor

- - -

## **MOTIONS AND RESOLUTIONS**

### **CONSENT AGENDA**

*(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)*

President Larson moved passage of the consent agenda, which motion was seconded and unanimously carried.

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of a 2:00 a.m. alcohol beverage license for the following on sale intoxicating liquor license for the period ending August 31, 2015, subject to departmental approvals and the payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

The Greens Duluth, Inc. (The Break Room), 501 East Fourth Street.

Resolution 15-0251 was unanimously adopted.

Approved May 11, 2015

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 2015, subject to departmental approvals, and the payment of sales and property taxes:

Jade Fountain, LLC (Jade Fountain), 305 North Central Avenue, with Amanda Kalligher, 50 percent owner and Joshua Kalligher, 50 percent owner, transferred from Lee & Tina, Inc. (Jade Fountain), same address.

Resolution 15-0253 was unanimously adopted.

Approved May 11, 2015

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council approves the following temporary expansion of the designated serving area of the on sale malt brewery liquor license, subject to departmental approvals with any specific restrictions:

Bent Paddle Brewing Company, 1912 West Michigan Street, for May 30, 2015, from 2:00 p.m. to 8:00 p.m.

Resolution 15-0257 was unanimously adopted.

Approved May 11, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to purchase 10,100 tons of hot mix from Northland Constructors, Minnesota State Contract No. 55656, for filling street potholes and permanent patching, in an amount not to exceed \$469,650, payable from General 110, Public Administration 121, Maintenance Operations 1217, Street Maintenance 2140, Blacktop 5222.

Resolution 15-0261 was unanimously adopted.

Approved May 11, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a lease agreement with Terry T. Miller, substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0511-11, for the lease of one-half of a warehouse located at 1617 South Street, Duluth, for a total amount of \$5,600, payable from General 110, Public Administration 121, Maintenance Operations 1217, Park Maintenance 2145, Other Rentals 5419.

Resolution 15-0273 was unanimously adopted.

Approved May 11, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a rental agreement with Toshiba Business Solutions for the rental and maintenance of copiers, Minnesota State Contract No. 84342, for a three year total contract amount of \$454,243.68, payable from General Fund 110, Other Transfers and Functions 700, Citywide Communications 1403, Copier, Printer Lease and Supplies 5356.

Resolution 15-0279 was unanimously adopted.

Approved May 11, 2015

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council approves of the Minnesota gambling control board issuing a premise permit to the following organization.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a copy of this resolution to the Minnesota gambling control board immediately after its passage.

Licensee	Gambling site
Irving Community Club	Player's Sports Bar, 4024 Grand Avenue
Confidence Learning Center	Alpine Bar, 1308 Commonwealth Avenue

Resolution 15-0281 was unanimously adopted.

Approved May 11, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into an amendment to an agreement with the state of Minnesota, substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0511-12, to the flood hazard mitigation project to acquire and demolish flood damaged properties from voluntary owners, extending the contract length by six months and adding two properties to the buy-out program.

BE IT FURTHER RESOLVED, that authorized city officials are hereby authorized to enter into purchase agreements for acquiring and demolishing the properties identified in the grant agreement amendment and land acquisitions shall come from Fund 225 (disaster recovery fund), Agency 125 (finance department), Object 1809 (flood hazard mitigation), Project 5510 (land).

State Cost	Address	Special Flood Hazard Area (Flood Map)	Year Built
100%	4207 Gilliat Street Duluth 55804	No	1888
100%	813 East 13th Street Duluth 55805	No	1926

Resolution 15-0260 was unanimously adopted.

Approved May 11, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to reimburse the Duluth Airport Authority for cost of services provided by RS&H, Inc., as those services are described in Public Document No. 15-0511-09 on file in the office of the city clerk, to prepare National Environmental Policy Act documentation required for the proposed expansion of Cirrus Aviation at the Duluth International Airport in the amount of not to exceed \$119,961, payable from Fund 412 Cirrus building capital project fund.

Resolution 15-0277 was unanimously adopted.

Approved May 11, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a joint powers agreement pertaining to the housing tax credit program, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 15-0511-13, with the Minnesota housing finance agency (Minnesota housing) for the year 2016.

Resolution 15-0278 was unanimously adopted.

Approved May 11, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Northland Constructors of Duluth, LLC, for the Eighth Avenue East drainage improvements in the amount of \$384,141.40, with \$300,000 payable out of Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and

maintenance), and \$84,141.40 payable from Permanent Improvement Fund 411, Department 500 (public works and utilities), Object 5530 (improvements other than buildings), City Project No. 1210, Flood Site No. 112.

Resolution 15-0246 was unanimously adopted.

Approved May 11, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Rice Lake Construction in the amount of 2,574,400, payable out of Sanitary Sewer Fund 530, Department 500 (public works and utilities), Division 1905 (capital), Object 5536 (utility infrastructure Replacement), City Project No. 1411.

Resolution 15-0254 was unanimously adopted.

Approved May 11, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Lametti & Sons, Inc., for 2015 Citywide Storm Sewer Improvements in the amount of \$370,551, payable out of Stormwater Fund 535, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5533 (capital improvements - revenue), City Project No. 1417.

Resolution 15-0255 was unanimously adopted.

Approved May 11, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with RJS Construction Group, LLC, for Coffee Creek Box culvert and stream bank stabilization at Enger Golf Course in the amount of \$562,000, payable out of Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1807 (parks, recreation and other), Object 5400 (miscellaneous repair and maintenance services), City Project No. 1287, Flood Site No. 584.

Resolution 15-0256 was unanimously adopted.

Approved May 11, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Home Menders, Inc. for the Congdon Boulevard Slope Repairs from 7801 Congdon Boulevard to 90th Avenue East in the amount of \$1,288,582.23, payable out of Permanent Improvement Fund 411, Department 035 (Capital Projects Accounts), Object 5530 (Improvements Other than Buildings), and also Disaster Recovery Fund 225, Department 1803 (Roads and Bridges), Object 5403 (Street Repair and Maintenance), city project no. 1324.

Resolution 15-0266 was unanimously adopted.

Approved May 11, 2015

DON NESS, Mayor

- - -

RESOLVED, that in fulfillment of a condition placed on the city's prior approval of a front-yard-setback variance for new construction in Planning File 12-097, the proper city officials are hereby authorized to enter into a snow removal agreement with St. Michael's Catholic Church substantially in the form as that on file in the office of the city clerk as Public Document No. 15-0511-14.

Resolution 15-0268 was unanimously adopted.

Approved May 11, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to amend city Agreement C21702 with Tenaska Marketing Ventures for professional services relating to asset management, to be extended through October 31, 2016.

Resolution 15-0269 was unanimously adopted.

Approved May 11, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept Minnesota department of natural resources grant for stabilization of stream banks, hill slopes and drainages as a result of the June 2012 flooding from the board of water and soil resources in the estimated amount of \$515,000, payable to and from Disaster Recovery Fund 225, Department 125 (finance), Division 1808 (disaster aid and revenues), Source 4220-07 (state of Minnesota DNR).

Resolution 15-0272 was unanimously adopted.

Approved May 11, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file with the office of the city clerk as Public Document No. 15-0511-15, with the city of Hermantown for the conveyance of a section of sewer main described therein to Hermantown and to correct the allocation of sewer revenues to re-allocate revenues to the entities actually providing the services.

Resolution 15-0275 was unanimously adopted.

Approved May 11, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to accept a grant from the Northeast Minnesota regional radio board (state of Minnesota homeland security grant pass through), in the amount of \$13,611, said funds to be deposited in Fund 210-030-3189-4210-01 (special projects, finance, 800 mhz grant, pass-through federal grants - capital), for the purchase and installation of equipment required to add an additional 800 mhz channel to the Woodland Orphanage site, and committing \$13,611 as the city's local share cost of said grant, \$6805.50 of said sum to be paid from the city's Fund 110-150-1501-5440 (general fund, fire department, administration division, emergency management education account) and \$6,805.50 of said sum to be paid from the city's Fund 110-160-1640-2231-5441 (general fund, police department, police special accounts, forfeited funds, other services and charges).

Resolution 15-0247 was unanimously adopted.

Approved May 11, 2015

DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth does hereby accept 22 streamlight high lumen rail mounted tactical LED lights as an unconditional gift from Acme Tools.

FURTHER RESOLVED, that the city hereby expresses its appreciation for this gift on behalf of the city's police department and its citizens.

Resolution 15-0276 was unanimously adopted.

Approved May 11, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a 25 year agreement with the state of Minnesota, department of natural resources for the construction of

improvements and the management of the 93rd Avenue West trail connection to the Willard Munger Trail.

Resolution 15-0263 was unanimously adopted.  
Approved May 11, 2015  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a real estate purchase and sale agreement with BNSF Railway Company, a copy of which is on file in the office of the city clerk as Public Document No. 15-0511-16, authorizing the purchase of that property described and shown on Exhibit A attached to said agreement for the purchase price of \$15,000, plus \$2,000 administrative fees for a total of \$17,000, payable from 437-030-5510 (Spirit Mountain capital improvement fund, finance department, land).

Resolution 15-0270 was unanimously adopted.  
Approved May 11, 2015  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a disbursing agreement substantially in the form of that on file in the office of the city clerk a Public Document No. 15-0511-17 with the Spirit Mountain recreation area authority to authorize disbursement of city-held funds for the Spirit Mountain water line project.

Resolution 15-0271 was unanimously adopted.  
Approved May 11, 2015  
DON NESS, Mayor

- - -

The following resolutions were also considered:

RESOLVED, that the proper city officials are hereby authorized to enter into a professional services agreement with Premium Plant Services for the sponge blast cleaning of the travertine stone walls in city hall, for a total amount not to exceed \$106,975, payable from Capital Improvements 450; Finance 030; Buildings and Structures 5520; Project:CP2015-1502b - 2015 capital projects, city-wide CIP eligible building improvements.

Resolution 15-0262 was adopted upon the following vote:

Yeas: Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Sipress and President Larson -- 7

Nays: Councilor Fosle -- 1  
Absent: Councilor Russ -- 1  
Approved May 11, 2015  
DON NESS, Mayor

- - -

Resolution 15-0258, of intent to support the request by one Roof Community Housing and Center City Housing Corporation to the state of Minnesota for the award of low-income housing tax credits for the Gateway Tower redevelopment project, was introduced by Councilor Russ.

Councilor Gardner moved to table the resolution to the June 1 council meeting, which motion was seconded and carried as follows:

Yeas: Councilors Filipovich, Gardner, Hanson, Krug, Sipress and President Larson -- 6  
Nays: Councilors Fosle and Julsrud -- 2  
Absent: Councilor Russ -- 1

- - -

Resolution 15-0259, of intent to support the request by Pastoret LLC to the state of Minnesota for the award of low-income housing tax credits and intent to support tax increment financing for the Pastoret Terrace project, was introduced by Councilor Russ.

Councilor Gardner moved to table the resolution to the June 1 council meeting, which motion was seconded and carried as follows:

Yeas: Councilors Filipovich, Gardner, Hanson, Krug, Sipress and President Larson -- 6

Nays: Councilors Fosle and Julsrud -- 2

Absent: Councilor Russ -- 1

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Resolution 15-0264, of intent to support the request by Lutheran Social Services of Minnesota (LSS) for the award of low-income housing tax credit for the center of changing lives project, was introduced by Councilor Russ.

Councilor Julsrud noted that she will be abstaining from voting on the resolution because she has conflict.

Councilor Gardner moved to table the resolution to the June 1 council meeting, which motion was seconded and carried as follows:

Yeas: Councilors Filipovich, Gardner, Hanson, Krug, Sipress and President Larson -- 6

Nays: Councilor Fosle -- 1

Abstention: Councilor Julsrud -- 1

Absent: Councilor Russ -- 1

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BY COUNCILOR JULSRUD:

RESOLVED, that City Council Resolution No. 11-0153 authorizing advanced home energy audits under the advanced home energy audit program is hereby amended by increasing the cumulative number of audits authorized under the program since its inception from 800 to 1,200 and by increasing the authorized cost thereof from \$120,000 to \$200,000, the increased amount to be payable from Fund 555-500-5441 (home energy conservation, public works and utilities).

Resolution 15-0248 was unanimously adopted.

Approved May 11, 2015

DON NESS, Mayor

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RESOLVED, that contract 22033 with LHB, Inc. for professional planning and preliminary design services for the Superior Street reconstruction project from Sixth Avenue West to Fourth Avenue East be amended (second amendment) to increase the amount by \$205,326 for a new total of \$566,894, payable from Permanent Improvement Fund 411, Department/Agency 035 (finance), Object 5530 (improvements other than buildings), City Project No. 0923TR.

Resolution 15-0265 was adopted upon the following vote:

Yeas: Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Sipress and President Larson -- 7

Nays: Councilor Fosle -- 1

Absent: Councilor Russ -- 1

Approved May 11, 2015

DON NESS, Mayor

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## INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR HANSON

15-033 - AN ORDINANCE AMENDING CHAPTER 8 OF DULUTH CITY CODE, 1959, AS AMENDED, TO ADDING A NEW SECTION 8-72 RELATING TO ON SALE INTOXICATING LIQUOR AT LESTER PARK GOLF COURSE.

- - -

INTRODUCED BY COUNCILOR RUSS

15-030 - AN ORDINANCE GRANTING TO SAINT LOUIS COUNTY HERITAGE AND ARTS CENTER A CONCURRENT USE PERMIT FOR A 115 FOOT LONG COVERED WALKWAY AND CANOPY LOCATED IN THE SOUTH FIFTH AVENUE WEST PUBLIC RIGHT-OF-WAY (SAINT LOUIS COUNTY AND ONEIDA REALTY COMPANY).

- - -

BY PRESIDENT LARSON

15-032 - AN ORDINANCE AMENDING SECTION 8-41 OF DULUTH CITY CODE, 1959, AS AMENDED, TO AUTHORIZE THE SALE OF MALT LIQUOR OFF SALE IN 64-OUNCE CONTAINERS COMMONLY KNOWN AS GROWLERS ON SUNDAYS.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR GARDNER

15-023 (10369) - AN ORDINANCE AMENDING SECTIONS 47-16, 47-17.1, 47-18, 47-20, 47-22, 47-27, AND 47-33 AND DELETING SECTION 47-37 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO TAXICABS.

Councilor Gardner moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR RUSS

15-024 (10370) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 AND RR-1 TO P-1 FOR COBB PARK, DOWNER PARK, JANETTE POLLAY PARK, MORNINGSIDE PARK AND PLEASANT VIEW PARK (CITY OF DULUTH).

Councilor Fosle moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR RUSS

15-025 (10371) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO MU-C THE PROPERTY LOCATED 213 NORTH ARLINGTON AVENUE (JOSEPH KLEIMAN).

Councilor Fosle moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR RUSS

15-026 (10372) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF PROPERTY IN LAKESIDE TO ONE ROOF COMMUNITY HOUSING FOR RESIDENTIAL REDEVELOPMENT.

Councilor Fosle moved to suspend the rules to hear a speaker on the ordinance, which motion was seconded and unanimously carried.

Allan Kehr expressed his concerns about this land conveyance and the manner in which it is being done.



The ordinance was adopted upon the following vote:

Yeas: Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Sipress and President Larson -- 7

Nays: Councilor Fosle -- 1

Absent: Councilor Russ -- 1

- - -

INTRODUCED BY COUNCILOR SIPRESS

15-027 (10373) - AN ORDINANCE APPROVING THE CONVEYANCE BY THE DULUTH AIRPORT AUTHORITY OF ALERT HANGAR 11/12 AND RATIFYING AND APPROVING THE CONVEYANCE OF ALERT HANGAR 13/14 TO MONACO AIR DULUTH, LLC.

Councilor Sipress moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

The meeting was adjourned at 7:40 p.m.

JEFFREY J. COX, City Clerk

- - -

### ORDINANCE NO. 10369

BY COUNCILOR GARDNER

AN ORDINANCE AMENDING SECTIONS 47-16, 47-17.1, 47-18, 47-20, 47-22, 47-27, AND 47-33 AND DELETING SECTION 47-37 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO TAXICABS.

The city of Duluth does ordain:

Section 1. That Section 47-16 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 47-16. Definitions.

For the purpose of this Article, the following words shall have the meanings respectively ascribed to them by this Section:

Ambulance. A motor vehicle which is designed and intended to be used for providing transportation of a wounded, injured, sick, invalid or incapacitated human being, or an expectant mother.

Ambulance service. The transportation by ambulance for a wounded, injured, sick, invalid, or incapacitated human being, or an expectant mother, which is regularly offered or provided to the public by any person.

For hire. For hire means for remuneration, compensation or consideration of any kind promised, paid, or given to or received by a person for the transportation of persons.

Limousine service. The transportation of passengers for hire in a luxury passenger automobile that is not a van or station wagon and has a seating capacity of not more than 15 persons, excluding the driver, that is not provided on a regular route, that provides only prearranged pickup, and that charges more than a taxicab fare for a comparable trip.

Motor vehicle and street or highway. As defined in Section 33-1 of this Code.

Taxicab. Any motor vehicle, having a seating capacity of no more than seven persons, including the driver, used for the purpose of transporting any passengers for hire over and upon any street or highway in the city, except any of the following:

(a) Any motor carrier of passengers which is operated under a permit from the department of transportation of the state or special transportation service provider certified by the department of transportation of the state pursuant to Minnesota Statute 174.29 et. seq., and using a driver who is qualified pursuant to Minnesota Rules Chapter 8840, when transporting a person requiring an accessible vehicle for any purpose;

(b) Any ambulance, used for providing ambulance service and which is operated under authority of a license issued by the state board of health;

(c) Any motor vehicle operated by the Duluth transit authority under authority of Laws of Minnesota 1969, Chapter 720;

(d) Any limousine service as defined herein;

(e) A transportation vehicle operated by a federal, state, county, municipal or school district governmental unit in conjunction with a program sponsored or run by such governmental unit;

(f) Any motor vehicle providing transportation services to a federal, state, county, municipal or school district governmental unit pursuant to a written, extended term, contract between said transportation provider and the governmental unit;

(g) Any motor vehicle used for recreational or sightseeing rides under a license issued pursuant to Article II of this Chapter.

Section 2. That Section 47-17.1 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 47-17.1. Same--Application.

An application for a taxicab license or licenses shall be filed with the city clerk upon forms provided by the city. Such application shall be verified by the applicant under oath and shall include the following information:

(a) The name and business address of the applicant;

(b) The experience of the applicant in the transportation of passengers for hire;

(c) The description, including but not limited to year, make, model, license plate number, vehicle registration, and vehicle identification (VIN) number, of the vehicle or vehicles to be operated or controlled by the applicant;

(d) An accurate and detailed description of the trade name, company color scheme and design of the taxicab, including inscriptions, logos or monograms thereon, which must be distinctly different from that of the taxicabs of any other taxicab licensee so that taxi ownership and identity may be readily ascertained. The logo, or monogram shall be prominently displayed on the trunk or rear of the vehicle. All taxicabs included within a licensee's application shall be of the same color scheme and design, including inscriptions, logos and monograms. However, any vehicle which was licensed as a taxicab on the effective date of this Section may continue to be licensed and operated until June 1, 2020, despite its noncompliance with the company color scheme requirement provided the vehicle is in compliance with all other requirements;

(e) Such further information as the police department may reasonably require;

(f) The name, address and date of birth of each taxicab driver employed or expected to be employed by applicant, and the name, address and date of birth of any other person who will be driving such taxicab including independent contractors and their employees.

Section 3. That Section 47-18 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 47-18. Insurance required.

No taxicab vehicle license shall be issued until the applicant has filed with the city clerk an insurance policy, a certificate of insurance or an insurance binder, approved as to form by the city attorney, which evidences that the owner of such taxicab is insured against claims, demands or losses resulting from the negligent operation or use or defective condition of such taxicab in the minimum amounts of \$250,000 for injury to or death of any person in any one accident, \$500,000 for injury to or death of any number of persons in any one accident, and \$100,000 for property damage in any one accident. Such insurance policy shall cover at least a six month period.

Any such policy, certificate or binder shall contain a clause obligating the insurer to give ten days' written notice of cancellation or termination to the city clerk and the insured, before any cancellation or termination of such policy which is earlier than its expiration date.

No such policy shall include or contain any limitation, condition or clause excluding coverage of any vehicle otherwise covered by such policy or releasing the insurer from liability under such policy when such vehicle is driven, used, operated or maintained while the driver of any occupant thereof is intoxicated or engaged in the illicit transportation of liquor.

It shall be unlawful for any person to operate or permit the operation of any taxicab unless at the time of such operation there is on file with the city clerk an insurance policy, a certificate of insurance or an insurance binder, in full force and effect, which manifests insurance coverage of the owner of such taxicab as provided in this Section; provided, however, that for the purpose of satisfying the filing requirements of this paragraph an insurance binder shall not be effective for more than 60 days after such binder is filed with the city clerk.

Section 4. That Section 47-20 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 47-20. Vehicle standards and inspection.

(a) Original inspection. No person shall operate or permit the operation of a vehicle as a taxicab and the city clerk shall not issue a taxicab vehicle license for any vehicle until such vehicle has been inspected by an ASE (National Institute for Automotive Service Excellence) certified mechanic of an authorized service station or garage. The chief of police shall designate and authorize two service stations or garages within the city of Duluth to conduct the inspections. The authorized service stations or garages shall meet minimum standards for equipment and personnel. Only qualified and ASE certified mechanics employed by an authorized service station may conduct the inspections. A taxicab vehicle license shall not be issued unless the vehicle has been properly inspected and found to be in compliance with all laws respecting motor vehicles which are in force in the city of Duluth and with all rules and regulations prescribed by the chief of police (hereinafter "be found in compliance"). All vehicles shall comply with the following:

(1) Be in a thoroughly safe condition for the transportation of passengers. Every vehicle shall comply with all local, state and federal regulations relating to vehicle equipment, maintenance and safety. Further, all vehicles shall have a model year of 15 years or less;

(2) Be well painted in uniform company colors utilizing the color scheme described by the applicant in the license application;

(3) Be equipped with an identifying top light on the roof of the vehicle. Such top light shall be illuminated with a steady beam of light when the

vehicle is in service and available to receive passengers. Such light shall be visible from all directions;

(4) Be equipped with at least five doors including the trunk;

(5) Be maintained in a clean and sanitary condition with regard to both the interior and exterior of the vehicle;

(6) Be substantially free from damage, dents, defects or unpainted or rusted metal. Any vehicle that is damaged, whether due to negligence, intentional conduct or other event, shall within thirty (30) days of such damaging event, be repaired and restored to the standards set forth herein;

(7) Be equipped with windows in the rear and side of the vehicle sufficient in number and of such size, dimensions and clarity that all occupants may be readily seen and identified through the windows;

(8) Be equipped with seat belts for all seating positions, which seat belts shall be openly displayed and readily available for use by occupants; and

(9) Be equipped with a taximeter as required by section 47-31 of this Article;

(b) Rules. The chief of police is hereby authorized to adopt such reasonable rules and regulations regarding safety equipment, regulatory devices and sanitary conditions as he shall deem necessary in order to ensure that only safe and sanitary taxicabs are in operation in the city of Duluth. Further, the chief of police may adopt a taxicab inspection report to be used in the inspection of the taxicabs and may designate a category of equipment and body defects as "out of service" defects. Taxicabs with "out of service" defects shall be ordered out of service and shall remain out of service until the defects have been corrected. In addition, the inspection report shall include a rating for the seating capacity of each taxicab and such rating shall be included in the report;

(c) Annual and periodic inspections. Every taxicab shall be annually inspected by an ASE certified mechanic in order to determine continued compliance of such taxicab with all laws and rules and regulations respecting taxicabs. Such annual inspections shall be completed prior to the issuance of a renewal taxicab license. In addition, the chief of police may require, as often as may be necessary, the inspection of any vehicle upon the complaint of any citizen. All persons holding taxicab licenses shall comply with all requests of the chief of police regarding the time and place of such inspections. If at any time a taxicab does not comply with the required laws and rules and regulations including but not limited to regulations regarding the posting of rates, shall be ordered out of service, and shall remain out of service until such time as the vehicle has been inspected by an ASE certified mechanic and found to be in compliance. The purpose of the inspections is to enforce a public policy and the city shall not be liable to any individual as a result of conducting or failing to conduct the inspection;

(d) Cost of inspections. The taxicab licensee shall be responsible for the cost of all inspection required hereunder.

Section 5. That Section 47-22 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 47-22. Maximum passenger load.

No person operating a taxicab shall carry a greater number of passengers than the rated seating capacity of such vehicle as stated in the inspection report issued for such vehicle pursuant to Section 47-20 of this Article. Two passengers shall be permitted to ride on the front seat with the driver of such

taxicab only if the license inspector determines such seating does not affect the operation of the taxicab or passenger safety.

Section 6. That Section 47-27 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 47-27. Smoking, sale of liquor and use of taxicab for prostitution prohibited.

No person operating a taxicab vehicle shall:

(a) Smoke, or permit the smoking of, a pipe, cigar or cigarette in a taxicab vehicle at any time, whether or not passengers are present. "Smoking" means inhaling or exhaling smoke from any lighted cigar, electronic cigarette, cigarette, pipe or any other lighted tobacco or plant product. Smoking also includes carrying a lighted cigar, cigarette, pipe or any other lighted tobacco or plant product intended for inhalation. For purposes of this section, taxicab vehicles shall be considered places of employment and taxicab drivers shall not smoke within ten feet of the taxicab vehicle;

(b) Sell or offer to sell any alcoholic beverages to any person;

(c) Solicit business for any house of ill repute or permit any person to occupy or use his vehicle for the purpose of prostitution, or direct or transport or offer to direct or transport any person with knowledge or having reasonable cause to know that such directing or transporting is for purpose of prostitution.

Section 7. That Section 47-33 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 47-33. Rates--notice of rates change.

(a) Display of rates. There shall be prominently displayed in all taxicabs a rate statement card no smaller than 8.5"x11" setting out in large size print the maximum rates charged to passengers for all the various services offered. Unless otherwise specifically stated on the rate statement card, the rates charged shall not apply individually to each person riding in the taxicab, but instead shall apply to the ride, whether one or more individuals are in the taxicab at a time. This card shall also contain a sentence informing passengers that the driver has printed copies of the entire text of the rate statement card which will be supplied to them upon request. All the information on the rate statement card shall be prominently displayed on each side of the outside of the vehicle in text all of which shall be at least 1.5 inches high. It is a violation of this Code to charge a rate higher than that stated on the rate statement card;

(b) Rates. Rates of fare shall be based upon mileage and designated according to each one-tenth mile increment or fraction thereof. If the licensee charges a minimum fare for any service other than waiting time, such minimum fare shall be designated as a flat rate. Waiting time shall be designated as a charge per minute;

(c) Change of rates. In order to change the maximum rates, the licensee shall do the following:

(1) Register the new maximum rates with the city clerk at least seven days before they are implemented. The clerk shall post the changed rates on the city website for an appropriate period of time;

(2) Pay to the clerk a rate change registration fee in an amount determined as set out in Section 2-16;

(3) Change the rate statement card required by this Article;

(d) Receipt. The driver of any taxicab shall upon demand give any passenger a receipt for the fare charged, which receipt shall include the name of

the driver, the identification of the vehicle, the amount charged and the date of the transaction.

Section 8. That Section 47-37 of the Duluth City Code, 1959, as amended, is hereby repealed in its entirety.

Section 9. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: June 20, 2015)

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

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

Nays: None -- 0

Absent: Councilor Russ – 1

Passed May 11, 2015  
Approved May 11, 2015  
DON NESS, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10370**

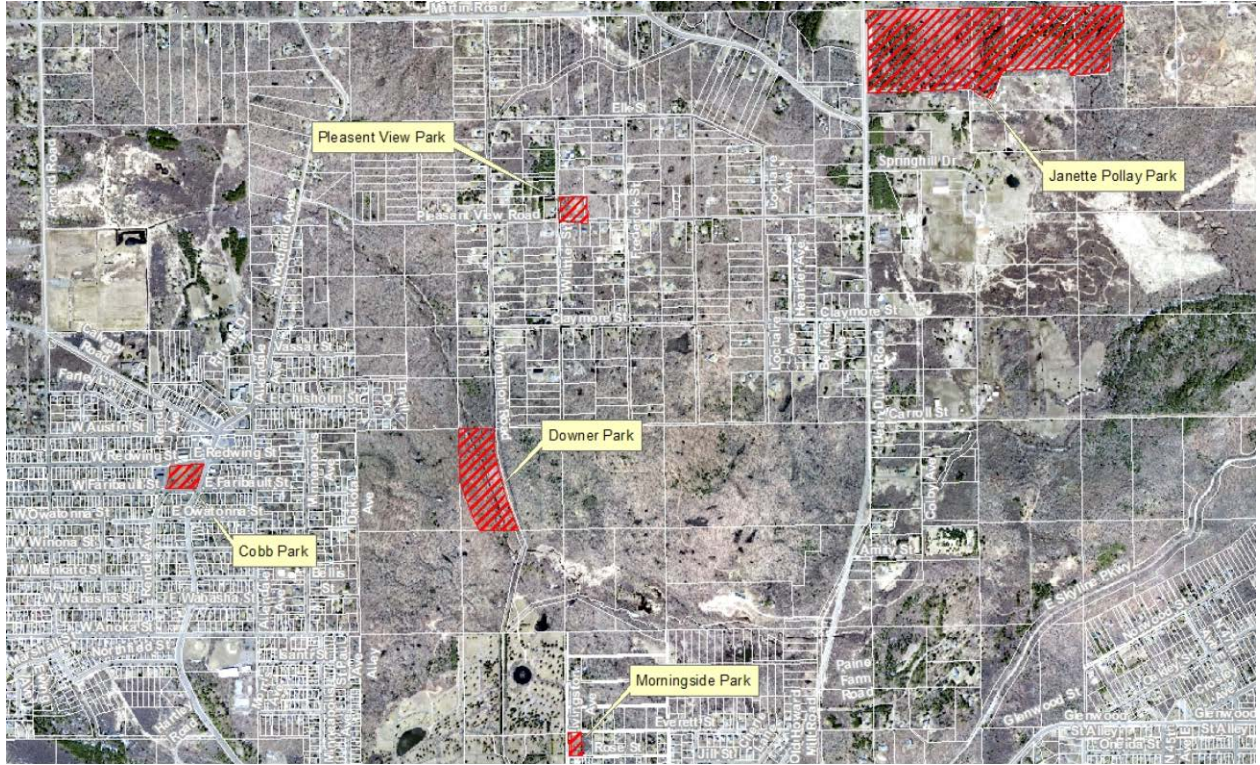
AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 AND RR-1 TO P-1, FOR COBB PARK, DOWNER PARK, JANETTE POLLAY PARK, MORNINGSIDE PARK AND PLEASANT VIEW PARK.

The city of Duluth does ordain:

Section 1. That the subject properties located on the eastern and northeast portions of the city and as more particularly described as follows:

010-2690-01050	010-2690-01020	010-2690-00720
010-2690-01040	010-2690-00750	010-2010-04850
010-2690-01030	010-2710-00130	010-4670-00780
010-0100-00610	010-0100-00600	

be reclassified from Residential-Traditional (R-1) and Rural-Residential 1 (RR-1) to Park and Open Space (P-1), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



(Ref. File No. 15-039)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: June 20, 2015)

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

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

Nays: None -- 0

Absent: Councilor Russ – 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed May 11, 2015  
Approved May 11, 2015  
DON NESS, Mayor

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**ORDINANCE NO. 10371**

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO MU-C, THE PROPERTY LOCATED 213 NORTH ARLINGTON AVENUE (JOSEPH KLEIMAN).

The city of Duluth does ordain:

Section 1. That .55 acres of land located at 213 North Arlington Avenue and as more particularly described as follows:

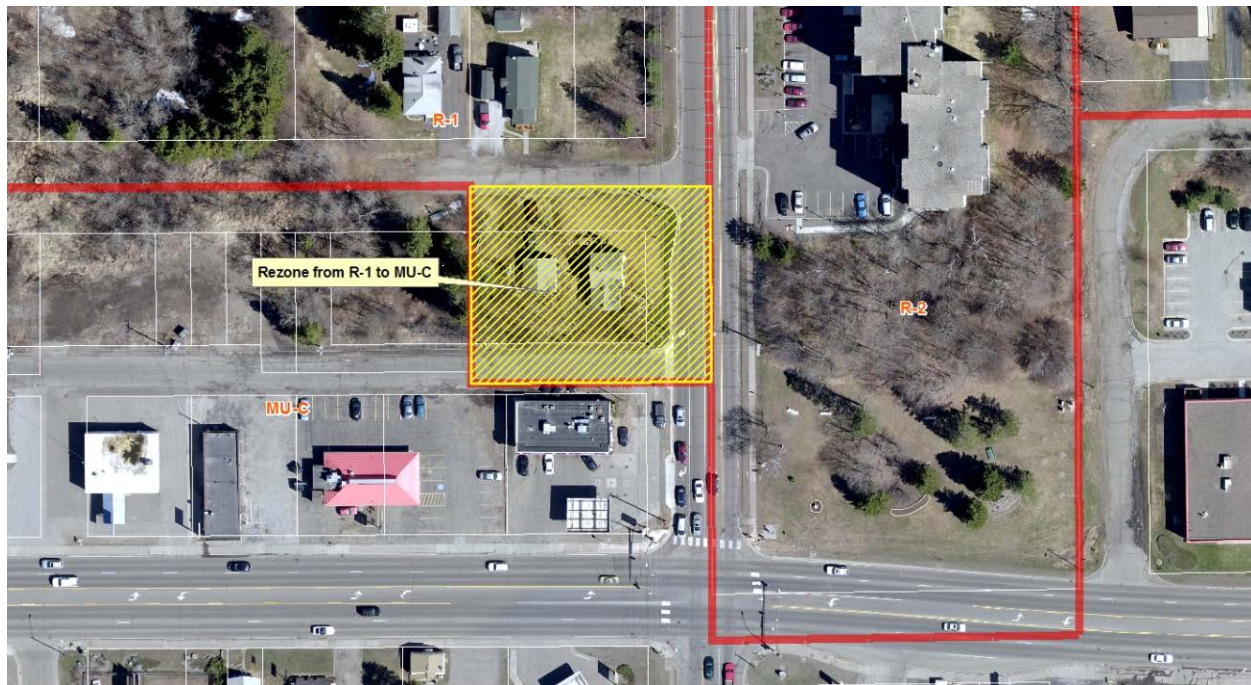
Lots 12, 13, 14, 15 and 16, Block 33, DULUTH HEIGHTS SIXTH DIVISION;

And: The Southerly 33.00 feet of Myrtle Street, lying Easterly of the Northerly extension of the West line of Lot 12, Block 33, DULUTH HEIGHTS SIXTH DIVISION;

And: The Northerly 8.00 feet of the platted alley in Block 33, lying Easterly of the Southerly extension of the West line of Lot 12, Block 33, DULUTH HEIGHTS SIXTH DIVISION;

And: That part of Arlington Avenue (platted as Cedar Street), lying between the Easterly extension of the centerline of the platted alley in Block 33 and the Easterly extension of the centerline of Myrtle Street;

be reclassified from Residential-Traditional (R-1) to Mixed Use-Commercial (MU-C), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



(Ref. File No. 15-042)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: June 21, 2015)

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

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

Nays: None -- 0

Absent: Councilor Russ – 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed May 11, 2015  
Approved May 11, 2015  
DON NESS, Mayor

- - -



**ORDINANCE NO. 10372**

**AN ORDINANCE AUTHORIZING THE CONVEYANCE OF  
PROPERTY IN LAKESIDE TO ONE ROOF COMMUNITY  
HOUSING FOR RESIDENTIAL REDEVELOPMENT.**

The city of Duluth does ordain:

Section 1. The Duluth city council finds that:

(a) That pursuant to Section 2-176 of the Duluth City Code, 1959, as amended (the "Code"), the city's director of planning and construction services has reviewed the proposed conveyance of the property owned by the city described below (the "property") to One Roof Community Housing (the "developer") and found conveyance thereof to be in conformity with the city's comprehensive land use plan;

(b) Pursuant to Section 2-177.4 of the Code, the conveyance of the property to the developer at no cost is necessary to facilitate the redevelopment of the property for residential purposes including development of moderate income housing in the Lakeside neighborhood (the "project") which in turn will further city objectives of promoting development of additional workforce housing in the city;

(c) The property described in Section 2 below is hereby determined to be surplus to the city's future needs and is therefore appropriate for sale;

(d) The financing of the project will require public financial assistance and will not support payment of fair market value for the property.

Section 2. That as provided for in Section 2-177.4 of the Code, the council finds that the need for such a development in the neighborhood and the city is greater in importance than the need of the city to retain said property and that the best interests of the citizens of the city will be best served by accomplishing such conveyance.

Section 3. That the proper city officials are hereby authorized to convey the property in St. Louis County, Minnesota, legally described below, by quit claim deed, to One Roof Community Housing and further to execute all documents necessary with regard to said conveyance:

Lots 1 through 16 inclusive, Block 104, LONDON ADDITION.

Section 4. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: June 21, 2015)

The ordinance was adopted upon the following vote:

Yeas: Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Sipress and President Larson -- 7

Nays: Councilor Fosle -- 1

Absent: Councilor Russ -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed May 11, 2015  
Approved May 11, 2015  
DON NESS, Mayor

- - -

**ORDINANCE NO. 10373**

AN ORDINANCE APPROVING THE CONVEYANCE BY THE DULUTH AIRPORT AUTHORITY OF ALERT HANGAR 11/12 AND RATIFYING AND APPROVING THE CONVEYANCE OF ALERT HANGAR 13/14 TO MONACO AIR DULUTH, LLC.

The city of Duluth does ordain:

Section 1. That the city council of the city of Duluth (the "city council") does hereby approve the conveyance by the Duluth Airport Authority of Alert Hangar 11/12 at the Duluth International Airport to Monaco Air Duluth, LLC.

Section 2. That the city council does hereby ratify and approve the conveyance by the Duluth Airport Authority of Alert Hangar 13/14 at the Duluth International Airport to Monaco Air Duluth, LLC.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: June 19, 2015)

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

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

Nays: None -- 0

Absent: Councilor Russ - 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed May 11, 2015  
Approved May 11, 2015  
DON NESS, Mayor

- - -

**MINUTES OF THE SPECIAL MEETING  
OF THE DULUTH CITY COUNCIL**

May 15, 2015

Special meeting of the Duluth City Council held on Friday, May 15, 2015, 12:15 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Filipovich, Gardner, Hanson, Krug, Russ, Sipress and President Larson -- 7

Absent: Councilors Fosle and Julsrud -- 2

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**MOTIONS AND RESOLUTIONS**

Resolution 15-0288, by President Larson, amending Resolution 14-0599, adopting license, permit, fine, penalty and other charges for 2015, to amend the 2015 fee schedule to add a microdistillery off sale license fee, was introduced.

President Larson moved table the resolution to coincide with the second reading of Ordinance 15-034, which motion was seconded and unanimously carried.

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinance was read for the first time:

BY PRESIDENT LARSON

15-034 - AN ORDINANCE AMENDING CHAPTER 8 OF DULUTH CITY CODE, 1959, AS AMENDED, TO ALLOW THE ISSUANCE OF MICRODISTILLERY OFF SALE LICENCES AND TEMPORARY ON SALE LIQUOR LICENSES TO MICRODISTILLERIES.

Councilor Filipovich moved to suspend the rules to hear a speaker on the ordinance, which motion was seconded and unanimously carried.

Joel Vikre spoke of his support for the ordinance.

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The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR HANSON

15-033 (10374) - AN ORDINANCE AMENDING CHAPTER 8 OF DULUTH CITY CODE, 1959, AS AMENDED, TO ADDING A NEW SECTION 8-72 RELATING TO ON SALE INTOXICATING LIQUOR AT LESTER PARK GOLF COURSE.

Councilor Hanson moved passage of the ordinance and the same was adopted upon a unanimous vote.

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BY PRESIDENT LARSON

15-032 (10375) - AN ORDINANCE AMENDING SECTION 8-41 OF DULUTH CITY CODE, 1959, AS AMENDED, TO AUTHORIZE THE SALE OF MALT LIQUOR OFF SALE IN 64-OUNCE CONTAINERS COMMONLY KNOWN AS GROWLERS ON SUNDAYS.

President Larson moved passage of the ordinance and the same was adopted upon a unanimous vote.

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The meeting was adjourned at 12:31 p.m.

JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 10374**

AN ORDINANCE AMENDING CHAPTER 8 OF DULUTH CITY CODE, 1959, AS AMENDED, TO ADDING A NEW SECTION 8-72 RELATING TO ON SALE INTOXICATING LIQUOR AT LESTER PARK GOLF COURSE.

The city of Duluth does ordain:

Section 1. That Chapter 8 of the Duluth City Code, 1959, as amended, is hereby amended by adding a new Section 8-72 to reads as follows:

Sec. 8-72. Lester Park Golf Course.

The city may authorize the person or entity under contract with the city for the operation and management of the Lester Park Golf Course to utilize the on-sale intoxicating liquor license granted to the city for the Lester Park Golf Course as authorized by Law of Minnesota 2015, Chapter 9, Article 2, Section 9. For purposes of this Section 8-72, and except as otherwise provided by this Section, such person or entity shall be subject to any law or local ordinance relating to the sale of intoxicating liquor not inconsistent with this Section to the same extent such law or local ordinance is applicable to an on sale intoxicating liquor licensee. The provisions of Minnesota Statutes, sections 340A.603 and 340A.604 shall apply as if the establishment were a municipal liquor store. The city may, as part of the terms of the contract, exempt the person or entity from various provisions of this Chapter 8 to the extent such provisions are not otherwise mandated by Minnesota law.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: June 14, 2015)

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

Yeas: Councilors Filipovich, Gardner, Hanson, Krug, Russ, Sipress and President Larson -- 7

Nays: None -- 0

Absent: Councilors Fosle and Julsrud -- 2

Passed May 15, 2015  
Approved May 15, 2015  
DON NESS, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10375**

BY PRESIDENT LARSON:

AN ORDINANCE AMENDING SECTION 8-41 OF DULUTH CITY CODE, 1959, AS AMENDED, TO AUTHORIZE THE SALE OF MALT LIQUOR OFF SALE IN 64-OUNCE CONTAINERS COMMONLY KNOWN AS GROWLERS ON SUNDAYS.

The city of Duluth does ordain:

Section 1. That Section 8-41 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 8-41. Types generally.

(a) With respect to intoxicating liquor, there shall be the following types of licenses: on sale, on sale club, on sale wine, on sale culinary class, on sale theater, on sale brewer taproom, on sale microdistillery cocktail room, temporary on sale, off sale and a brewery malt liquor off sale;

(b) On sale licenses authorize the licensee to sell intoxicating liquor at retail for consumption only on the licensed premises. The following additional requirements apply to specific types of on sale licenses:

(1) On sale culinary class licenses authorize on sales subject to the restrictions of Section 8-44(d) of this Chapter and Minnesota Statutes Section 340A.4041, or its successor;

(2) On sale theater licenses authorize on sales each day of the week to persons attending events at the theater;

(3) On sale brewer taproom licenses authorize on sales of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer, subject to the restrictions of this Chapter and Minnesota Statutes Section 340A.301, subd. 6(b), or its successor. Notwithstanding Section 8-17 of this Chapter or Minnesota Statutes Section 340A.504, subdivision 3, a taproom may be open and may conduct on sale business on Sundays if authorized by the city in the license. All Sunday sales are subject to the limitation on hours of sale provided in Section 8-46 of this Chapter;

(4) On sale microdistillery cocktail room licenses authorize on sales of distilled liquor produced by the distiller for consumption on the premises of or adjacent to one distillery location owned by the distiller subject to the restrictions of Section 8-44(h) of this Chapter and Minnesota Section 340A.22 or its successor;

(5) Temporary on sale licenses authorize temporary on sales in connection with a social event sponsored by the licensee and only at the designated licensed premise;

(c) Except as provided herein, off sale licenses authorize the licensee to sell intoxicating liquor at retail in original packages only for consumption off the licensed premises. The following additional requirements apply to specific types of off sale licenses:

(1) Brewery malt liquor licenses permit breweries holding on sale licenses, or breweries that manufacture fewer than 3,500 barrels of malt liquor in a year, to sell malt liquor off sale in 64-ounce containers commonly known as growlers, subject to the restrictions in Minnesota Statutes, Section 340A.301, subd. 7(b), or its successor, and this Chapter. Sale of malt liquor off sale in 64-ounce containers, commonly known as growlers, may be conducted on Sundays. All Sunday sales are subject to the limitation on hours of sale provided in Section 8-46 of this Chapter;

(2) Notwithstanding the provisions of sections 8-21 and 8-22 of this Chapter, it shall be lawful for the holder of an off sale intoxicating liquor license or a brewery malt liquor off sale license to provide samples as provided in Minnesota Statutes, Section 340A.510, or its successor;

(d) With respect to 3.2 percent malt liquor, there shall be three types of licenses: on sale, off sale and temporary on sale. Each type of 3.2 percent malt liquor license authorizes the licensee to sell 3.2 percent malt liquor subject to the following additional requirements applicable to the specific type of license:

(1) On sale licenses authorize the sale of 3.2 percent malt liquor at retail for consumption only on the licensed premises;

(2) Off sale licenses authorize the sale of 3.2 percent malt liquor at retail in original packages for consumption only off the licensed premises;

(3) Temporary on sale licenses authorize the sale of 3.2 percent malt liquor at retail for a limited period of time, and only at the designated licensed premise;

(e) No alcoholic beverage license of any type shall be granted to any elective, appointed, executive or administrative officer of the city, to any employee holding a position in the classified service of the city and working as a licensed peace officer in the police department, to any deputy chief of police, deputy fire chief, fire marshal or deputy fire marshal, nor shall any such officer or employee engage in the business, be employed by an establishment licensed by the city, or have an ownership interest in such business licensed by the city.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: June 14, 2015)

President Larson moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Filipovich, Gardner, Hanson, Krug, Russ, Sipress and President Larson -- 7

Nays: None -- 0

Absent: Councilors Fosle and Julsrud -- 2

ATTEST:  
JEFFREY J. COX, City Clerk

Passed May 15, 2015  
Approved May 15, 2015  
DON NESS, Mayor

- - -

**MINUTES OF THE REGULAR MEETING  
OF THE DULUTH CITY COUNCIL**

May 26, 2015

Duluth City Council meeting held on Tuesday, May 26, 2015, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Russ, Sipress and President Larson -- 8

Absent: Councilor Krug -- 1

- - -

**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

15-0526-01 Minnesota state auditor audit report for Duluth transit authority for the years ended December 31, 2014, and 2013. -- Received

15-0526-02 Jason Beckman communication regarding the proposed funding for the Housing Access Center (15-0296R). -- Received

- - -

**REPORTS OF BOARDS AND COMMISSIONS**

15-0526-03 Heritage preservation commission minutes of January 27, 2015, meeting. -- Received

15-0526-04 Parks and recreation commission minutes of December 10, 2014, meeting. -- Received

- - -

**REPORTS OF COUNCIL OPEN ISSUES**

Councilor Hanson presented the May 2015 Duluth Distinguished Artists award to Amy Peterson who has shared her amazing photographic talent, sincere personal friendship and creativity to contribute to the growth of the Duluth still photography community, and whose amazing photography continues to inspire both viewers of her unique photographs and other regional professional and amateur still photographers. He added that her digital and print work also captures some of the best people, places and things Duluth has to offer.

Amy Peterson thanked the council for this recognition.

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**RESOLUTION TABLED**

President Larson moved to remove Resolution 15-0288, amending resolution 14-0599, adopting license, permit, fine, penalty and other charges for 2015, to amend the 2015 fee schedule to add a microdistillery off sale license fee, from the table, which motion was seconded and carried unanimously.

- - -

President Larson moved to suspend the rules to consider Ordinance 15-034 at this time, which motion was seconded and unanimously carried.

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCE**

The following entitled ordinance was read for the first time:

BY PRESIDENT LARSON

15-034 (10377) - AN ORDINANCE AMENDING CHAPTER 8 OF DULUTH CITY CODE, 1959, AS AMENDED, TO ALLOW THE ISSUANCE OF MICRODISTILLERY OFF SALE LICENCES AND TEMPORARY ON SALE LIQUOR LICENSES TO MICRODISTILLERIES.

President Larson moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

Resolution 15-0288 was adopted as follows:

BY PRESIDENT LARSON:

RESOLVED, that Resolution 14-0599 adopting license, permit, fine, penalty and other charges for 2015, be amended by adding a microdistillery off sale license fee.

Clerk	
Fee Name	2015 Fee
Alcoholic Beverage - Intoxicating Liquor - Microdistillery - Off Sale - Annual [I1]	\$213

Resolution 15-0288 was unanimously adopted.  
Approved May 26, 2015  
DON NESS, Mayor

- - -

**MOTIONS AND RESOLUTIONS**

**CONSENT AGENDA**

*(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)*

President Larson moved passage of the consent agenda, which motion was seconded and unanimously carried.

RESOLVED, that the assessment rolls levied for reassessment of prior cancellations following are hereby confirmed:

- (a) Permanent street (Contract 70840 - assessable amount \$924.41) for Plat 4510, Parcel 01130, to be deposited in Fund 330;
- (b) 2013 Delinquent garbage (Contract 2013420 - assessable amount \$356.96) for Plat 4510, Parcel 01130, to be deposited in Fund 110;
- (c) 2014 Delinquent garbage (Contract 2014010 - assessable amount \$366.94) for Plat 4510, Parcel 01130, to be deposited in Fund 110;
- (d) Permanent street (Contract 70690 - assessable amount \$1,595.95) for Plat 0760, Parcel 01170, to be deposited in Fund 330.

Resolution 15-0293 was unanimously adopted.  
Approved May 26, 2015  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with A.W. Kuettel & Sons for the replacement of three control valves and fifteen main isolation valves at Duluth Steam, in accordance with plans and specifications provided by Ever-Green Energy, the Duluth steam management company, dated April 2, 2015, and the contractor's low bid of



\$329,533, payable from Steam 540, Steam Department 920, Steam Non-Operating 1499, Improvements Other than Buildings 5530.

Resolution 15-0285 was unanimously adopted.

Approved May 26, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Diverse Construction Services for the replacement of the roofs at Fire Hall #4 and #7, in accordance with plans and specifications prepared by Northland Consulting Engineers, LLP, the consultant, dated November 11, 2014, and the contractor's low bid of \$156,900, payable as follows:

\$32,200. Capital Improvements 450; Finance 030; Buildings and Structures 5520; Project: CP2008-ot0820 - 2008 capital projects, citywide roof replacement;

\$44,100. Capital Improvements 450; Finance 030; Buildings and Structures 5520; Project: CP2013-1307B - 2013 capital projects, building citywide roof replacement;

\$80,600. Capital Improvements 450; Finance 030; Buildings and Structures 5520; Project: CP2015-1509B - 2015 capital projects, Fire Hall #4 upgrades.

Resolution 15-0287 was unanimously adopted.

Approved May 26, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Amendola Builders, Inc., for the Lakewalk stair repair, in accordance with the plans and specifications prepared by Northland Consulting Engineers, LLP, the consultant, dated March 25, 2015, and the contractor's low bid of \$182,950, payable from Capital Improvements 450; Finance 030; Improvements Other than Buildings 5530; Project: CP450-MALTSH - Malt Shoppe to Lakewalk stairs.

Resolution 15-0289 was unanimously adopted.

Approved May 26, 2015

DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (d) 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 this portion of the street easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, May 12, 2015, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the platted road easement described below and as described and depicted on Public Document No. 15-0526-07:

VACATION LEGAL DESCRIPTION:

That part of Lynn Avenue, the alley between Blocks 38 and 46, and the alley between Block 37 and 47, all in Rice's Point, according to the recorded plat thereof, filed in the St. Louis County Recorder's Office in Duluth, Minnesota, described as follows:

Beginning at the most westerly corner of Block 46, Rice's Point; thence South 2749'50" East along the southwest line of said Block 46, it's southeasterly extension, and the southwest line of said Block 47 for a distance of 619.92 feet, more or less, to the right-of-way of the Northbound Garfield Ramp; thence North 5403'40" West along the right-of-way of the

Northbound Garfield Ramp for a distance of 27.15 feet, more or less, to the northeast line of said Block 37; thence North 27°49'50" West along the northeast line of said Block 37 for a distance of 20.56 feet, more or less, to the most northerly corner of Block 37; thence South 62°10'10" West along the northwest line of said Block 37 for a distance of 10.13 feet, more or less, to the right-of-way of the Northbound Garfield Ramp; thence North 54°03'40" West along the right-of-way of the Northbound Garfield Ramp for a distance of 83.61 feet, more or less, to the southeast line of said Block 38; thence North 62°10'10" East along the southeast line of said Block 38 for a distance of 47.09 feet, more or less, to the most easterly corner of said Block 38; thence North 27°49'50" West along the northeast line of said Block 38 for a distance of 400.00 feet to the most southerly corner of property previously vacated by City of Duluth Resolution 08-0525; thence North 62°10'10" East along the southeast line of said previously vacated property for a distance of 4.00 feet to the most easterly corner of said previously vacated property; thence North 27°49'50" West along the northeast line of said previously vacated property for a distance of 100.00 feet to the most northerly corner of said previously vacated property; thence North 62°10'10" East on a line connecting the most northerly corner of said Block 38 and the most westerly corner of said Block 46 for a distance of 8.00 feet to the point of beginning.

Retaining a utility easement over that portion of said described vacation which lies northwest of the centerline of Lynn Avenue;

(e) 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 No. 15-0526-07 showing the platted easement to be vacated.

Resolution 15-0297 was unanimously adopted.

Approved May 26, 2015

DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (d) 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 this portion of the street easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, May 12, 2015, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the platted road easement described below and as described and depicted on Public Document No. 15-0526-08:

VACATION LEGAL DESCRIPTION:

That part of Elm Avenue in Rice's Point, according to the recorded plat thereof, filed in the St. Louis County Recorder's Office in Duluth, Minnesota, lying southwest of the United States Government Harbor Line and lying northeast of the northeast line of Helberg Drive, Helberg Drive as described by others as follows:

A 60.00-foot wide easement for roadway purposes, the centerline of said easement is described as follows:

Commencing at the southwest corner of Lot 2, First Subdivision of RICE'S POINT; thence on an assigned bearing of North 27 degrees 50 minutes 22 seconds West along the westerly line of said Lot 2 and its extension 745.00 feet to the point of beginning; thence North 62 degrees 09 minutes 38 seconds East 288.70 feet; thence 198.71 feet along a tangential curve, concave southwest, having a radius of 120.00 feet and a central angle of 94

degrees 52 minutes 30 seconds; thence South 22 degrees 57 minutes 53 seconds East 138.68 feet; thence 533.95 feet along a tangential curve, concave northeast, having a radius of 845.00 feet and a central angle of 36 degrees 12 minutes 18 seconds and said center line there terminating.

Together with an 80.00-foot wide easement for roadway purposes over, under, and across the above-described property. The centerline of said easement is described as follows:

Beginning at the terminus of the previously described centerline; thence South 59 degrees 10 minutes 11 seconds East 288.54 feet; thence 218.73 feet along a tangential curve, concave southwest, having a radius of 400.00 feet and a central angle of 31 degrees 19 minutes 49 seconds; thence South 27 degrees 50 minutes 22 seconds East 807.82 feet and said centerline there terminating.

Together with a 70.00-foot wide easement for roadway purposes over, under, and across the above-described property. Said easement being 40.00 feet to left and 30.00 feet to the right of the following described line:

Beginning at the terminus of the above-described line; thence 205.76 feet along a tangential curve, concave northeast, having a radius of 1340.00 feet and said line there terminating.

Together with an 80.00-foot wide easement for roadway purposes over, under, and across the above-described property. The centerline of said easement is described as follows:

Beginning at the terminus of the above-described line, thence 73.58 feet along a continuation of the above-described curve; thence South 39 degrees 47 minutes 01 seconds East 678.41 feet; and said centerline there terminating.

Together with a 60.00-foot wide easement for roadway purposes over, under, and across the above-described property. The centerline of said easement is described as follows:

Beginning at the terminus of the above-described line; thence continuing South 39 degrees 47 minutes 01 seconds East 71.43 feet; thence 137.75 feet along a tangential curve, concave northeast, having a radius of 300.00 feet and a central angle of 26 degrees 18 minutes 30 seconds; thence South 66 degrees 05 minutes 31 seconds East 83.38 feet; thence 199.53 feet along a tangential curve, concave southwest, having a radius of 300.00 feet and a central angle of 38 degrees 06 minutes 26 seconds; thence South 27 degrees 59 minutes 05 seconds East 60.00 feet and said centerline there terminating.

Said parcel contains 3.04 acres, more or less (Helberg easement description by others);

(e) 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 No. 15-0526-08 showing the platted easement to be vacated.

Resolution 15-0298 was unanimously adopted.

Approved May 26, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with A-Plus Landscaping, LLC, for Amity Creek bank stabilization in the amount of \$172,580, payable out of Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1807 (parks, recreation and other), Object 5400 (miscellaneous repair and maintenance services), City Project No. 1290, Flood Site No. 579d.

Resolution 15-0282 was unanimously adopted.

Approved May 26, 2015

DON NESS, Mayor

- - -

RESOLVED, that Contract 22074 with LHB, Inc., for professional engineering services for construction administration and inspection for the 2012 flood repairs of Bridge Nos. 91143 (Third Street at Chester Creek), L6113 (Fourth Street at Tischer Creek), 88552 (Third Street at Miller Creek), 92277A - G, I and K (26th Avenue West at Miller Creek), and 92277H and J (26th Avenue West at Miller Creek) be amended to increase the amount by \$251,626 for a new total of \$448,624. This increase is due to the construction engineering phase for the bridge rehabilitation projects, and is payable from Disaster Recovery Fund 225, Department/Agency 125 (finance), Organization 1803 (roads and bridges), Object 5303 (engineering services) City Project Nos. 1175 (S.A.P. 118-126-020), 1176 (S.P. 118-133-007), 1178 (S.P. 118-126-021), 1235 (S.P. 118-109-019 and 118-194-007), and 1304 (FEMA and S.A.P. 118-173-010).

Resolution 15-0284 was unanimously adopted.

Approved May 26, 2015

DON NESS, Mayor

- - -

RESOLVED, that Contract 21121 with MSA Professional Services, Inc., for design and construction services for five sanitary sewer lift stations be amended for additional engineering services associated with additional construction services for Lift Station No. 23, design and bidding services for Lift Station No. 39 flow meter, additional services for Pier B Lift Station, design of VVFD pumps at Lift Station No. 1, and a major change in scope for Lift Station No. 8 including expanded evaluation of pumps, modification to a wet well/dry well configuration and addition of a building, separate bidding and construction administration and adjustment to billing rates due to extended project schedule from 2010 to 2016, in the estimated amount of \$234,000 for a new total of \$527,288; payable from Sanitary Sewer Fund 530, Department 500 (public works and utilities), Division 1905 (capital improvements), Division 5536 (utility infrastructure improvements), City Project No. 0858SN.

Resolution 15-0294 was unanimously adopted.

Approved May 26, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with A Plus Landscaping, LLC, for debris removal and stream bank stabilization at Keene Creek, Merritt Creek, Sargent Creek and Stewart Creek, in the amount of \$340,056, payable out of Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1807 (parks, recreation and other), Object 5400 (miscellaneous repair and maintenance services), City Project Nos. 1278, 1286 and 1291, Flood Site Nos. 585, 589, 592 and 593.

Resolution 15-0299 was unanimously adopted.

Approved May 26, 2015

DON NESS, Mayor

- - -

RESOLVED, that pursuant to Section 2-176(a) of the Duluth City Code, 1959, as amended, the city council hereby states its intention to convey the West half of Lot 222, UPPER DULUTH LAKE AVENUE to facilitate the improvements to Sanitary Sewer Pump Station No. 8 serving the Park Point area.

Resolution 15-0303 was unanimously adopted.

Approved May 26, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are hereby authorized to execute an agreement, substantially the same as that on file in the office of the city clerk as Public

Document No. 15-0526-09, with the Duluth transit authority (DTA) to fund one community based police officer position for and over a period of five years and accepting \$93,870 annually plus a three percent annual increase thereafter, said officer to work with the DTA to improve transit riders' safety, reduce crime and disorder, and improve quality of life to all areas serviced by the DTA at stops, hubs, on buses and other modes of transportation, funds to be payable to Fund 110-160-1610-4263.

Resolution 15-0280 was unanimously adopted.  
 Approved May 26, 2015  
 DON NESS, Mayor

- - -

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places on the 1300 block of Commonwealth Avenue on June 26-28, 2015, to coincide with the Far West Fest special events license, provided that all alcoholic beverages consumed outside of the designated serving areas of licensed establishments be consumed only from paper or plastic cups.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the licensee and approved by the administration.

Resolution 15-0291 was unanimously adopted.  
 Approved May 26, 2015  
 DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a grant award from the Minnesota department of public safety in the total amount of \$201,500 and to execute a grant agreement substantially the same as that on file in the office of the city clerk as Public Document No. 15-0526-06 for the purpose of funding one DWI police officer who will work exclusively on DWI enforcement, and to also fund a police vehicle and equipment for one year. Funds to be deposited into Fund #215-200-2211-4210-01 (Duluth police grant program, police, NHTSA DWI officers, pass-thru federal grants capital) and to be deposited in Fund# 215-200-2211-4210-02 (Duluth police grant programs, police, NHTSA DWI officers, pass-thru federal grants operating).

Resolution 15-0292 was unanimously adopted.  
 Approved May 26, 2015  
 DON NESS, Mayor

- - -

RESOLVED, that the city council hereby authorizes the disbursement of grant funds from the parks fund neighborhood grants program to the following organizations in the following amounts, and further authorizes the proper city officials to execute a grant agreement with each organization receiving funds, amounts to be payable from Fund 205-130-1219-5439 (parks, community resources, parks operating, special projects and events):

<b>Organization</b>	<b>Program Name</b>	<b>Rec Amt</b>
Chester Bowl Improvement Club	Chester Bowl Safety Improvements	\$5,000
Cyclists of Gitchee Gummee Shores	Summer Maintenance Program	\$5,000
Duluth Cross-Country Ski Club	Lester/Amity Chalet Water Drainage Abatement	\$5,000

Organization	Program Name	Rec Amt
East Hillside Patch	Chester Creek: Taking Care with Shovel and Song	\$2,000
Friends of Keene Creek Park	Seating for Keene Creek Park	\$5,000
Glen Avon Hockey Association	Ice Rink Repairs	\$5,000
GND Development Alliance	GND Center Revitalization and Sod	\$5,000
Hartley Nature Center	Environmental Education Intern Support	\$5,000
University of Minnesota Foundation	Park Point Beach Safety Kit Boxes	\$3,000
Woodland Amateur Hockey	Lower Rink Maintenance Free Boards	\$5,000
Arrowhead Zoological Society	John Deere Riding Lawn Mower Purchase	\$5,000
<b>Total</b>		\$50,000

Resolution 15-0301 was unanimously adopted.  
Approved May 26, 2015  
DON NESS, Mayor

- - -

RESOLVED, that the city council hereby approves the Duluth Cross Country Ski Trail master plan and authorizes implementation of the plan, in partnership with the Duluth Cross Country Ski Club, as funding becomes available.

Resolution 15-0302 was unanimously adopted.  
Approved May 26, 2015  
DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 15-0296, authorizing an agreement in the amount of \$40,000 for the Housing Access Center, was introduced by Councilor Filipovich.

Councilor Filipovich moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

Rebecca Domagala, Bill Anderson, Sarah Fritz, Rick Klun Cynthia Finley expressed support for the resolution.

Allan Kehr expressed concerns about the resolution.

Resolution 15-0296 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement of \$40,000 to fund a housing access center run by One Roof Community Housing from the general fund as follows:

Department 700 – Transfers and other functions...\$40,000

FURTHER RESOLVED, that the city's funding in the amount of \$40,000 is contingent upon a \$20,000 match from the housing and redevelopment authority of Duluth.

FURTHER RESOLVED, that a funder's review will take place 18 months after the implementation of these funds.

Resolution 15-0296 was unanimously adopted.

Approved May 26, 2015

DON NESS, Mayor

- - -

Resolution 15-0286, awarding a contract to the Jamar Company for roof replacements at Fire Hall #10 and the animal shelter in the amount of \$141,500, was introduced by Councilor Hanson.

Councilor Hanson moved to return the resolution to the administration as per their request, which motion was seconded and unanimously carried.

- - -

RESOLVED, that the proper city officials are hereby authorized to purchase 12 months of NAF plus software and a five megabyte flat plan from PreCise MRM, LLC, for the ongoing data and network costs of the current GPS/AVL system, for a total amount of \$134,664, payable as follows:

\$4,092. General 110-Planning and Construction Services 132-Construction Services and Inspection 1304-Software Licenses and Maintenance Agreements 5414;

\$4,092. General 110-Public Administration 121-Facilities Management 1222-Software Licenses and Maintenance Agreements 5414;

\$1,488. General 110-Fire 150-Operations 1502-Software Licenses and Maintenance Agreements 5414;

\$1,860. Fleet Services 660-Public Administration 015-Software Licenses and Maintenance Agreements 5414;

\$744. General 110-Public Administration 121-Library Services 1218-Software Licenses and Maintenance Agreements 5414;

\$12,276. General 110-Public Administration 121-Maintenance Operations 1217-Park Maintenance 2145-Software Licenses and Maintenance Agreements 5414;

\$3,720. General 110-Public Administration 121-Maintenance Operations 1217-Traffic Operations 2130-Software Licenses and Maintenance Agreements 5414;

\$20,460. General 110-Police 160-Administration and Investigation 1610-Software Licenses and Maintenance Agreements 5414;

\$1,860. Street Lighting Utility 550-Public Administration 120-Software Licenses and Maintenance Agreements 5414;

\$33,852. General 110-Public Administration 121-Maintenance Operations 1217-Street Maintenance 2140-Software Licenses and Maintenance Agreements 5414;

\$744. Parks 205-Community Resources 130-Parks Operating 1219-Software Licenses and Maintenance Agreements 5414;

\$1,116. Parking 505-Public Administration 015-On Street Parking and Enforcement 1481-Software Licenses and Maintenance Agreements 5414;

\$2,976. General 110-Public Works and Utilities 500-Engineering 1930-Transportation Engineering 2300-Software Licenses and Maintenance Agreements 5414;

\$13,020. Water 510-Public Works and Utilities 500-Utility General Expense 1915-Software Licenses and Maintenance Agreements 5414;

\$18,600. Gas 520-Public Works and Utilities 500-Utility General Expense 1915-Software Licenses and Maintenance Agreements 5414;

\$8,928. Sewer 530-Public Works and Utilities 500-Utility General Expense 1915-Software Licenses and Maintenance Agreements 5414;

\$4,836. Stormwater 535-Public Works and Utilities 500-Utility General Expense 1915-Software Licenses and Maintenance Agreements 5414.

Resolution 15-0283 was adopted upon the following vote:  
Yeas: Councilors Filipovich, Gardner, Hanson, Julsrud, Russ, Sipress and President Larson – 7  
Nays: Councilor Fosle – 1  
Absent: Councilor Krug – 1  
Approved May 26, 2015  
DON NESS, Mayor

- - -

### **INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR HANSON

15-035 - AN ORDINANCE AMENDING CHAPTER 8, SECTION 43, OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CONSUMPTION AND DISPLAY PERMITS.

- - -

INTRODUCED BY COUNCILOR RUSS

15-036 - AN ORDINANCE GRANTING TO NORSHOR THEATRE LLC, A CONCURRENT USE PERMIT FOR AN APPROXIMATELY NINE FEET BY 47 FEET STRUCTURE (FORMER BUS SHELTER) LOCATED IN THE NORTH SECOND AVENUE EAST PUBLIC RIGHT OF WAY.

- - -

INTRODUCED BY COUNCILOR RUSS

15-037 - AN ORDINANCE GRANTING TO NORSHOR THEATRE LLC, A CONCURRENT USE PERMIT FOR UNDERGROUND VAULTS LOCATED IN THE RIGHT OF WAY OF EAST SUPERIOR STREET (APPROXIMATELY 188 FEET BY 14 FEET) AND NORTH SECOND AVENUE EAST (APPROXIMATELY 84 FEET BY 13 FEET), ADJACENT TO THE NORSHOR THEATRE.

- - -

INTRODUCED BY COUNCILOR RUSS

15-038 - AN ORDINANCE GRANTING TO NORSHOR THEATRE LLC, A CONCURRENT USE PERMIT FOR THE TEMPLE OPERA/NORSHOR THEATRE BUILDINGS, WHICH PROTRUDE INTO THE REAR ALLEY APPROXIMATELY 0.4 FEET AND INTO SUPERIOR STREET A DISTANCE RANGING FROM 0.3 FEET TO 1.1 FEET.

- - -

INTRODUCED BY COUNCILOR RUSS

15-039 - AN ORDINANCE GRANTING TO NORSHOR THEATRE LLC, A CONCURRENT USE PERMIT FOR THE EXISTING MARQUEE WHICH EXTENDS APPROXIMATELY 11 FEET INTO EAST SUPERIOR STREET.

- - -

INTRODUCED BY COUNCILOR RUSS

15-040 - AN ORDINANCE GRANTING TO SPIRIT MOUNTAIN A CONCURRENT USE PERMIT FOR A 36 INCH PRIVATE WATER LINE LOCATED ON THE PUBLIC RIGHT OF WAY OF A PLATTED AND UNIMPROVED ALLEY AT THE 8500 BLOCK OF GRAND AVENUE (SPIRIT MOUNTAIN AREA RECREATION AUTHORITY).

- - -

INTRODUCED BY COUNCILOR RUSS

15-041 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RR-1 TO RR-2, PROPERTY ALONG NORTH 87TH AVENUE WEST IN BAYVIEW HEIGHTS (JEREL FINEOUT).

- - -



INTRODUCED BY COUNCILOR RUSS

15-042 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-P TO R-1, BLOCKS 9, 10, 11, AND PART OF BLOCK 7, COFFEE CREEK SUBDIVISION (HAMILTON TAYLOR HOMES).

- - -

INTRODUCED BY COUNCILOR RUSS

15-043 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-P TO R-1, BLOCK 8 AND PART OF BLOCK 7, COFFEE CREEK SUBDIVISION(CITY OF DULUTH).

- - -

INTRODUCED BY COUNCILOR RUSS

15-044 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 to MU-N, PROPERTY AT 1501 KENWOOD AVENUE, 15 WEST CLEVELAND STREET, AND 1428 ARROWHEAD ROAD (KENWOOD VILLAGE LLC).

- - -

INTRODUCED BY COUNCILOR JULSRUD

15-045 - AN ORDINANCE AUTHORIZING THE EXCHANGE OF PROPERTY ON SOUTH LAKE AVENUE WITH DALE AND ELIZABETH SOLA FOR EXPANSION OF SEWER PUMPING STATION NO. 8.

- - -

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR RUSS

15-030 (10376) - AN ORDINANCE GRANTING TO SAINT LOUIS COUNTY HERITAGE AND ARTS CENTER A CONCURRENT USE PERMIT FOR A 115 FOOT LONG COVERED WALKWAY AND CANOPY LOCATED IN THE SOUTH FIFTH AVENUE WEST PUBLIC RIGHT-OF-WAY (SAINT LOUIS COUNTY AND ONEIDA REALTY COMPANY).

Councilor Russ moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

The meeting was adjourned at 7:54 p.m.

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10376**

AN ORDINANCE GRANTING TO SAINT LOUIS COUNTY HERITAGE AND ARTS CENTER A CONCURRENT USE PERMIT FOR A 115 FOOT LONG COVERED WALKWAY AND CANOPY LOCATED IN THE SOUTH FIFTH AVENUE WEST PUBLIC RIGHT-OF-WAY (SAINT LOUIS COUNTY AND ONEIDA REALTY COMPANY).

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 granted to Saint Louis County Heritage and Arts Center, and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) A covered walkway and canopy approximately 5-1/2 feet wide by 115 feet long feet long over the pedestrian walkway of South Fifth Avenue West, as shown in Public Document No. 15-0526-05.

Section 2. Before this ordinance shall be effective for any purpose whatsoever, the permittee shall file with the planning division a certification of insurance approved as to form by the city attorney evidencing that the permittee has in force a policy of insurance meeting the following requirements:

(a) Comprehensive general liability insurance in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage; and

(b) Insurance coverage shall include all permittee's activities occurring upon or within public right-of-way or easement occupied pursuant to this ordinance whether said activities are performed by the permittee or its agents or representatives; and

(c) The insurance policy shall be approved by the city attorney; and

(d) The policy shall contain a condition that it may not be canceled without 30 days written notice to the city of Duluth and directed to the attention of the city attorney; and

(e) The city of Duluth shall be named as an additional insured; and

(f) The certificate shall also reference this ordinance by its ordinance number.

Section 3. The permit granted by this ordinance may be terminated at any time by the city official exercising departmental authority of the public easement if the city of Duluth determines to use the area occupied by the permittee for any public purpose in accordance with the duly dedicated public easement or other lawful use.

Unless a shorter notice period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance, giving the permittee 30 days written notice delivered to the last known electronic address, facsimile number, or mailing address of the permittee shall be sufficient notice of termination.

Upon termination permittee shall cause all private improvements to be removed by the deadline provided in termination notice. Permittee shall be responsible for all costs incurred to remove the private improvements, including any costs associated with repairing damage caused to the public easement by the removal and without right to claim from the city of Duluth, or any of its officers, agents or servants, any compensation or reimbursement for damages of any kind whatsoever.

Section 4. By accepting the terms of this ordinance, the permittee agrees to hold harmless and defend and indemnify the city of Duluth against claims or demand which may arise against the city of Duluth by reason of the existence of private improvements, or any act or omission of the permittee, its employees, agents, and assigns. The permittee agrees that the city of Duluth shall not be liable for damage caused to the private improvements while the city engages in the repair and maintenance to, or replacement of, the public improvements or public utilities, including any snow removal operations. The permittee agrees to pay to the city of Duluth all extra costs of installation of any public improvements or public utilities made necessary by the presence of the private improvements.

Section 5. The permittee shall, at its expense, protect, support, temporarily disconnect, or remove from the public easement, the private improvements when required by city officials by reason of snow removal, traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines and tracks, the installation or repair of any type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

Section 6. Upon the sale or transfer of permittee's interest in the permit granted by this ordinance, the permittee shall provide written notice to the planning division within five days of such transfer. The permittee's successor in interest shall file with the planning division within

ten days of such transfer a duly executed and acknowledged written acceptance of the terms of this ordinance and the certificate of insurance required in Section 2 above.

Section 7. The permit granted by this ordinance is subject to termination by the city of Duluth upon permittee's failure to comply with any of the terms and conditions of this permit. Ten days written notice, delivered as provided in Section 3 above shall be sufficient notice of termination. Upon termination, permittee shall remove the private improvements as provided in Section 3.

Section 8. The permittee shall observe the following conditions:

(a) Permittee's use of the public right-of-way or easement shall be limited to the designated area described in Section 1 above and further shown on Public Document No. 15-0526-05; and

(b) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as in no way interfere with or damage any portion of any public improvement, or other public utilities now or to hereinafter located in any part of said public easement; and

(c) Permittee agrees to maintain the pedestrian walkway in such a manner so that snow and ice accumulation is removed in a timely manner.

Section 9. The following events shall automatically cause the termination of the term of this ordinance:

(a) The failure by the permittee to file the required insurance certificate as specified in Section 2 30 days after this ordinance takes effect; or

(b) The failure of the permittee to commence the improvements authorized by this ordinance within 180 days after this ordinance takes effect.

Section 10. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: June 28, 2015)

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

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

Nays: None -- 0

Absent: Councilor Krug -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed May 26, 2015  
Approved May 26, 2015  
DON NESS, Mayor

- - -

### **ORDINANCE NO. 10377**

BY PRESIDENT LARSON:

AN ORDINANCE AMENDING CHAPTER 8 OF DULUTH CITY CODE, 1959, AS AMENDED, TO ALLOW THE ISSUANCE OF MICRODISTILLERY OFF SALE LICENCES AND TEMPORARY ON SALE LIQUOR LICENSES TO MICRODISTILLERIES.

The city of Duluth does ordain:

Section 1. That Section 8-41 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 8-41. Types generally.

(a) With respect to intoxicating liquor, there shall be the following types of licenses: on sale, on sale club, on sale wine, on sale culinary class, on sale theater, on sale brewer taproom, on sale microdistillery cocktail room,

temporary on sale, off sale, microdistillery off sale and a brewery malt liquor off sale;

(b) On sale licenses authorize the licensee to sell intoxicating liquor at retail for consumption only on the licensed premises. The following additional requirements apply to specific types of on sale licenses:

(1) On sale culinary class licenses authorize on sales subject to the restrictions of Section 8-44(d) of this Chapter and Minnesota Statutes Section 340A.4041, or its successor;

(2) On sale theater licenses authorize on sales each day of the week to persons attending events at the theater;

(3) On sale brewer taproom licenses authorize on sales of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer, subject to the restrictions of this Chapter and Minnesota Statutes Section 340A.301, subd. 6(b), or its successor. Notwithstanding Section 8-17 of this Chapter or Minnesota Statutes Section 340A.504, subdivision 3, a taproom may be open and may conduct on sale business on Sundays if authorized by the city in the license. All Sunday sales are subject to the limitation on hours of sale provided in Section 8-46 of this Chapter;

(4) On sale microdistillery cocktail room licenses authorize on sales of distilled liquor produced by the distiller for consumption on the premises of or adjacent to one distillery location owned by the distiller subject to the restrictions of Section 8-44(h) of this Chapter and Minnesota Section 340A.22 or its successor;

(5) Temporary on sale licenses authorize temporary on sales in connection with a social event sponsored by the licensee and only at the designated licensed premise;

(c) Except as provided herein, off sale licenses authorize the licensee to sell intoxicating liquor at retail in original packages only for consumption off the licensed premises. The following additional requirements apply to specific types of off sale licenses:

(1) Brewery malt liquor licenses permit breweries holding on sale licenses, or breweries that manufacture fewer than 3,500 barrels of malt liquor in a year, to sell malt liquor off sale in 64-ounce containers commonly known as growlers, subject to the restrictions in Minnesota Statutes, Section 340A.301, subd. 7(b), or its successor, and this Chapter;

(2) Notwithstanding the provisions of sections 8-21 and 8-22 of this Chapter, it shall be lawful for the holder of an off sale intoxicating liquor license or a brewery malt liquor off sale license to provide samples as provided in Minnesota Statutes, Section 340A.510, or its successor;

(3) A microdistillery off sale license permits a microdistillery to sell product manufactured on-site, subject to the restrictions of Section 8-17 of this Chapter and Minnesota Statute, Section 340A.22 Subd. 3, or its successor;

(d) With respect to 3.2 percent malt liquor, there shall be three types of licenses: on sale, off sale and temporary on sale. Each type of 3.2 percent malt liquor license authorizes the licensee to sell 3.2 percent malt liquor subject to the following additional requirements applicable to the specific type of license:

(1) On sale licenses authorize the sale of 3.2 percent malt liquor at retail for consumption only on the licensed premises;

(2) Off sale licenses authorize the sale of 3.2 percent malt liquor at retail in original packages for consumption only off the licensed premises;

(3) Temporary on sale licenses authorize the sale of 3.2 percent malt liquor at retail for a limited period of time, and only at the designated licensed premise;

(e) No alcoholic beverage license of any type shall be granted to any elective, appointed, executive or administrative officer of the city, to any employee holding a position in the classified service of the city and working as a licensed peace officer in the police department, to any deputy chief of police, deputy fire chief, fire marshal or deputy fire marshal, nor shall any such officer or employee engage in the business, be employed by an establishment licensed by the city, or have an ownership interest in such business licensed by the city.

Section 2. That Section 8-44 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 8-44. To whom licenses issued--intoxicating liquor.

(a) On sale intoxicating liquor licenses may only be granted to establishments that are used exclusively for the retail sale of intoxicating liquor, cigars, cigarettes, ice, all forms of tobacco, 3.2 percent malt liquor and soft drinks and to hotels, clubs, restaurants and bowling alleys;

(b) On sale club licenses may only be granted, subject to the approval of the commissioner of public safety, to clubs or to congressionally chartered veterans organizations which have been in existence for three years or more. Such license shall authorize the sale of intoxicating liquors only to members of the licensed organization and their bona fide guests;

(c) On sale wine licenses may only be granted to restaurants or bed and breakfast establishments and shall authorize licensees on every day of the week to sell wine not exceeding 14 percent alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food. A bed and breakfast establishment may furnish wine only to registered guests of the establishment and, if the facility contains a licensed commercial kitchen, also to guests attending private events at the facility if such events are otherwise authorized by Chapter 50 of this Code. Sunday hours of sale shall be from Noon to 1:00 a.m. Monday. No on sale wine license shall be in effect until it is approved by the liquor control commissioner of the state of Minnesota;

(d) On sale culinary class licenses may only be granted to business establishments that meet the following conditions:

(1) The business establishment is not otherwise eligible for an on sale intoxicating liquor license; and

(2) That, as a regular part of its business the establishment conducts culinary or cooking classes for which payment is made by each participant and only if such participant has made an advance reservation.

The license authorizes the licensee to furnish to each participant in each class, at no additional cost to the participant, up to a maximum of six ounces of wine or 12

ounces of intoxicating malt liquor, during and as part of the class, for consumption on the licensed premises only;

(e) Temporary on sale liquor licenses may be issued in connection with a social event sponsored by the licensee. The license may only be issued to:

(1) Clubs, charitable organizations, religious organizations and other nonprofit organizations in existence for at least three years;

(2) A registered political committee;

(3) A state university;

(4) A brewer who manufactures fewer than 3,500 barrels of malt liquor in a year; or

(5) A microdistillery;

A temporary license may only be issued for a limited length of time, not to exceed four consecutive days. Temporary on sale licenses to any one organization or for one location shall not exceed more than three four-day, four three-day, six two-day or 12 one-day licenses, in any combination not to exceed 12 days per year. No more than one license shall be issued to any one organization or for any one location within any 30 day period unless the licenses are issued in connection with an event officially designated a community festival by the city. The city may authorize the temporary on sale liquor license on premises other than premises the licensee owns or permanently occupies. The license may provide that the licensee may contract for intoxicating liquor catering services with the holder of a full-year on sale intoxicating liquor license used by the city;

(f) Off sale intoxicating liquor licenses may only be granted to exclusive liquor stores;

(g) Brewery malt liquor off sale licenses may only be granted to:

(1) Breweries holding on sale licenses; or

(2) A brewer who manufactures fewer than 3,500 barrels of malt liquor in a year, and shall be subject to all restrictions, terms and conditions contained in Minnesota Statutes, Section 340A.301, subd. 7(b), or its successor;

(h) Microdistillery cocktail room licenses may only be granted to microdistilleries licensed under Minnesota Statutes Section 340A.301, subdivision 6c or its successor;

(i) Microdistillery off sale licenses may only be granted to microdistilleries licenced under Minnesota Statutes Section 340A.301, subdivision 6c or its successor.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: June 26, 2015)

President Larson moved passage of the ordinance and the same was adopted upon the following vote:

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

Nays: None -- 0

Absent: Councilor Krug - 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed May 26, 2015  
Approved May 26, 2015  
DON NESS, Mayor

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**MINUTES OF THE REGULAR MEETING  
OF THE DULUTH CITY COUNCIL**

June 1, 2015

Duluth City Council meeting held on Monday, June 1, 2015, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Absent: None -- 0

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

15-0601-04 Thomas Rectenwald communication regarding the proposed vacation rental at 2525 East First Street (15-0308R). -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

15-0601-01 Duluth airport authority minutes of April 28, 2015, meeting. -- Received

15-0601-02 Duluth public utilities commission minutes of April 21, 2015, meeting. -- Received

15-0601-03 Duluth transit authority board minutes of March 25, 2015, meeting. -- Received

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At this time, 7:03 p.m., the public hearing on the proposed tax increment financing (TIF) plan for the Point of Rocks TIF District (an HRA housing district) began.

Rick Ball, executive director of the Housing and Redevelopment Authority of Duluth (HRA) and Aaron Schweiger, developer, summarized the project.

David Bonsman expressed his objections to this project based on competition this project will do to the private sector.

Craig Olson, representing the Duluth Building Trades Council, expressed his concerns that there are no assurances for the Duluth trade unions.

At this time, 7:21 p.m., the public hearing was declared closed.

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**RESOLUTIONS TABLED**

Councilor Russ moved to remove Resolution 15-0258, of intent to support the request by One Roof Community Housing And Center City Housing Corporation to the state of Minnesota for the award of low-income housing tax credits for the Gateway Tower redevelopment project, from the table, which motion was seconded and carried unanimously.

Resolution 15-0258 was adopted as follows:

RESOLVED, that the Duluth City Council hereby expresses its support for the One Roof and Center City Housing request for funding to the Minnesota housing finance agency for low-income housing tax credits for the Gateway Tower redevelopment project.

Resolution 15-0258 was unanimously adopted.

Approved June 1, 2015

DON NESS, Mayor

- - -

Councilor Russ moved to remove Resolution 15-0259, of intent to support the request by Pastoret LLC to the state of Minnesota for the award of low-income housing tax credits and



intent to support tax increment financing for the Pastoret Terrace project, from the table, which motion was seconded and carried unanimously.

Chief Administrative Officer David Montgomery requested that this resolution be returned to the administration because the developer has requested that it be removed from the agenda.

Councilor Russ moved to remove Resolution 15-0259 from the agenda and return it to the administration, which motion was seconded and unanimously carried.

- - -

Councilor Gardner moved to remove Resolution 15-0264, of intent to support the request by Lutheran Social Services Of Minnesota (LSS) for the award of low-income housing tax credit for the Center Of Changing Lives project, from the table, which motion was seconded and carried unanimously.

Councilor Julsrud stated that she would be abstaining because she is a board member of this organization.

Resolution 15-0264 was adopted as follows:

RESOLVED, that the Duluth City Council hereby expresses its support for Lutheran Social Services of Minnesota (LSS) for the award of low-income housing tax credit for the Center of Changing Lives' request for funding to the Minnesota housing finance agency for low-income housing tax credits and intent to support tax increment financing for the Changing Lives project.

Resolution 15-0264 was adopted upon the following vote:

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Krug, Russ, Sipress and President Larson – 8

Nays: None – 0

Abstention: Councilor Julsrud – 1

Approved June 1, 2015

DON NESS, Mayor

- - -

## **MOTIONS AND RESOLUTIONS**

### **CONSENT AGENDA**

*(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)*

President Larson moved passage of the consent agenda, which motion was seconded and unanimously carried.

RESOLVED, that the proper city officials are hereby authorized to contract with Stretar Masonry and Concrete, Inc., for completion of the Phase II tuckpointing at Wade Stadium, in accordance with plans and specifications provided by TKDA, dated April 28, 2015, and the contractor's low bid of \$590,000, payable from Capital Improvements 450; Finance 030; Improvements Other than Buildings 5530; Project: CP450-WADE - capital projects - other fund contributions, Wade Stadium refurbishment.

Resolution 15-0314 was unanimously adopted.

Approved June 1, 2015

DON NESS, Mayor

- - -

WHEREAS, on July 12, 1993, the city of Duluth (the "city") created its Tax Increment Financing District No. 13 (the "TIF district") within its Development District No. 17 by approval of a tax increment financing plan (the "TIF plan") for the TIF District; and

WHEREAS, the following property, by property identification number, is included in the TIF district: 010-1913-00070

WHEREAS, the city desires by this resolution to amend the TIF plan to remove the above-described parcel from the TIF district, thereby reducing the size thereof; and

WHEREAS, the total current net tax capacity of the parcel to be eliminated from the TIF district equals or exceeds the net tax capacity of that parcel in the district's original net tax capacity and, therefore, this amendment to the TIF plan is accomplished pursuant to Minnesota Statutes, Section 469.175, Subdivision 4, clause (e)(2)(a).

NOW THEREFORE, BE IT RESOLVED by the city that, subject to any required consents, the TIF plan for the TIF district is hereby amended to remove the described parcel and the St. Louis County auditor is hereby requested to remove said parcel from the TIF district and TIF plan, thereof pursuant to Minnesota Statutes, Section 469.175, Subdivision 4, clause (e)(2)(a).

Resolution 15-0300 was unanimously adopted.

Approved June 1, 2015

DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council hereby grants Phyllis Sherman an interim use permit to operate a vacation dwelling unit located at 940 Lake Avenue South and as described by the following: PID 010-4380-00910; and

(b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and

(c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use at this location; and

(d) The interim use permit shall remain in effect for up to six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and

(e) Pursuant to Section 50-20.3.V and Section 50-37.10 of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly referred to the city planning commission (PL 15-059); the commission gave due notice of public hearing and considered the application during a public hearing occurring on May 12, 2015; and

(f) The city planning commission, at their regular meeting on May 12, 2015, considered the application's consistency with the use specific standards for vacation dwelling units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for a vacation dwelling unit subject to the conditions listed below; and

FURTHER RESOLVED, that an interim use permit for the subject property, is approved subject to the following conditions:

(a) The interim use permit shall not be effective until the applicant has provided evidence that the required notice has been sent to property owners within 100 feet. The required notice shall note the name, address, and phone number of the managing agent or local contact who resides within 25 miles of the city and who has the authority to respond to complaints 24 hours a day;

(b) The interim use permit shall not be effective until the applicant has received all required licenses and permits for operation, including Minnesota department of revenue tax identification number, Minnesota department of health hotel/motel license, city of Duluth hotel/motel/B&B license, city of Duluth tourism tax permit and city of Duluth fire department operational permit;

(c) Interim use permit holder must keep a guest record including the name, address, phone number and vehicle license plat information for all guests;

(d) Interim use permit holder must disclose in writing to their guests the following: name and contact information for managing agent or local contact, maximum number of guests

allowed at the property, maximum number of vehicles allowed at the property and where they are to be parked, applicable rules for the City Code governing noise, parks, parking and pets and "quiet hours" between 10 pm and 8 am.;

(e) Interim use permit holder must post their permit number on all print, poster, web or other advertisements;

(f) The applicant shall adhere to the terms and conditions listed in the interim use permit document;

(g) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the land use supervisor without further planning commission; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Resolution 15-0307 was unanimously adopted.

Approved June 1, 2015

DON NESS, Mayor

- - -

RESOLVED, that in accordance with the provisions of Section 50-33.6 of the Duluth City Code, 1959, as amended, the following street shall be established:

Public Safety Drive from North Arlington Avenue to Rice Lake Road.

Resolution 15-0311 was unanimously adopted.

Approved June 1, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Hibbing Excavating, Inc., for Fourth Street watermain replacements between 12th Avenue East and 16th Avenue East in the amount of \$2,075,901, payable out of Water Fund 510, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5533 (capital improvements - revenue), City Project No. 1378.

Resolution 15-0306 was unanimously adopted.

Approved June 1, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Northland Constructors of Duluth, LLC, for Eastridge Estates drainage improvements in the amount of \$277,754.25, payable out of Special Assessment Fund 410, Department/Agency 038 (special assessment contracts), Object 5530 (improvements other than buildings), City Project No. 1435.

Resolution 15-0313 was unanimously adopted.

Approved June 1, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into the attached agreement, a copy of which is on file in the office of the city clerk as Public Document No. 15-0601-05, with the state of Minnesota through St. Louis County to acquire a culvert easement over that tax forfeit property in St. Louis County, Minnesota, legally described below at a cost of \$1185, payable from 450-030-5530; Project: CP450-ccity-0676tr:

Lots 17 and 18, Block 9, REPLAT OF WILMINTON ADDITION TO WEST DULUTH, except the southerly 188 feet thereof.

Resolution 15-0304 was unanimously adopted.

Approved June 1, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a permanent easement agreement with the Spirit Valley Land Company, LLC, a copy of which is attached hereto as Exhibit A and is on file in the office of the city clerk as Public Document No. 15-0601-06, at no cost to the city for an easement to construct and maintain a water line on property located in St. Louis County, Minnesota, generally described as being in:

Government Lot 1 and part of the Southwest quarter of the Northeast quarter, Section 23, Township 49 North, Range 15 West, Saint Louis County and part of Lots 22 and 23 in Block 10 in the plat or IRONTON DIVISION.

Resolution 15-0305 was unanimously adopted.

Approved June 1, 2015

DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 15-0308, Granting an interim use permit for a vacation dwelling unit at 2525 East First Street (Daniel Neby), was introduced by Councilor Russ for discussion.

Councilor Sipress moved to amend subparagraph (d) of the resolution to delete the phrase "six years" and insert the phrase "one year," which motion was seconded and discussed.

Councilor Russ moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

Nicole Bakken, Mary Zimmerman, Dennis Lamkin, Cameron Fryer, Mitch Wolfe, Spencer Miller, Susan Dusek, Douglas Fifield and Charles Andresen expressed opposition for the resolution.

The amendment carried as follows:

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

Nays: Councilor Hanson -- 1

The council stated several reasons for denying the resolution, including the close proximity between the property and the neighbor's patio as well as the concerns with the comprehensive plan that were articulated by Attorney Andresen and Dennis Lamkin.

Resolution 15-0308, as amended, failed unanimously (Public Document No. 15-0601-13).

- - -

Resolution 15-0315, approving a tax increment financing plan for the Point of Rocks Tax Increment Financing District as proposed by the Housing and Redevelopment Authority of Duluth, Minnesota, was introduced by Councilor Russ.

President Larson moved to table the resolution, which motion was seconded and carried as follows:

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

Nays: Councilor Fosle -- 1

- - -

RESOLVED, that in accordance with the provisions of Section 33-40 of the Duluth City Code, 1959, as amended, the following lanes of traffic are established:

On Pecan Avenue, between East Central Entrance and Rice Lake Road, and following the scheduled full depth reclamation of the avenue's surface, the avenue shall be striped with one driving lane in each direction, with two painted and independent bike lanes, and with a middle turning lane.

Resolution 15-0309 was adopted upon the following vote:  
Yeas: Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and  
President Larson – 8  
Nays: Councilor Fosle – 1  
Approved June 1, 2015  
DON NESS, Mayor

- - -

Resolution 15-0312, authorizing city officials to apply for, accept, and execute a grant agreement from the Lessard-Sams Outdoor Heritage Council for restoration of Buckingham Creek, establishment of a new water supply and storage facility for Enger Park Golf Course, and acquisition and restoration of Independent School District #709 southeast parcels adjoining Hartley Park, was introduced by Councilor Sipress.

Councilor Sipress moved to remove the resolution from the agenda and return it to the administration as per their request, which motion was seconded and unanimously carried.

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### **INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR FILIPOVICH

15-046 - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR YEAR 2015 BY INCREASING THE BUDGET AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

- - -

BY COUNCILORS RUSS, GARDNER AND SIPRESS

15-047 - AN INTERIM ORDINANCE PURSUANT TO MINN. STAT. § 462.355, SUBD. 4, AUTHORIZING A PLANNING STUDY OF THE CITY'S OFFICIAL CONTROLS RELATED TO VACATION DWELLING UNITS AND IMPOSING A MORATORIUM ON NEW PERMITS FOR VACATION DWELLING UNITS PENDING COMPLETION OF THE STUDY.

Councilor Gardner moved to suspend the rules to hear speakers on the ordinance, which motion was seconded and unanimously carried.

David Wade, Theresa Hanson, Jeremy and Trish Paggen and Justin Morrell felt that vacation rentals are not a problem and a positive experience.

Ken Aparicio expressed a concern that vacation rentals be regulated to insure that safety and health conditions are met.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR HANSON

15-035 (10378) - AN ORDINANCE AMENDING CHAPTER 8, SECTION 43, OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CONSUMPTION AND DISPLAY PERMITS.

Councilor Hanson moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR RUSS

15-036 (10379) - AN ORDINANCE GRANTING TO NORSHOR THEATRE, LLC, A CONCURRENT USE PERMIT FOR AN APPROXIMATELY NINE FEET BY 47 FEET STRUCTURE (FORMER BUS SHELTER) LOCATED IN THE NORTH SECOND AVENUE EAST PUBLIC RIGHT-OF-WAY.

Councilor Russ moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR RUSS

15-037 (10380) - AN ORDINANCE GRANTING TO NORSHOR THEATRE, LLC, A CONCURRENT USE PERMIT FOR UNDERGROUND VAULTS LOCATED IN THE RIGHT-OF-WAY OF EAST SUPERIOR STREET (APPROXIMATELY 188 FEET BY 14 FEET) AND NORTH SECOND AVENUE EAST (APPROXIMATELY 84 FEET BY 13 FEET), ADJACENT TO THE NORSHOR THEATRE.

Councilor Russ moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR RUSS

15-038 (10381) - AN ORDINANCE GRANTING TO NORSHOR THEATRE, LLC, A CONCURRENT USE PERMIT FOR THE TEMPLE OPERA/NORSHOR THEATRE BUILDINGS, WHICH PROTRUDE INTO THE REAR ALLEY APPROXIMATELY 0.4 FEET AND INTO SUPERIOR STREET A DISTANCE RANGING FROM 0.3 FEET TO 1.1 FEET.

Councilor Russ moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR RUSS

15-039 (10382) - AN ORDINANCE GRANTING TO NORSHOR THEATRE, LLC, A CONCURRENT USE PERMIT FOR THE EXISTING MARQUEE WHICH EXTENDS APPROXIMATELY 11 FEET INTO EAST SUPERIOR STREET.

Councilor Russ moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR RUSS

15-040 (10383) - AN ORDINANCE GRANTING TO SPIRIT MOUNTAIN A CONCURRENT USE PERMIT FOR A 36 INCH PRIVATE WATER LINE LOCATED ON THE PUBLIC RIGHT OF WAY OF A PLATTED AND UNIMPROVED ALLEY AT THE 8500 BLOCK OF GRAND AVENUE (SPIRIT MOUNTAIN AREA RECREATION AUTHORITY).

Councilor Russ moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR RUSS

15-041 (10384) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RR-1 TO RR-2 PROPERTY ALONG NORTH 87TH AVENUE WEST IN BAYVIEW HEIGHTS (JEREL FINEOUT).

Councilor Russ moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR RUSS

15-042 (10385) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-P TO R-1 BLOCKS 9, 10, 11 AND PART OF BLOCK 7, COFFEE CREEK SUBDIVISION (HAMILTON TAYLOR HOMES).

Councilor Russ moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR RUSS

15-043 (10386) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-P TO R-1, BLOCK 8 AND PART OF BLOCK 7, COFFEE CREEK SUBDIVISION(CITY OF DULUTH).

Councilor Russ moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR RUSS

15-044 (10387) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO MU-N PROPERTY AT 1501 KENWOOD AVENUE, 15 WEST CLEVELAND STREET AND 1428 ARROWHEAD ROAD (KENWOOD VILLAGE LLC).

Councilor Russ moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR JULSRUD

15-045 (10388) - AN ORDINANCE AUTHORIZING THE EXCHANGE OF PROPERTY ON SOUTH LAKE AVENUE WITH DALE AND ELIZABETH SOLA FOR EXPANSION OF SEWER PUMPING STATION NO. 8.

Councilor Julsrud moved passage of the ordinance and the same was adopted upon a unanimous vote.

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The meeting was adjourned at 8:48 p.m.

JEFFREY J. COX, City Clerk

- - -

### ORDINANCE NO. 10378

AN ORDINANCE AMENDING CHAPTER 8, SECTION 43, OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CONSUMPTION AND DISPLAY PERMITS.

The city of Duluth does ordain:

Section 1. That Chapter 8, Section 43, of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 8-43. Consumption and display permits.

(a) The city may approve the issuance of a permit under this Section only to:

(1) An applicant who has not, within five years prior to the application, been convicted of a felony or of violating any provision of this Chapter, or Minnesota Statutes Chapter 340A or rule adopted under such chapter;

(2) A restaurant;

(3) A hotel;

(4) An establishment licensed for the sale of 3.2 percent malt liquor;

(5) A club as defined in Section 8-13(d); and

(6) A bed and breakfast establishment as defined in Section 8-13(c);

A club holding an on sale intoxicating liquor license is not eligible for a permit under this Section;

(b) No administrative officer of the city shall grant approval for issuance of any annual consumption and display permit by the liquor control commissioner of the state of Minnesota unless the city council has authorized such approval by resolution after investigation and recommendation regarding such permit application has been made by the alcohol, gambling and tobacco commission pursuant to the procedures set forth in Section 8-7 of this Chapter;

(c) The permit holder shall pay a fee, which shall be set in accordance with Section 31-6(a) of this Code, annually to the city in addition to any fee paid to the state. The fee payable to the city shall be paid prior to the beginning of operation and prior to April 1 of the following and each succeeding year;

(d) The provisions and regulations of sections 8-15, 8-16, 8-17, 8-18, 8-19, 8-24, 8-26, 8-28, 8-34 and 8-35 shall fully and equally apply and regulate establishments holding a consumption and display permit from the Minnesota state liquor control commissioner;

(e) The city clerk, subject to the requirements of Minnesota law, may issue a one day permit for the consumption and display of intoxicating liquor to a nonprofit organization in conjunction with a social activity in the city sponsored by the organization;

(f) A permit issued pursuant to this Section permits the consumption and display of intoxicating liquor on the premises. The permit does not authorize the sale of intoxicating liquor.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 9, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed June 1, 2015  
Approved June 1, 2015  
DON NESS, Mayor

- - -

**ORDINANCE NO. 10379**

AN ORDINANCE GRANTING TO NORSHOR THEATRE, LLC, A CONCURRENT USE PERMIT FOR AN APPROXIMATELY NINE FEET BY 47 FEET STRUCTURE (FORMER BUS SHELTER) LOCATED IN THE NORTH SECOND AVENUE EAST PUBLIC RIGHT-OF-WAY.

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 granted to NorShore Theatre LLC, and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) An existing structure approximately nine feet wide by 47 feet long attached to the building at Two North Second Avenue East and protruding into the right-of-way of North Second Avenue East, as shown in Public Document No. 15-0601-07.

Section 2. Before this ordinance shall be effective for any purpose whatsoever, the permittee shall file with the planning division a certification of insurance approved as to form by



the city attorney evidencing that the permittee has in force a policy of insurance meeting the following requirements:

(a) Comprehensive general liability insurance in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage; and

(b) Insurance coverage shall include all permittee's activities occurring upon or within public right-of-way or easement occupied pursuant to this ordinance whether said activities are performed by the permittee or its agents or representatives; and

(c) The insurance policy shall be approved by the city attorney; and

(d) The policy shall contain a condition that it may not be canceled without 30 days written notice to the city of Duluth and directed to the attention of the city attorney; and

(e) The city of Duluth shall be named as an additional insured; and

(f) The certificate shall also reference this ordinance by its ordinance number.

Section 3. The permit granted by this ordinance may be terminated at any time by the city official exercising departmental authority of the public easement if the city of Duluth determines to use the area occupied by the permittee for any public purpose in accordance with the duly dedicated public easement or other lawful use.

Unless a shorter notice period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance, giving the permittee 30 days written notice delivered to the last known electronic address, facsimile number, or mailing address of the permittee shall be sufficient notice of termination.

Upon termination permittee shall cause all private improvements to be removed by the deadline provided in termination notice. Permittee shall be responsible for all costs incurred to remove the private improvements, including any costs associated with repairing damage caused to the public easement by the removal and without right to claim from the city of Duluth, or any of its officers, agents or servants, any compensation or reimbursement for damages of any kind whatsoever.

Section 4. By accepting the terms of this ordinance, the permittee agrees to hold harmless and defend and indemnify the city of Duluth against claims or demand which may arise against the city of Duluth by reason of the existence of private improvements, or any act or omission of the permittee, its employees, agents, and assigns. The permittee agrees that the city of Duluth shall not be liable for damage caused to the private improvements while the city engages in the repair and maintenance to, or replacement of, the public improvements or public utilities, including any snow removal operations. The permittee agrees to pay to the city of Duluth all extra costs of installation of any public improvements or public utilities made necessary by the presence of the private improvements.

Section 5. The permittee shall, at its expense, protect, support, temporarily disconnect, or remove from the public easement, the private improvements when required by city officials by reason of snow removal, traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines and tracks, the installation or repair of any type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

Section 6. Upon the sale or transfer of permittee's interest in the permit granted by this ordinance, the permittee shall provide written notice to the planning division within five days of such transfer. The permittee's successor in interest shall file with the planning division within ten days of such transfer a duly executed and acknowledged written acceptance of the terms of this ordinance and the certificate of insurance required in Section 2 above.

Section 7. The permit granted by this ordinance is subject to termination by the city of Duluth upon permittee's failure to comply with any of the terms and conditions of this permit. Ten days written notice, delivered as provided in Section 3 above shall be sufficient notice of

termination. Upon termination, permittee shall remove the private improvements as provided in Section 3.

Section 8. The permittee shall observe the following conditions:

(a) Permittee's use of the public right-of-way or easement shall be limited to the designated area described in Section 1 above and further shown on Public Document No. 15-0601-07; and

(b) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as in no way interfere with or damage any portion of any public improvement, or other public utilities now or to hereinafter located in any part of said public easement; and

(c) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the land use supervisor without further planning commission or city council approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Section 9. The following events shall automatically cause the termination of the term of this ordinance:

(a) The failure by the permittee to file the required insurance certificate as specified in Section 2 30 days after this ordinance takes effect; or

(b) The failure of the permittee to commence the improvements authorized by this ordinance within 180 days after this ordinance takes effect.

Section 10. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 9, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed June 1, 2015  
Approved June 1, 2015  
DON NESS, Mayor

- - -

### **ORDINANCE NO. 10380**

AN ORDINANCE GRANTING TO NORSHOR THEATRE, LLC, A CONCURRENT USE PERMIT FOR UNDERGROUND VAULTS LOCATED IN THE RIGHT-OF-WAY OF EAST SUPERIOR STREET (APPROXIMATELY 188 FEET BY 14 FEET) AND NORTH SECOND AVENUE EAST (APPROXIMATELY 84 FEET BY 13 FEET), ADJACENT TO THE NORSHOR THEATRE.

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 granted to NorShore Theatre, LLC, and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) Underground vaults located under East Superior Street (approximately 188 feet by 14 feet) and North Second Avenue East (approximately 84 feet by 13 feet), adjacent to the NorShor Theatre, as shown in Public Document No. 15-0601-08.

Section 2. Before this ordinance shall be effective for any purpose whatsoever, the permittee shall file with the planning division a certification of insurance approved as to form by

the city attorney evidencing that the permittee has in force a policy of insurance meeting the following requirements:

(a) Comprehensive general liability insurance in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage; and

(b) Insurance coverage shall include all permittee's activities occurring upon or within public right-of-way or easement occupied pursuant to this ordinance whether said activities are performed by the permittee or its agents or representatives; and

(c) The insurance policy shall be approved by the city attorney; and

(d) The policy shall contain a condition that it may not be canceled without 30 days written notice to the city of Duluth and directed to the attention of the city attorney; and

(e) The city of Duluth shall be named as an additional insured; and

(f) The certificate shall also reference this ordinance by its ordinance number.

Section 3. The permit granted by this ordinance may be terminated at any time by the city official exercising departmental authority of the public easement if the city of Duluth determines to use the area occupied by the permittee for any public purpose in accordance with the duly dedicated public easement or other lawful use.

Unless a shorter notice period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance, giving the permittee 30 days written notice delivered to the last known electronic address, facsimile number, or mailing address of the permittee shall be sufficient notice of termination.

Upon termination permittee shall cause all private improvements to be removed by the deadline provided in termination notice. Permittee shall be responsible for all costs incurred to remove the private improvements, including any costs associated with repairing damage caused to the public easement by the removal and without right to claim from the city of Duluth, or any of its officers, agents or servants, any compensation or reimbursement for damages of any kind whatsoever.

Section 4. By accepting the terms of this ordinance, the permittee agrees to hold harmless and defend and indemnify the city of Duluth against claims or demand which may arise against the city of Duluth by reason of the existence of private improvements, or any act or omission of the permittee, its employees, agents, and assigns. The permittee agrees that the city of Duluth shall not be liable for damage caused to the private improvements while the city engages in the repair and maintenance to, or replacement of, the public improvements or public utilities, including any snow removal operations. The permittee agrees to pay to the city of Duluth all extra costs of installation of any public improvements or public utilities made necessary by the presence of the private improvements.

Section 5. The permittee shall, at its expense, protect, support, temporarily disconnect, or remove from the public easement, the private improvements when required by city officials by reason of snow removal, traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines and tracks, the installation or repair of any type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

Section 6. Upon the sale or transfer of permittee's interest in the permit granted by this ordinance, the permittee shall provide written notice to the planning division within five days of such transfer. The permittee's successor in interest shall file with the planning division within ten days of such transfer a duly executed and acknowledged written acceptance of the terms of this ordinance and the certificate of insurance required in Section 2 above.

Section 7. The permit granted by this ordinance is subject to termination by the city of Duluth upon permittee's failure to comply with any of the terms and conditions of this permit. Ten days written notice, delivered as provided in Section 3 above shall be sufficient notice of

termination. Upon termination, permittee shall remove the private improvements as provided in Section 3.

Section 8. The permittee shall observe the following conditions:

(a) Permittee's use of the public right-of-way or easement shall be limited to the designated area described in Section 1 above and further shown on Public Document No. 15-0601-08; and

(b) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as in no way interfere with or damage any portion of any public improvement, or other public utilities now or to hereinafter located in any part of said public easement; and

(c) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the land use supervisor without further planning commission or city council approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Section 9. The following events shall automatically cause the termination of the term of this ordinance:

(a) The failure by the permittee to file the required insurance certificate as specified in Section 2 30 days after this ordinance takes effect; or

(b) The failure of the permittee to commence the improvements authorized by this ordinance within 180 days after this ordinance takes effect.

Section 10. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 9, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed June 1, 2015  
Approved June 1, 2015  
DON NESS, Mayor

- - -

### ORDINANCE NO. 10381

AN ORDINANCE GRANTING TO NORSHOR THEATRE, LLC, A CONCURRENT USE PERMIT FOR THE TEMPLE OPERA/NORSHOR THEATRE BUILDINGS, WHICH PROTRUDE INTO THE REAR ALLEY APPROXIMATELY 0.4 FEET AND INTO SUPERIOR STREET A DISTANCE RANGING FROM 0.3 FEET TO 1.1 FEET.

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 granted to NorShore Theater LLC, and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) The existing Temple Opera/NorShor Theatre Buildings, which protrude into the rear alley approximately 0.4 feet and into Superior Street a distance ranging from 0.3 feet to 1.1 feet, as shown in Public Document No. 15-0601-09.

Section 2. Before this ordinance shall be effective for any purpose whatsoever, the permittee shall file with the planning division a certification of insurance approved as to form by

the city attorney evidencing that the permittee has in force a policy of insurance meeting the following requirements:

(a) Comprehensive general liability insurance in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage; and

(b) Insurance coverage shall include all permittee's activities occurring upon or within public right-of-way or easement occupied pursuant to this ordinance whether said activities are performed by the permittee or its agents or representatives; and

(c) The insurance policy shall be approved by the city attorney; and

(d) The policy shall contain a condition that it may not be canceled without 30 days written notice to the city of Duluth and directed to the attention of the city attorney; and

(e) The city of Duluth shall be named as an additional insured; and

(f) The certificate shall also reference this ordinance by its ordinance number.

Section 3. The permit granted by this ordinance may be terminated at any time by the city official exercising departmental authority of the public easement if the city of Duluth determines to use the area occupied by the permittee for any public purpose in accordance with the duly dedicated public easement or other lawful use.

Unless a shorter notice period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance, giving the permittee 30 days written notice delivered to the last known electronic address, facsimile number, or mailing address of the permittee shall be sufficient notice of termination.

Upon termination permittee shall cause all private improvements to be removed by the deadline provided in termination notice. Permittee shall be responsible for all costs incurred to remove the private improvements, including any costs associated with repairing damage caused to the public easement by the removal and without right to claim from the city of Duluth, or any of its officers, agents or servants, any compensation or reimbursement for damages of any kind whatsoever.

Section 4. By accepting the terms of this ordinance, the permittee agrees to hold harmless and defend and indemnify the city of Duluth against claims or demand which may arise against the city of Duluth by reason of the existence of private improvements, or any act or omission of the permittee, its employees, agents, and assigns. The permittee agrees that the city of Duluth shall not be liable for damage caused to the private improvements while the city engages in the repair and maintenance to, or replacement of, the public improvements or public utilities, including any snow removal operations. The permittee agrees to pay to the city of Duluth all extra costs of installation of any public improvements or public utilities made necessary by the presence of the private improvements.

Section 5. The permittee shall, at its expense, protect, support, temporarily disconnect, or remove from the public easement, the private improvements when required by city officials by reason of snow removal, traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines and tracks, the installation or repair of any type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

Section 6. Upon the sale or transfer of permittee's interest in the permit granted by this ordinance, the permittee shall provide written notice to the planning division within five days of such transfer. The permittee's successor in interest shall file with the planning division within ten days of such transfer a duly executed and acknowledged written acceptance of the terms of this ordinance and the certificate of insurance required in Section 2 above.

Section 7. The permit granted by this ordinance is subject to termination by the city of Duluth upon permittee's failure to comply with any of the terms and conditions of this permit. Ten days written notice, delivered as provided in Section 3 above shall be sufficient notice of

termination. Upon termination, permittee shall remove the private improvements as provided in Section 3.

Section 8. The permittee shall observe the following conditions:

(a) Permittee's use of the public right-of-way or easement shall be limited to the designated area described in Section 1 above and further shown on Public Document No. 15-0601-09; and

(b) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as in no way interfere with or damage any portion of any public improvement, or other public utilities now or to hereinafter located in any part of said public easement; and

(c) Any alterations to the approved plans that do not alter major elements of the plan may be approved By the land use supervisor without further planning commission or city council approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Section 9. The following events shall automatically cause the termination of the term of this ordinance:

(a) The failure by the permittee to file the required insurance certificate as specified in Section 2 30 days after this ordinance takes effect; or

(b) The failure of the permittee to commence the improvements authorized by this ordinance within 180 days after this ordinance takes effect.

Section 10. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 9, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed June 1, 2015  
Approved June 1, 2015  
DON NESS, Mayor

- - -

### **ORDINANCE NO. 10382**

**AN ORDINANCE GRANTING TO NORSHOR THEATRE, LLC, A  
CONCURRENT USE PERMIT FOR THE EXISTING MARQUEE  
WHICH EXTENDS APPROXIMATELY 11 FEET INTO EAST  
SUPERIOR STREET.**

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 granted to NorShore Theatre LLC, and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) The existing marquee, which extends approximately 11 feet into E Superior Street, as shown in Public Document No. 15-0601-10

Section 2. Before this ordinance shall be effective for any purpose whatsoever, the permittee shall file with the planning division a certification of insurance approved as to form by the city attorney evidencing that the permittee has in force a policy of insurance meeting the following requirements:

(a) Comprehensive general liability insurance in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage; and

(b) Insurance coverage shall include all permittee's activities occurring upon or within public right-of-way or easement occupied pursuant to this ordinance whether said activities are performed by the permittee or its agents or representatives; and

(c) The insurance policy shall be approved by the city attorney; and

(d) The policy shall contain a condition that it may not be canceled without 30 days written notice to the city of Duluth and directed to the attention of the city attorney; and

(e) The city of Duluth shall be named as an additional insured; and

(f) The certificate shall also reference this ordinance by its ordinance number.

Section 3. The permit granted by this ordinance may be terminated at any time by the city official exercising departmental authority of the public easement if the city of Duluth determines to use the area occupied by the permittee for any public purpose in accordance with the duly dedicated public easement or other lawful use.

Unless a shorter notice period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance, giving the permittee 30 days written notice delivered to the last known electronic address, facsimile number, or mailing address of the permittee shall be sufficient notice of termination.

Upon termination permittee shall cause all private improvements to be removed by the deadline provided in termination notice. Permittee shall be responsible for all costs incurred to remove the private improvements, including any costs associated with repairing damage caused to the public easement by the removal and without right to claim from the city of Duluth, or any of its officers, agents or servants, any compensation or reimbursement for damages of any kind whatsoever.

Section 4. By accepting the terms of this ordinance, the permittee agrees to hold harmless and defend and indemnify the city of Duluth against claims or demand which may arise against the city of Duluth by reason of the existence of private improvements, or any act or omission of the permittee, its employees, agents, and assigns. The permittee agrees that the city of Duluth shall not be liable for damage caused to the private improvements while the city engages in the repair and maintenance to, or replacement of, the public improvements or public utilities, including any snow removal operations. The permittee agrees to pay to the city of Duluth all extra costs of installation of any public improvements or public utilities made necessary by the presence of the private improvements.

Section 5. The permittee shall, at its expense, protect, support, temporarily disconnect, or remove from the public easement, the private improvements when required by city officials by reason of snow removal, traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines and tracks, the installation or repair of any type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

Section 6. Upon the sale or transfer of permittee's interest in the permit granted by this ordinance, the permittee shall provide written notice to the planning division within five days of such transfer. The permittee's successor in interest shall file with the planning division within ten days of such transfer a duly executed and acknowledged written acceptance of the terms of this ordinance and the certificate of insurance required in Section 2 above.

Section 7. The permit granted by this ordinance is subject to termination by the city of Duluth upon permittee's failure to comply with any of the terms and conditions of this permit. Ten days written notice, delivered as provided in Section 3 above shall be sufficient notice of termination. Upon termination, permittee shall remove the private improvements as provided in Section 3.

Section 8. The permittee shall observe the following conditions:

(a) Permittee's use of the public right-of-way or easement shall be limited to the designated area described in Section 1 above and further shown on Public Document No. 15-0601-10; and

(b) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as in no way interfere with or damage any portion of any public improvement, or other public utilities now or to hereinafter located in any part of said public easement; and

(c) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the land use supervisor without further planning commission or city council approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

(d) Plans for the building marquee shall be reviewed and approved by the City of Duluth Heritage Preservation Commission for historic appropriateness prior to receiving a building permit.

Section 9. The following events shall automatically cause the termination of the term of this ordinance:

(a) The failure by the permittee to file the required insurance certificate as specified in Section 2 30 days after this ordinance takes effect; or

(b) The failure of the permittee to commence the improvements authorized by this ordinance within 180 days after this ordinance takes effect.

Section 10. That this ordinance shall take effect 30 days after its passage and publication. (Effective Date: July 9, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed June 1, 2015  
Approved June 1, 2015  
DON NESS, Mayor

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### **ORDINANCE NO. 10383**

AN ORDINANCE GRANTING TO SPIRIT MOUNTAIN A CONCURRENT USE PERMIT FOR A 36 INCH PRIVATE WATER LINE LOCATED ON THE PUBLIC RIGHT-OF-WAY OF A PLATTED AND UNIMPROVED ALLEY AT THE 8500 BLOCK OF GRAND AVENUE (SPIRIT MOUNTAIN AREA RECREATION AUTHORITY).

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 granted to Spirit Mountain Mountain Area Recreation Authority, and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) A 36 inch water line in the public right-of-way, located on a 20 feet by 30 feet area of the platted right-of-way of an unimproved alley in Block 10 of the Ironton 1st Division, as shown in Public Document No. 15-0601-11.



Section 2. Before this ordinance shall be effective for any purpose whatsoever, the permittee shall file with the planning division a certification of insurance approved as to form by the city attorney evidencing that the permittee has in force a policy of insurance meeting the following requirements:

(a) Comprehensive general liability insurance in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage; and

(b) Insurance coverage shall include all permittee's activities occurring upon or within public right-of-way or easement occupied pursuant to this ordinance whether said activities are performed by the permittee or its agents or representatives; and

(c) The insurance policy shall be approved by the city attorney; and

(d) The policy shall contain a condition that it may not be canceled without 30 days written notice to the city of Duluth and directed to the attention of the city attorney; and

(e) The city of Duluth shall be named as an additional insured; and

(f) The certificate shall also reference this ordinance by its ordinance number.

Section 3. The permit granted by this ordinance may be terminated at any time by the city official exercising departmental authority of the public easement if the city of Duluth determines to use the area occupied by the permittee for any public purpose in accordance with the duly dedicated public easement or other lawful use.

Unless a shorter notice period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance, giving the permittee 30 days written notice delivered to the last known electronic address, facsimile number, or mailing address of the permittee shall be sufficient notice of termination.

Upon termination permittee shall cause all private improvements to be removed by the deadline provided in termination notice. Permittee shall be responsible for all costs incurred to remove the private improvements, including any costs associated with repairing damage caused to the public easement by the removal and without right to claim from the city of Duluth, or any of its officers, agents or servants, any compensation or reimbursement for damages of any kind whatsoever.

Section 4. By accepting the terms of this ordinance, the permittee agrees to hold harmless and defend and indemnify the city of Duluth against claims or demand which may arise against the city of Duluth by reason of the existence of private improvements, or any act or omission of the permittee, its employees, agents, and assigns. The permittee agrees that the city of Duluth shall not be liable for damage caused to the private improvements while the city engages in the repair and maintenance to, or replacement of, the public improvements or public utilities, including any snow removal operations. The permittee agrees to pay to the city of Duluth all extra costs of installation of any public improvements or public utilities made necessary by the presence of the private improvements.

Section 5. The permittee shall, at its expense, protect, support, temporarily disconnect, or remove from the public easement, the private improvements when required by city officials by reason of snow removal, traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines and tracks, the installation or repair of any type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

Section 6. Upon the sale or transfer of permittee's interest in the permit granted by this ordinance, the permittee shall provide written notice to the planning division within five days of such transfer. The permittee's successor in interest shall file with the planning division within ten days of such transfer a duly executed and acknowledged written acceptance of the terms of this ordinance and the certificate of insurance required in Section 2 above.

Section 7. The permit granted by this ordinance is subject to termination by the city of Duluth upon permittee's failure to comply with any of the terms and conditions of this permit. Ten days written notice, delivered as provided in Section 3 above shall be sufficient notice of termination. Upon termination, permittee shall remove the private improvements as provided in Section 3.

Section 8. The permittee shall observe the following conditions:

(a) Permittee's use of the public right-of-way or easement shall be limited to the designated area described in Section 1 above and further shown on Public Document No. 15-0601-11; and

(b) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as in no way interfere with or damage any portion of any public improvement, or other public utilities now or to hereinafter located in any part of said public right-of-way easement.

Section 9. The following events shall automatically cause the termination of the term of this ordinance:

(a) The failure by the permittee to file the required insurance certificate as specified in Section 2 30 days after this ordinance takes effect; or

(b) The failure of the permittee to commence the improvements authorized by this ordinance within 180 days after this ordinance takes effect.

Section 10. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 9, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed June 1, 2015  
Approved June 1, 2015  
DON NESS, Mayor

- - -

#### **ORDINANCE NO. 10384**

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RR-1 TO RR-2 PROPERTY ALONG NORTH 87TH AVENUE WEST IN BAYVIEW HEIGHTS (JEREL FINEOUT).

The city of Duluth does ordain:

Section 1. That approximately ten acres of land located on the west side of North 87th Avenue West south of Saint Louis River Road and as more particularly described as follows:

South Half of Northwest Quarter of Northeast Quarter of Southwest Quarter, Section 2, Township 49 North, Range 15 West, in Saint Louis County, Minnesota; and

North Half of Southwest Quarter of Northeast Quarter of Southwest Quarter, Section 2, Township 49 North, Range 15 West, in Saint Louis County, Minnesota;

be reclassified from Residential-Rural 1 (RR-1) to Residential-Rural 2 (RR-2), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



(Ref. File No. 15-065)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 9, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed June 1, 2015  
Approved June 1, 2015  
DON NESS, Mayor

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**ORDINANCE NO. 10385**

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-P TO R-1 BLOCKS 9, 10, 11 AND PART OF BLOCK 7, COFFEE CREEK SUBDIVISION (HAMILTON TAYLOR HOMES).

The city of Duluth does ordain:

Section 1. That approximately ten acres of land located in Coffee Creek and as more particularly described as follows:

Lots 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16, Block 7, COFFEE CREEK, according to the recorded plat thereof, St. Louis County, Minnesota. Including 33 feet of Coffee Creek Boulevard running adjacent to said lots.

And:

Lots 1 and 2 Block 9, COFFEE CREEK, according to the recorded plat thereof, St. Louis County, Minnesota. Including 33 feet of Coffee Creek Boulevard running adjacent to said lots.

And:

Lots, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14, Block 10, COFFEE CREEK, according to the recorded plat thereof, St. Louis County, Minnesota. Including 33 feet of Coffee Creek Boulevard running adjacent to said lots.

And:

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14, Block 11, COFFEE CREEK, according to the recorded plat thereof, St. Louis County, Minnesota. Including 33 feet of Coffee Creek Boulevard running adjacent to said lots;

be reclassified from Residential-Planned (R-P) to Residential-Traditional (R-1), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



(Ref. File No. 15-045)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 9, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed June 1, 2015

Approved June 1, 2015

DON NESS, Mayor

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**ORDINANCE NO. 10386**

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-P TO R-1 BLOCK 8 AND PART OF BLOCK 7, COFFEE CREEK SUBDIVISION (CITY OF DULUTH).

The city of Duluth does ordain:

Section 1. That approximately 9 acres of land located in Coffee Creek and as more particularly described as follows:

Lots 17, 18, 19, 20, 21 and 22, Block 7, COFFEE CREEK, according to the recorded plat thereof, St. Louis County, Minnesota, together with appurtenant streets, avenues, and alleys thereto;

And

Lots 1, 2, 3, 4, 5 and 6, Block 8, COFFEE CREEK, according to the recorded plat thereof, St. Louis County, Minnesota, together with appurtenant streets, avenues and alleys thereto;

And

Outlots D, E, K and L, COFFEE CREEK, according to the recorded plat thereof, St. Louis County, Minnesota, together with appurtenant streets, avenues, and alleys thereto; be reclassified from Residential-Planned (R-P) to Residential-Traditional (R-1), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



(Ref. File No. 15-072)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 9, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed June 1, 2015  
Approved June 1, 2015  
DON NESS, Mayor

- - -

**ORDINANCE NO. 10387**

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO MU-N PROPERTY AT 1501 KENWOOD AVENUE, 15 WEST CLEVELAND STREET AND 1429 ARROWHEAD ROAD (KENWOOD VILLAGE, LLC).

The city of Duluth does ordain:

Section 1. That approximately 1.3 acres of land located at and as more particularly described as follows:

THE SOUTHERLY FOURTEEN (14) FEET OF LOT EIGHT (8) AND ALL OF LOTS NINE (9) AND TEN (10), BLOCK ONE (1), MYERS & WHIPPLES ADDITION TO DULUTH TOGETHER WITH APPURTENANT STREETS, AVENUES AND ALLEYS THERETO; ALL IN THE CITY OF DULUTH, SAINT LOUIS COUNTY, MINNESOTA.

AND

LOTS SEVEN (7) AND EIGHT (8), BLOCK TWO (2), MYERS & WHIPPLES ADDITION TO DULUTH TOGETHER WITH APPURTENANT STREETS, AVENUES AND ALLEYS THERETO; ALL IN THE CITY OF DULUTH, SAINT LOUIS COUNTY, MINNESOTA.

AND

LOTS ONE (1) THROUGH SEVEN (7), BLOCK ELEVEN (11), MYERS & WHIPPLES ADDITION TO DULUTH TOGETHER WITH APPURTENANT STREETS, AVENUES AND ALLEYS THERETO; ALL IN THE CITY OF DULUTH, SAINT LOUIS COUNTY, MINNESOTA;

be reclassified from Residential-Traditional (R-1) to Mixed Use-Neighborhood (MU-N), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



(Ref. File No. 15-060)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 9, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed June 1, 2015  
Approved June 1, 2015  
DON NESS, Mayor

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**ORDINANCE NO. 10388**

AN ORDINANCE AUTHORIZING THE EXCHANGE OF PROPERTY ON SOUTH LAKE AVENUE WITH DALE AND ELIZABETH SOLA FOR EXPANSION OF SEWER PUMPING STATION NO. 8.

The city of Duluth does ordain:

Section 1. That pursuant to the requirements of Section 2-176 of the Duluth City Code, 1959, as amended, the city council finds that:

(a) The planning division has determined that the proposed conveyance of the subject city-owned property described on attached Exhibit A for adjacent property owned by Dale and Elizabeth M. Sola, described on attached Exhibit B, said exhibits substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0601-12, to facilitate the expansion of a sanitary sewer substation on serving Park Point conforms to the city's comprehensive plan;

(b) The city assessor has provided an estimate of value for the property described on Exhibit A in the applicable real estate market indicating that the market value of the property is \$20,000; and

(c) The city council finds that the exchange of the properties described in Public Document No. 15-0601-12 at no cost to either party to allow for the expansion of the sanitary sewer pumping station to be in the best interests of the public and the citizens of the city in that it will be an exchange of property of equal value which will allow the improvement of utility services to the Park Point area.

Section 2. That, pursuant to the provisions of Section 2-177.4 of the Duluth City Code, 1959, as amended, the proper city officials are hereby authorized to convey by quit claim deed the property described in on Exhibit A on Public Document No. 15-0601-12, on file in the office of the city clerk to Dale and Elizabeth Sola in exchange for the conveyance to the city by quit claim deed of that property described on Exhibit B on said public document.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 9, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed June 1, 2015  
Approved June 1, 2015  
DON NESS, Mayor

- - -



**MINUTES OF THE REGULAR MEETING  
OF THE DULUTH CITY COUNCIL**

June 15, 2015

Duluth City Council meeting held on Monday, June 15, 2015, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Absent: None -- 0

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**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

15-0615-01 Minnesota state auditor: (a) Audit report for Duluth airport authority for the years ended December 31, 2014, and 2013; (b) Management and compliance report for city of Duluth for the year ended December 31, 2014. -- Received

15-0615-02 The following communications regarding the proposed planning study of the city's official controls related to vacation dwelling units and imposing a moratorium on new permits for vacation dwelling units pending completion of the study (15-047-O): (a) Patricia Burns; (b) Theresa Hanson; (c) Jim and Rachel Moseley. -- Received

15-0615-12 The following communications regarding the proposed Grand Avenue Nordic Center mini-master plan (15-0358R): (a) Gloria DeSmedt; (b) Jay Thompson. -- Received

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**REPORTS FROM OTHER OFFICERS**

15-0615-03 Clerk applications for exempt permits (raffles) to the Minnesota gambling control board from: (a) Duluth Amateur Hockey Association on January 12, 2016; (b) Holy Family Catholic Church on September 19, 2015. -- Received

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**REPORTS OF BOARDS AND COMMISSIONS**

15-0615-04 Civil service board minutes of February 3, 2015, meeting. -- Received

15-0615-05 Duluth economic development authority minutes of April 22, 2015, meeting. -- Received

15-0615-06 Duluth Seaway Port authority minutes of: (a) December 11, 2014, special meeting; (b) January 29, 2015, meeting. -- Received

15-0615-07 Duluth transit authority March 2015 financial statement. -- Received

15-0615-08 Heritage preservation commission minutes of April 28, 2015, meeting. -- Received

15-0615-09 Library board minutes of April 28, 2015, meeting. -- Received

15-0615-10 Planning commission minutes of April 14, 2015, meeting. -- Received

15-0615-11 Spirit Mountain recreation area authority board minutes of April 16, 2015, meeting. -- Received

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**REPORT OF COUNCIL OPEN ISSUES**

To Councilor Sipress' inquiry, Chief Administrative Officer David Montgomery reviewed

the rationale and intent of hiring a consultant to review options for a possible relocation for the main public library.

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## MOTIONS AND RESOLUTIONS

### CONSENT AGENDA

*(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)*

President Larson moved passage of the consent agenda, which motion was seconded and unanimously carried.

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

Section 1. Recitals.

1.01 The city has previously issued certain obligations in the years 2004 and 2006 through and including 2009 of which at least one maturity remains outstanding as of the date of this resolution (the "obligations").

1.02 Continuing disclosure certificates of the city for each series of the Obligations pursuant to Securities and Exchange Commission Rule 15c2-12(b)(5), as amended (the "rule"), were set forth in a corresponding continuing disclosure certificate dated the date of issue for the obligations.

1.03 The city's continuing disclosure certificates require the city to file its annual reports within 180 days of the end of its fiscal year.

1.04 The city desires to amend such continuing disclosure certificates to change the deadline to the October 1 immediately following the close of each fiscal year of the city, which is December 31.

1.05 The city may amend the certificates without the consent of bondholders if it is made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of an obligated person with respect to the obligations, or the type of business conducted; and the certificates, as amended, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the rule at the time of the original issuance of the obligations, after taking into account any amendments or interpretations of the rule, as well as any change in circumstance; and the amendment does not, in the opinion of nationally recognized bond council, materially impair the interests of the holders or beneficial owners of the obligations.

Section 2. Authorization.

2.01 The mayor and the clerk are authorized to execute the comprehensive amended and restated continuing disclosure certificate substantially in the form of the certificate currently on file in the office of the city clerk as Public Document No. 15-0615-13.

Resolution 15-0330 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 15-0615-14, which is levied to collect delinquent sewer, water, stormwater, street maintenance and street lights utility fees payable during the period of January 1, 2014, to December 31, 2014, as provided for in Article XI of Chapter 43 of the Duluth City Code, is hereby confirmed.

Resolution 15-0339 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 15-0615-15, which is levied to collect delinquent property violation administration penalty citations for the period of April 1, 2014, to April 1, 2015, as authorized in Chapter 12 of the Duluth City Code, 1959, as amended, is hereby confirmed.

Resolution 15-0343 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 15-0615-16, which is levied to collect delinquent solid waste collection fees payable during the period of March 1, 2014, to June 1, 2015, as provided for in Chapter 24 of the City Charter, is hereby confirmed.

Resolution 15-0351 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

Alpine Bar & Lounge, Inc. (Alpine Bar & Lounge), 1308 Commonwealth Avenue, for June 26-28, 2015, from 7:00 p.m. to midnight on June 26, 2015, from 6:00 p.m. to 1:00 a.m. on June 27, 2015, and 11:00 a.m. to 3:00 p.m. on June 28, 2015.

PDL of Duluth, Inc. (Club Saratoga), 331 Canal Park Drive, for June 20, 2015, serving from 8:00 a.m. to 3:00 p.m.

The Lake Effect Restaurant, Inc. (Lake Avenue Café), 394 Lake Avenue South, for June 19 and 20, 2015, with music and serving ceasing at 1:15 a.m.

Grandma's Angie's, Inc. (Little Angie's Cantina), 11 East Buchanan Street, in conjunction with Grandma's Marathon, for June 20, 2015, with the serving ceasing at 2:00 a.m.

Shotz Bar, Inc. (Shotz Bar), 1321 Commonwealth Avenue, for June 27, 2015, from 6:00 p.m. to 1:00 a.m.

Bergey's, LLC (Bergey's), 2232 West Superior Street, for June 27, 2015, from 12:00 p.m. to 8:00 p.m.

Chaser's of Duluth, Inc. (Bedrock Bar), 2013 West Superior Street, for June 20, 2015, from 6:00 p.m. to 9:00 p.m.

Lemon Reef, Inc. (Reef Bar), 2002 London Road, for June 20, 2015, serving from 8:00 a.m. to 2:00 p.m.

Up North Taps, LLC (7 West Taphouse), 7 West Superior Street, for July 8, 2015, serving from 11:00 a.m. to 8:00 p.m.

Rosberg, Inc. (Roscoe's Pioneer Bar), 323 West First Street, for July 10, 2015, serving from 6:00 p.m. to 12:00 a.m.

Hospitality of Duluth, LLC (Aces on First), 113 West First Street, for July 10, 2015, (rain date July 17, 2015), serving from 6:00 p.m. to 12:00 a.m.

Resolution 15-0331 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale 3.2 percent malt liquor license, subject to departmental approvals with any further restrictions:

AAD Shriners, (KIA of Duluth Drag Races and Car Show), 435 Garfield Avenue, for September 12 - 13, 2015, with Ryan Kern, manager.

Resolution 15-0332 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor licenses, subject to departmental approvals with any further restrictions and further subject to approval of the liquor control commissioner:

Duluth Amateur Hockey Association (Blues Fest), Bayfront Park, for August 7-9, 2015, serving from 11:00 a.m. to 10:00 p.m. with Clark Coole, manager.

Minnesota Craft Brewer's Guild, (All Pints North), Bayfront Park, for July 25, 2015, from 3:00 p.m. to 7:00 p.m., with Amanda Buhman, manager.

Ridgeview Country Club, 700 West Redwing Street, for July 23-26, 2015, with Clint Johnson, manager.

Resolution 15-0333 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council approves the following permanent expansion of the designated serving area of the on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 2015, subject to departmental approvals and the payment of sales and property taxes:

Lemon's Reef, (The Reef Bar), 2002 London Road, to include outside patio area in parking lot.

Resolution 15-0334 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council issues the following permanent expansion of the designated serving area of the on sale wine license and on sale 3.2 percent malt liquor license for the period ending August 31, 2015, and April 30, 2016, respectively, subject to departmental approvals and the payment of sales and property taxes:

Big Lake, LLC (Toasty's), 1032 East Ninth Street, to include the fenced in yard and deck.

Resolution 15-0335 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of stock of the following on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 2015, subject to departmental approvals;

Cool Asian Bistro, Inc. (Cloud 9 Asian Bistro), 308 Lake Avenue South, with Ming Hui Zheng, 30 percent stockholder, Martin Ma, 35 percent stockholder, and Meilan Lin, 35 percent stockholder.

Resolution 15-0348 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following on sale wine license and issues a 3.2 percent malt liquor license for the period

beginning September 1, 2015, and ending August 31, 2016, and April 30, 2016, respectively, subject to departmental approvals, and further subject to the liquor control commissioner:

MUY! Pizza Minnesota, LLC (Pizza Hut), 902 Woodland Avenue, to include outside patio area.

Resolution 15-0349 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following off sale microdistillery liquor license for the period ending August 31, 2015, subject to departmental approvals, and the payment of sales and property taxes:

Vikre Distillery, LLC (Vikre Distillery), 525 Lake Avenue South.

Resolution 15-0350 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to Kraus-Anderson Community Foundation and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a copy of this resolution to the Minnesota gambling control board immediately after its passage.

Resolution 15-0357 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to purchase an Elgin Pelican NP street sweeper from MacQueen Equipment, Inc., Minnesota State Contract 83362, for a total amount of \$187,268, payable from Capital Equipment 250; Public Administration 015; Fiscal Year 2015; Capital Equipment 5580; Project: CE250-v1504 - Capital Equipment Fund 250, maintenance ops vehicles.

Resolution 15-0362 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council issues the following permanent expansion of the designated serving area of the on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 2015, subject to departmental approvals and the payment of sales and property taxes:

The Greens Duluth, Inc. (The Break Room), 501 East Fourth Street, to include the patio in the back of building.

Resolution 15-0363 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of permitting services leadworker, which were approved by the civil service board on June 2, 2015, and which are filed with the city clerk, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 32, \$4,316 to \$5,087 per month. The proper city officials are

authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 15-0340 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of water quality specialist, including a title change to utility resources specialist, which were approved by the civil service board on June 2, 2015, and which are filed with the city clerk, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 31, \$4,140 to \$4,879, per month.

Resolution 15-0341 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of utility operations program coordinator, including a title change to utility programs coordinator, which were approved by the civil service board on June 2, 2015, and which are filed with the city clerk, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 33, \$4,493 to \$5,305, per month.

Resolution 15-0342 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of construction services information and communications specialist, which were approved by the civil service board on June 2, 2015, and which are filed with the city clerk, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 132, \$3,986 to \$4,692 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 15-0347 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the reappointments by Mayor Ness of Kenneth D. Butler and Patrick Mullen to the Duluth airport authority for terms expiring on July 1, 2018, are confirmed.

Resolution 15-0367 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness to the Duluth transit authority of Rondi Watson (at large) for a term expiring on June 30, 2018, replacing Walter Kramer, is confirmed.

Resolution 15-0368 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the reappointments by Mayor Ness to the Duluth transit authority of Wayne Nelson (at large) and Anthony Orman (District 1) for terms expiring on June 30, 2018, are confirmed.

Resolution 15-0369 was unanimously adopted.  
Approved June 15, 2015  
DON NESS, Mayor

- - -

RESOLVED, that the appointment to the Spirit Mountain recreation area authority by Mayor Ness of Kathryn Ferguson, for a term expiring on June 30, 2018, replacing Neale Roth, is confirmed.

Resolution 15-0370 was unanimously adopted.  
Approved June 15, 2015  
DON NESS, Mayor

- - -

RESOLVED, that the reappointment to the Spirit Mountain recreation area authority by Mayor Ness of Todd Torvinen for a term expiring on June 30, 2017, is confirmed.

FURTHER RESOLVED, that the reappointment to the Spirit Mountain recreation area authority by Mayor Ness of Jane Gilbert-Howard for a term expiring on June 30, 2018, is also confirmed.

Resolution 15-0371 was unanimously adopted.  
Approved June 15, 2015  
DON NESS, Mayor

- - -

RESOLVED, that the reappointment by Mayor Ness of Marcia Podratz to the sanitary sewer board of the Western Lake Superior Sanitary District for a term expiring on July 1, 2017, is confirmed.

FURTHER RESOLVED, that the reappointment by Mayor Ness of Paul Thomsen to the sanitary sewer board of the Western Lake Superior Sanitary District for a term expiring on July 1, 2018, is also confirmed.

Resolution 15-0372 was unanimously adopted.  
Approved June 15, 2015  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute a one year license agreement, substantially in the form of the attached document, with the Duluth economic development authority (DEDA), to allow the city to operate DEDA Lot B in Bayfront for vehicular parking and to allow the city use of DEDA-owned property adjacent to Lot B for Bayfront Festival Park-related purposes.

FURTHER RESOLVED, that this license agreement is at no cost to the city.  
Resolution 15-0237 was unanimously adopted.  
Approved June 15, 2015  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to the redevelopment grant agreement, substantially in the form of that attached as Exhibit A, with the state of Minnesota acting through the department of employment and economic development ("DEED") to revise certain line items and amounts within said

agreement with no change in the total grant amount or required match, and to extend the grant period by six months, to December 31, 2015, all related to the Pier B project.

Resolution 15-0346 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that pursuant to the provisions of Minnesota Statutes Section 645.021 Subd. 2, the city council of the city of Duluth hereby approves the provisions of Laws of Minnesota, Chapter 9, Article 2, Section 9.

RESOLVED FURTHER, that the city clerk shall file with the secretary of state a certificate stating the essential facts necessary to valid approval, including a copy of the resolution of approval, in that form of certificate prescribed by the attorney general in accordance with the requirements of Minnesota Statutes Section 645.021 Subd. 3.

Resolution 15-0325 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth does hereby accept the conveyance of an easement from Lift Bridge Partners LLC for public utility purposes substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0615-17 and attached as Exhibit A hereto over property legally described in said Exhibit A in connection with a mixed use development located at the southeast corner of 21st Avenue East and London Road.

Resolution 15-0295 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Ulland Brothers, Inc., for the 2015 street preservation project - Woodland Avenue from Fourth Street to Kent Road and from Calvary Road to Martin Road in the amount of \$1,109,159.69, payable out of Permanent Improvement Fund 411, Department/Agency 035 (capital projects accounts), Object 5530 (improvements other than buildings), City Project No. 1044.

Resolution 15-0323 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to purchase 23 traffic cabinets along with installation from Traffic Control Corporation, Minnesota State Contract 70760, for a total amount of \$394,955, payable from Street Lighting Utility 550, Public Administration 120, Capital Equipment 5580.

Resolution 15-0324 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Ulland Brothers, Inc., for the 2015 street preservation project - reconditioning of Skyline Parkway and Glenwood Street repairs in the amount of \$263,972.38, payable out of Street



System Fund 440, Department/Agency 038 (special assessments), Object 5530 (improvements other than buildings), City Project No. 1382.

Resolution 15-0327 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Northland Constructors of Duluth, LLC, for the 2015 street preservation project - reconditioning of 46th Avenue West, 40th Avenue East and Pecan Avenue in the amount of \$624,373.12, payable out of Permanent Improvement Fund 411, Department/Agency 035 (capital projects accounts), Object 5530 (improvements other than buildings), City Project No. 1336.

Resolution 15-0328 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept, on behalf of the general public, a street and utility easement from the Housing and Redevelopment Authority of Duluth in the form of Public Document No. 15-0615-18 on file in the office of the city clerk, and attached hereto as Exhibit A dedicating to the general public a triangular street and utility easement over the southwest corner of Lot 34, East Second Street Duluth Proper First Division.

Resolution 15-0329 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Four Star Construction, Inc., for the reconstruction of retaining walls at 1720 New Street and 2305 West Fourth Street in the amount of \$96,171.20, payable out of Permanent Improvement Fund 411, Department 035 (capital project accounts, Object 5530 (improvements other than buildings), City Project Nos. 1303 and 1308.

Resolution 15-0345 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Hanco Utilities, Inc., for construction of the 2015 Downtown 12 inch gas main and existing water main replacement in the amount of \$1,444,707.21, payable out of Gas Fund 520, Department 500 (public works and utilities), Division 1905 (capital improvements), Object 5533 (revenue), City Project No. 1408.

Resolution 15-0352 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with the Duluth Bethel Society, Inc., substantially in the form of that attached hereto, accepting an easement for street and utility purposes over that property in St. Louis County, Minnesota, described below and agreeing to reimburse the Duluth Bethel Society, Inc., for costs of constructing a retaining wall adjacent to West First Street in an amount of not to exceed

\$53,000, payable from the Permanent Improvement Fund 411, Department 035 (capital projects accounts), Object 5530 (improvements other than buildings), City Project No. 1366.

Resolution 15-0355 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept, on behalf of the general public, a street and utility easement from Christopher and Amanda Carlson, joint tenants, in the form that is attached hereto as Exhibit A, dedicating to the general public a street and utility easement over the northwesterly five feet of Lot 13, MACDOUGALL'S SUBDIVISION OF BLOCK 95, DULUTH PROPER SECOND DIVISION, at no cost to the city.

Resolution 15-0361 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept, on behalf of the general public, a street and utility easement from Robert and Sheila Matthews, joint tenants, in the form that is attached hereto as Exhibit A, dedicating to the general public a street and utility easement over the northwesterly ten feet of Lot 369, Block 122, DULUTH PROPER Second Division, at no cost to the city.

Resolution 15-0364 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept, on behalf of the general public, a street and utility easement from PRK Properties of Duluth, LLC, that is attached hereto as Exhibit A. dedicating to the general public a street and utility easement over the northwesterly ten feet of Lot 371, Block 122, DULUTH PROPER Second Division, at no cost to the city.

Resolution 15-0365 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute a mutual aid agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 15-0615-19, with the city of St. Paul, Minnesota, to facilitate cooperation and assistance between their respective police departments, payable from Fund No. 110-160-1610-5441 (general fund, police department, administration and investigation, other services and charges).

Resolution 15-0321 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages on the sidewalk in front of Little Angie's Cantina, 11 East Buchanan Street, starting approximately at 3:00 p.m. until 2:00 a.m. in conjunction with Grandma's Marathon on June 20, 2015, to coincide with the Greater Downtown Council's special events license, provided that all alcoholic beverages consumed outside of the designated serving areas of licensed establishments be consumed only from paper or plastic cups.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the licensee and approved by the administration.

Resolution 15-0337 was unanimously adopted.  
Approved June 15, 2015  
DON NESS, Mayor

- - -

RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places in conjunction with Downtown Sidewalk Days, provided that all alcoholic beverages consumed outside of designated serving areas of licensed establishments be consumed only from paper or plastic cups.

July 8, 2015	Superior Street from Third Avenue East to Fifth Avenue West	4:00 p.m. to 8:00 p.m.
July 10, 2015	First Street between Third Avenue West and Fourth Avenue West and between First Avenue West and Second Avenue West	6:00 p.m. to midnight
July 11, 2015	Superior Street from First Avenue West to Second Avenue West	5:00 p.m. to midnight

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the licensee and approved by the administration.

Resolution 15-0338 was unanimously adopted.  
Approved June 15, 2015  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a one year use and operation agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0615-20, with Arrowhead Youth Soccer Association of Northeastern Minnesota for the use of the city's Jean Duluth and Arlington soccer fields with maintenance fee payments of \$15,000 due in two installments of 50% each due on July 1 and September 1 payable into Fund 205-130-1221-4625 (parks, community resources, park's maintenance, rent of athletic fields).

Resolution 15-0322 was unanimously adopted.  
Approved June 15, 2015  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to execute and implement a three-year agreement with Valley Youth Centers of Duluth (VYC) to provide out of school time youth programming in the city's far west neighborhoods, at the Gary New Duluth recreation building.

FURTHER RESOLVED, that payment of \$20,000 for the first year, and \$20,000 per year thereafter to be made from Fund 205-130-1219-5310 (parks, community resources, parks operating, contract services).

Resolution 15-0356 was unanimously adopted.  
Approved June 15, 2015  
DON NESS, Mayor

- - -

RESOLVED, that the city's chief administrative officer is hereby authorized to apply to the Greater Minnesota regional parks and trails commission for designation of the Grand Avenue Nordic Center as a regional park or trail on behalf of the city.

FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the designation, and the financial, technical and managerial capacity to ensure that, if designated, the city has the expertise to apply for grant funding, which involves a separate application and review process.

FURTHER RESOLVED, that if the city of Duluth is awarded aforesaid designation, the city of Duluth agrees that the proper city officials are authorized to enter into an agreement with the Greater Minnesota regional parks and trails commission.

Resolution 15-0359 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a first amendment to the five-year management agreement with Billy Casper Golf, LLC, a Virginia limited liability company, for the operation, maintenance and improvement of the Lester Park and Enger Park golf courses, substantially in the form of that attached hereto as Attachment A, allowing Lester Park Golf Management, LLC, to utilize the on sale intoxicating liquor license granted to the city for the Lester Park Golf Course as authorized by Law of Minnesota 2015, Chapter 9, Article 2, Section 9.

Resolution 15-0374 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 15-0358, granting approval of the Grand Avenue Nordic Center mini-master plan and updating the location of the Nordic center in the Spirit Mountain recreation area master plan, was introduced by Councilor Sipress for discussion.

Councilor Sipress moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

Gary Gottfried, Jay Thompson, Shanna Thompson, John Strunk and Catharine Strunk expressed their concerns.

Chad Salmela, Duluth Nordic Ski Club, expressed support for the resolution.

The council discussed this resolution at length.

Resolution 15-0358 was adopted as follows:

RESOLVED, that the city council hereby approves the Grand Avenue Nordic Center mini-master plan, in partnership with the Duluth Cross Country Ski Club and the Spirit Mountain recreation area authority and also approves updating the Spirit Mountain recreation area master plan.

Resolution 15-0358 was adopted upon the following vote:

Yeas: Councilors Filipovich, Gardner, Julsrud, Krug, Russ, Sipress and President Larson -- 7

Nays: Councilors Fosle and Hanson -- 2

Approved June 15, 2015

DON NESS, Mayor

- - -

Resolution 15-0373, by Councilor Gardner, affirming the city of Duluth's commitment to use the Minnesota office of the state auditor to conduct city audits, was introduced for discussion.

Councilor Gardner moved to suspend the rules to hear from a speaker on the resolution, which motion was seconded and unanimously carried.

Tamara Jones requested support for the resolution.

Resolution 15-0373 was adopted as follows:

BY COUNCILOR GARDNER:

WHEREAS, Minnesota has one of the most well respected systems of local government in the nation and part of that success is directly attributed to the strong oversight and enforcement programs of the Minnesota office of the state auditor; and

WHEREAS, the state auditor is an officer provided for in the Minnesota Constitution and is responsible for insuring the financial integrity and accountability of local governments; and

WHEREAS, the office of the state auditor insures that local governments hold themselves to the highest standards through audits, education, training and enforcement. The state auditor also establishes uniform reporting standards which insure that tax dollars are spent appropriately; and

WHEREAS, the office of the state auditor conducts an annual audit for the city of Duluth and issues an annual independent auditor's report. In addition the state auditor performs single audits which are required for the city to qualify for federal grants; and

WHEREAS, recent legislation allowing private accounting companies to conduct government audits undermines state oversight of local government accounting practices.

THEREFORE BE IT RESOLVED, that the Duluth City Council supports the continued use of the Minnesota office of the state auditor to conduct the financial audits for the city of Duluth.

Resolution 15-0373 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

Resolution 15-0336, granting an interim use permit for a vacation dwelling unit at 127 Chester Parkway (Grobe Family Supplemental Needs Trust and Beth Grobe Magomolla), was introduced by Councilor Russ for discussion.

Councilor Russ moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

Leon and Britt Rohrbaugh expressed their concerns about this resolution.

Resolution 15-0336 failed unanimously (Public Document No. 15-0615-21).

- - -

Resolution 15-0366, authorizing agreement with Burns & McDonnell for architect & engineering services related to the Cirrus Building project in the amount not to exceed \$456,500, was introduced by Councilor Russ for discussion.

Councilor Russ moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

Todd Gustafson, Shawn Hansen, Tamara Jones and Cathy Schuyler expressed concerns on the approval of this resolution.

Bill King, Cirrus, answered councilors' questions and requested support for the resolution.

Councilors discussed this resolution at length.

Resolution 15-0366 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Burns & McDonnell, substantially in the form of that on file in the office of the

city clerk as Exhibit A, to provide architect and engineering services pertaining to the development, design and construction of the Cirrus building project in the amount not to exceed \$456,500, payable from Fund 412-030-5520 (Cirrus building, finance department, buildings and structures).

Resolution 15-0366 was adopted upon the following vote:

Yeas: Councilors Filipovich, Fosle, Hanson, Julsrud, Krug, Russ and President Larson -- 7

Nays: Councilors Gardner and Sipress -- 2

Approved June 15, 2015

DON NESS, Mayor

- - -

RESOLVED, that the city's chief administrative officer is hereby authorized to apply to the Lessard-Sams Outdoor Heritage Council for funding through the Outdoor Heritage Fund on behalf of the city.

FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the money, and the financial, technical and managerial capacity to ensure proper construction, operation, and permanent maintenance.

FURTHER RESOLVED, that if the city of Duluth is awarded aforesaid grant, the city of Duluth agrees to accept the grant award and the proper city officials are authorized to enter into a grant agreement with the Outdoor Heritage Council.

FURTHER RESOLVED, the total grant amount of \$1,077,500 is equal to the estimated city of Duluth total project cost of \$1,077,500.

Resolution 15-0353 was unanimously adopted.

Approved June 15, 2015

DON NESS, Mayor

- - -

## **INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinance was read for the first time:

INTRODUCED BY COUNCILOR JULSRUD

15-048 - AN ORDINANCE DEDICATING AN EASEMENT FOR PUBLIC ROADWAY AND UTILITY PURPOSES ON CITY-OWNED PROPERTY RELATED TO RECONDITIONING AND RECONSTRUCTION OF RIDGEVIEW ROAD.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR FILIPOVICH

15-046 (10389) - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR YEAR 2015 BY INCREASING THE BUDGET AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

Councilor Filipovich moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

BY COUNCILORS RUSS, GARDNER AND SIPRESS

15-047 (10390) - AN INTERIM ORDINANCE PURSUANT TO MINN. STAT. § 462.355, SUBD. 4, AUTHORIZING A PLANNING STUDY OF THE CITY'S OFFICIAL CONTROLS RELATED TO VACATION DWELLING UNITS AND IMPOSING A MORATORIUM ON NEW PERMITS FOR VACATION DWELLING UNITS PENDING COMPLETION OF THE STUDY.

Councilor Russ moved to suspend the rules to hear speakers on the ordinance, which motion was seconded and unanimously carried.

Ken Aparicio, Cameron Fryer and Tim Allen expressed support for the ordinance.  
Councilor Russ moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

The meeting was adjourned at 9:45 p.m.

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10389**

AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR YEAR 2015 BY INCREASING THE BUDGET AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

The city of Duluth does ordain:

Section 1. That ordinance 10347 passed and approved December 15, 2014, is hereby amended by appropriating an additional \$1,500,000 from the general fund's fund balance as follows:

Department 121 - Public administration \$575,000

Department 132 - Planning and construction services \$100,000

Department 160 - Police \$60,000

Department 700 - Transfers and other functions \$765,000

Section 2. That this ordinance shall take effect immediately upon its passage.  
(Effective date: June 15, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

Passed June 15, 2015

Approved June 15, 2015

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10390**

BY COUNCILORS RUSS, GARDNER AND SIPRESS:

AN INTERIM ORDINANCE PURSUANT TO MINN. STAT. § 462.355, SUBD. 4, AUTHORIZING A PLANNING STUDY OF THE CITY'S OFFICIAL CONTROLS RELATED TO VACATION DWELLING UNITS AND IMPOSING A MORATORIUM ON NEW PERMITS FOR VACATION DWELLING UNITS PENDING COMPLETION OF THE STUDY.

The city of Duluth does ordain:

Section 1. Statement of legislative intent.

By ordinance dated December 17, 2012 (Ord. No. 10192), the Duluth City Council approved, for the first time, regulations governing short-term vacation dwelling units as interim permitted uses under Chapter 50 of the Legislative Code, currently codified at Duluth City Code §§ 50-19.8 and 50-20.3.U, as amended.

Following the opportunity of the council and city planning staff to observe the new controls in operation, along with the evolving impact and growth of short-term rental websites such as “Airbnb” and “VRBO,” the council deems it necessary to commence a planning study of existing controls in order to, without limitation:

- Review existing enforcement measures for vacation/short-term rental violations;
- Consider the creation of a municipal vacation/short-term rental registry;
- Consider limitations on locations of vacation/short-term rentals;
- Consider requirements regarding the proximity of a caretaker or manager for vacation/short-term rentals;
- Review and consider other potential regulatory requirements for vacation/short-term rentals;
- Review and consider new enforcement measures or regulations for vacation/short-term rentals; and
- Review the Unified Development Chapter (UDC) for possible amendment relating to the locations of vacation/short-term rentals.

The council further finds that it is necessary to temporarily preserve the status quo regarding the city’s current regulation of vacation dwelling units under Chapter 50 of the Legislative Code until the above-described planning study can be completed.

Accordingly, the council finds that an interim ordinance proscribing new permits for vacation dwelling units under Chapter 50 of the Legislative Code within the boundaries of the city for a period not to exceed 12 months is necessary to protect the planning process and to guard the health, safety and welfare of the city’s residents.

Section 2. Planning study authorized.

Pursuant to Minn. Stat. § 462.355, subd. 4, the Duluth City Council hereby authorizes a planning study of the city’s official controls regulating vacation dwelling units under Chapter 50 of the Legislative Code for the purpose of protecting the planning process and the health, safety and welfare of its citizens.

Section 3. Moratorium imposed.

The city of Duluth hereby proscribes the issuance of new permits for vacation dwelling units under Chapter 50 of the Legislative Code within the boundaries of the city pending completion of the planning study and any related zoning enactments described in Section 1. This moratorium shall be effective until the expiration of 12 months following the effective date of its enactment, or until such earlier time as the council may have taken action to amend its official controls as a result of the planning study described in Section 1.

Section 4. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 17, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed June 15, 2015  
Approved June 15, 2015  
DON NESS, Mayor

- - -





# City of Duluth

411 West First Street  
Duluth, Minnesota 55802

## Minutes

### City Council

**MISSION STATEMENT:** *The mission of the Duluth City Council is to develop effective public policy rooted in citizen involvement that results in excellent municipal services and creates a thriving community prepared for the challenges of the future.*

**TOOLS OF CIVILITY:** *The Duluth City Council promotes the use and adherence of the tools of civility in conducting the business of the council. The tools of civility will provide increased opportunities for civil discourse in order to find positive resolutions to the issues that face the city. These tools include: pay attention, listen, be inclusive, do not gossip, show respect, be agreeable, apologize, give constructive criticism and take responsibility. [Approved by the council on August 25, 2003]*

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Monday, July 20, 2015

7:00 PM

Council Chamber

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#### ROLL CALL

**Present:** 8 - Councilors Zach Filipovich, Jay Fosle, Sharla Gardner, Howie Hanson, Linda Krug, Barb Russ, Joel Sipress and President Emily Larson.

**Absent:** 1- Councilor Jennifer Julsrud

#### **PUBLIC HEARING - 7:00 PM - TIF Plan for the Point of Rocks TIF District as Proposed by the HRA.**

At this time, 7:02 p.m. Chief Administrative Officer Dave Montgomery stated that the Housing and Redevelopment Authority has requested that the public hearing be pulled and that additional changes require this to be rescheduled.

#### **PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

1. **15-001** Minnesota office of administrative hearings order approving annexation of property from Rice Lake Township.

**Attachments:** [Order](#)

**This Petition/Other Communication was received.**

2. **15-002** Minnesota state auditor management and compliance report for Duluth Economic Development Authority for the year ended December 31, 2014.

**Attachments:** [Report](#)

**This Petition/Other Communication was received.**

3. **15-005** Park Point Marina Inn appeal of planning commission decision to approve the land use supervisor's decision regarding the 200 foot limit in a MU-W District at 1003 Minnesota Avenue.

Attachments: [Appeal](#)

This Petition/Other Communication was received.

4. **15-006** William M. Burns, attorney, representing several neighbors, appeal of the planning commission approval of a special use permit for a townhome development at Mississippi Avenue and Lyons Street.

Attachments: [Appeal](#)

This Petition/Other Communication was referred to the Planning and Economic Development

5. **15-017** Ken Zwak communication regarding the proposed reclassification of property along the east side of Rice Lake Road (15-055-O).

Attachments: [Email](#)

This Petition/Other Communication was received.

## REPORTS FROM OTHER OFFICERS

6. **15-018** Clerk report regarding Ranked Choice Voting petition.

Attachments: [Ranked Choice Voting Petition Report](#)

This Other Officers Report was received.

## REPORTS OF BOARDS AND COMMISSIONS

7. **15-003** Planning commission minutes of May 12, 2015, meeting.

Attachments: [Minutes](#)

This Board or Commission Report was received.

8. **15-004** Entertainment and convention center authority minutes of January 27, February 24 and March 31, 2015, meetings.

Attachments: [January 27, 2015](#)  
[February 24, 2015](#)  
[March 31, 2015](#)

This Board or Commission Report was received.

9.     **15-007**     Duluth transit authority: (a) Minutes of April 23, 2015, meeting; (b) April 2015 financial statement.
- Attachments: [Minutes](#)  
                          [Financial Statement](#)
- This Board or Commission Report was received.**
10.    **15-008**     Duluth airport authority minutes of May 19, 2015, meeting.
- Attachments: [Minutes](#)
- This Board or Commission Report was received.**
11.    **15-009**     Spirit Mountain recreation area authority minutes of May 21, 2015, meeting.
- Attachments: [Minutes](#)
- This Board or Commission Report was received.**
12.    **15-010**     Duluth economic development authority minutes of May 27, 2015, meeting.
- Attachments: [Minutes](#)
- This Board or Commission Report was received.**
13.    **15-011**     Indigenous commission minutes of May 18, 2015, meeting.
- Attachments: [Minutes.pdf](#)
- This Board or Commission Report was received.**
14.    **15-012**     Civil service board minutes of March 3 and 23, 2015, meetings.
- Attachments: [Minutes\\_03032015](#)  
                          [Minutes\\_03232015](#)
- This Board or Commission Report was received.**
15.    **15-013**     Housing and redevelopment authority of Duluth audit report for the year ended September 30, 2014; and minutes of March 31, April 28, May 5 and May 26, 2015, meetings.
- Attachments: [Audit Report](#)  
                          [Minutes\\_03312015](#)  
                          [Minutes\\_04282015](#)  
                          [Minutes\\_05052015](#)  
                          [Minutes\\_05262015](#)

This Board or Commission Report was received.

16. 15-015 Library board minutes of May 26, 2015, meeting.

Attachments: [Minutes](#)

This Board or Commission Report was received.

## OPPORTUNITY FOR CITIZENS TO BE HEARD

Jay Cole commented on his support using the Central High School property for housing and multiple uses.

Jerry Schlafer spoke of his support for fair wages and benefits, but not at the cost of adversely affecting other workers.

## RESOLUTION TABLED

### COMMITTEE 2

### BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)

17. 15-0315R RESOLUTION APPROVING A TAX INCREMENT FINANCING PLAN FOR THE POINT OF ROCKS TAX INCREMENT FINANCING DISTRICT AS PROPOSED BY THE HOUSING AND REDEVELOPMENT AUTHORITY OF DULUTH, MINNESOTA. (TABLED 6/1/2015)

#### CITY PROPOSAL:

BE IT RESOLVED, by the city council (the "council") of the city of Duluth, Minnesota (the "city"), as follows:

##### Section 1. Recitals.

1.01. The Board of Commissioners of the Housing and Redevelopment Authority of Duluth (the "HRA") has heretofore established Project Area No. 1 and adopted a redevelopment plan therefor. It has been proposed by the HRA that the City approve a tax increment financing plan (the "TIF plan") for the Point of Rocks Tax Increment Financing District (the "District") within Project Area No. 1; all pursuant to and ..Body [Enter Body Here]469.047 and Sections 469.174 to 469.1794, all inclusive, as amended, (the "Act") all as reflected in the TIF plan attached to this resolution, and presented for the council's consideration.

1.02. The HRA has investigated the facts relating to the TIF plan and has caused the TIF plan to be prepared.

1.03. The HRA has performed all actions required by law to be performed prior to the establishment of the district and the adoption and

approval of the proposed TIF plan, including, but not limited to, notification of St. Louis County and Independent School District No. 709 having taxing jurisdiction over the property to be included in the district, a review of and written comment on the TIF plan by the city planning commission, approval of the TIF plan by the HRA and the holding of a public hearing upon published notice as required by law.

1.04. Certain written reports (the "reports") relating to the TIF plan and to the activities contemplated therein have heretofore been prepared by HRA staff and consultants and submitted to the council and/or made a part of the city files and proceedings on the TIF plan. The reports include data, information and/or substantiation constituting or relating to the basis for the other findings and determinations made in this resolution. The council hereby adopts the reports, which are hereby incorporated into and made as fully a part of this resolution to the same extent as if set forth in full herein.

Section 2. Findings for the establishment of Point of Rocks Tax Increment Financing District.

2.01. The council hereby finds, based on information contained in the TIF plan, that the Point of Rocks Tax Increment Financing District is in the public interest and is a "housing district" under Minnesota Statutes, Section 469.174, Subd. 11 of the Act.

2.02. The council further finds, based on information contained in the TIF plan, that the proposed development would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future, that the TIF plan conforms to the general plan for the development or redevelopment of the city as a whole; and that the TIF plan will afford maximum opportunity consistent with the sound needs of the city as a whole, for the development or redevelopment of the district by private enterprise.

2.03. The council further finds, declares and determines that the city made the above findings stated in this section and has set forth the reasons and supporting facts for each determination in writing, as listed on Exhibit A.

Section 3. Public Purpose.

3.01. The adoption of the TIF plan conforms in all respects to the requirements of the act and will help fulfill a need to develop an area of the city which is already built up, to provide housing opportunities, to improve the tax base and to improve the general economy of the State and thereby serves a public purpose. For the reasons described in Exhibit A, the city believes these benefits directly derive from the tax increment assistance provided under the TIF plan. A private developer will receive only the assistance needed to make this development financially feasible. As such, any private benefits received by a developer are incidental and do not outweigh the primary public benefits.

Section 4. Approval of the TIF plan.

4.01. The TIF plan, as presented to the council on this date, including

without limitation the findings and statements of objectives contained therein, is hereby approved and shall be placed on file in the office of the HRA executive director.

4.02. The staff of the HRA, the HRA's advisors and legal counsel are authorized to proceed with the implementation of the TIF plan and to negotiate, draft, prepare and present to this council for its consideration all further plans, resolutions, documents and contracts necessary for this purpose.

4.03 The auditor of St. Louis County is requested to certify the original net tax capacity of the district, as described in the TIF plan, and to certify in each year thereafter the amount by which the original net tax capacity has increased or decreased; and the HRA is authorized to forthwith transmit this request to the county auditor in such form and content as the auditor may specify, together with a list of all properties within the District, for which building permits have been issued during the 18 months immediately preceding the adoption of this resolution.

4.04. The HRA executive director is further authorized to file a copy of the TIF plan with the commissioner of the Minnesota department of revenue and the office of the state auditor pursuant to Minnesota Statutes 469.175, Subd. 4a.

STATEMENT OF PURPOSE: This resolution approves the tax increment financing plan for the Point of Rocks Tax Increment Financing District, as required by the TIF act. The TIF district is a housing district and will provide housing, in part, for low and moderate income persons.

**Attachments:** [Tax Increment Financing Plan](#)

[Exhibit A](#)

[Memo](#)

A motion was made that this Resolution be withdrawn. The motion carried by a unanimous vote.

## MOTIONS AND RESOLUTIONS

## CONSENT AGENDA

## COMMITTEE 1

## BY COUNCILOR FILIPOVICH (FINANCE)

18. **15-0432R** RESOLUTION APPROVING A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF DULUTH AND THE CONFIDENTIAL UNIT OF THE CITY OF DULUTH FOR THE YEARS 2015-2017.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to execute and implement a collective bargaining agreement with the Confidential Unit of the City of Duluth containing the same terms and conditions, and being substantially the same as that attached hereto, covering the years 2015 through 2017.

STATEMENT OF PURPOSE: The city and the Confidential Unit of the City of Duluth have negotiated a successor collective bargaining agreement (CBA) to their current 2012-2014 CBA. The parties tentatively agreed to a 2015-2017 collective bargaining agreement on July 1, 2015, and the Confidential Unit membership ratified this 2015-2017 collective bargaining agreement on July 8, 2015. This three-year contract has wage increases of 2.25% in 2015, 2.75% in 2016, and 2.75% in 2017. This CBA expands family dental insurance eligibility and increases cafeteria plan contributions for employees utilizing other sources of hospital-medical insurance. This CBA recognizes the Assistant City Attorney assigned to labor relations as a "confidential employee," as mandated by Minn. Stat. 179A.03, Subd. 4.

Attachments: [Final Draft Confidential CBA for 2015-2017 CLEAN](#)  
[Final Draft Confidential CBA redline for 2015-2017.7.16.2015](#)

This Resolution was adopted unanimously.

**BY COUNCILOR HANSON (PURCHASING & LICENSING)**

19. **15-0398R** RESOLUTION ISSUING AN OFF SALE 3.2 PERCENT MALT LIQUOR LICENSE TO SHOPKO STORES OPERATING CO, LLC (SHOPKO #114), 801 WEST CENTRAL ENTRANCE.

CITY PROPOSAL:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following off sale 3.2 percent malt liquor license for the period ending April 30, 2016, subject to departmental approvals, and the payment of sales and property taxes:

Shopko Stores Operating Co. LLC (Shopko #114), 801 West Central Entrance.

STATEMENT OF PURPOSE: The off sale 3.2 malt liquor license application of Shopko was reviewed and approved by the police department. The Alcohol, Gambling and Tobacco Commission reviewed the application and is recommending approval.

**This Resolution was adopted unanimously.**

**20. 15-0400R RESOLUTION APPROVING THE TEMPORARY EXPANSION OF THE ON SALE INTOXICATING LIQUOR LICENSE TO VARIOUS LICENSEES.**

**CITY PROPOSAL:**

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

Sir Benedicts IV, LLC (Sir Benedicts Tavern on the Lake), 805 East Superior Street, for July 25, 2015, serving from 9:00 a.m. to 5:00 p.m.;

The Duke Partners, LLC (Spurs on 1st), 220 West Superior Street, for August 28, 2015 (rain date September 11, 2015), serving from 8:00 p.m. to 12:00 a.m.;

Rustic Bar, Inc. (The Rustic Bar), 401 North Central Avenue, for August 5-7, 2015, serving from 6:00 p.m. to 1:00 a.m.;

JMMP Enterprises, LLC (Kom-On-Inn), 332 North 57th Avenue West, for August 5-7, 2015, serving from 6:00 p.m. to 1:00 a.m.;

D&D Enterprise of Cloquet (Mr. D's Bar and Grill), 5622 Grand Avenue, for August 5-7, 2015, serving from 6:00 p.m. to 1:00 a.m.;

Red Herring, LLC (The Red Herring Lounge), 208 East First Street, for September 5, 2015, serving from 2:00 p.m. to 11:00 p.m.;

St. Louis County Heritage & Arts Center (Duluth Depot), 506 West Michigan Street, for September 3, 2015, serving from 4:00 p.m. to 7:00 p.m.

STATEMENT OF PURPOSE: The Alcohol, Gambling and Tobacco Commission have reviewed the applications at their July commission meeting and are recommending approval.



**This Resolution was adopted.**

- 21. 15-0401R** RESOLUTION APPROVING THE PERMANENT EXPANSION OF THE LICENSE PREMISES OF THE ON SALE BREWERY MALT LIQUOR LICENSE OF LAKE SUPERIOR BREWING COMPANY, LLC (LAKE SUPERIOR BREWING COMPANY), 2711 WEST SUPERIOR STREET.

**CITY PROPOSAL:**

BE IT RESOLVED, that the Duluth City Council approves the following permanent expansion of the designated serving area of the on sale brewery malt liquor license for the period ending August 31, 2015, subject to departmental approvals and the payment of sales and property taxes:

Lake Superior Brewing Company, LLC (Lake Superior Brewing Company), 2711 West Superior Street, to include back driveway area.

**STATEMENT OF PURPOSE:** The application of Lake Superior Brewing Company has been reviewed by the police department, and the Alcohol, Gambling and Tobacco Commission at their July meeting is recommending the application for approval.

**This Resolution was adopted unanimously.**

- 22. 15-0404R** RESOLUTION ISSUING A TEMPORARY ON SALE 3.2 PERCENT MALT LIQUOR LICENSE TO AAD SHRINERS, (DULUTH HOT AIR BALLOON FESTIVAL), BAYFRONT PARK.

**CITY PROPOSAL:**

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale 3.2 percent malt liquor license, subject to departmental approvals with any further restrictions:

AAD Shriners, (Duluth Hot Air Balloon Festival), Bayfront Park, for September 18-20, 2015, with Ryan Kern, manager.

**STATEMENT OF PURPOSE:** The application of the AAD Shriners for a temporary 3.2 percent beer license has been reviewed by the police department, and the Alcohol, Gambling and Tobacco commission reviewed the application at their July 1st meeting and is recommending approval.

**This Resolution was adopted unanimously.**

- 23. 15-0405R** RESOLUTION APPROVING ISSUANCE OF TEMPORARY ON SALE INTOXICATING LIQUOR LICENSE TO LAKE SUPERIOR BREWING

---

COMPANY, LLC (TWIN PORTS BRIDGE FESTIVAL), BAYFRONT PARK.

CITY PROPOSAL:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor license, subject to departmental approvals with any further restrictions and further subject to approval of the liquor control commissioner:

Lake Superior Brewing Company, LLC (Twin Ports Bridge Festival), Bayfront Park, for September 11, 2015, serving from 3:00 p.m. to 11:00 p.m., with Don Hoag, manager.

STATEMENT OF PURPOSE: The application of Lake Superior Brewing for a temporary on sale intoxicating liquor license was reviewed by the police department, and the Alcohol, Gambling, and Tobacco commission reviewed the application at their July 1st meeting and is recommending approval.

**This Resolution was adopted unanimously.**

- 24. 15-0408R** RESOLUTION ISSUING AN ON SALE SUNDAY LICENSE TO BENT PADDLE BREWING COMPANY, (BENT PADDLE BREWING COMPANY), 1912 WEST MICHIGAN STREET.

CITY PROPOSAL:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale Sunday license for the period ending August 31, 2015, subject to departmental approvals:

Bent Paddle Brewing Company, (Bent Paddle Brewing Company), 1912 West Michigan Street.

STATEMENT OF PURPOSE: The alcohol, gambling and tobacco commission reviewed the Sunday liquor license application for Bent Paddle Brewing at their July 1 meeting and is recommending approval.

**This Resolution was adopted unanimously.**

- 25. 15-0419R** RESOLUTION AUTHORIZING A CONTRACT WITH ROCK SOLID TRAIL CONTRACTING, LLC, FOR PHASE III CONSTRUCTION OF THE DULUTH TRAVERSE TRAIL IN THE AMOUNT OF \$103,716.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to

contract with Rock Solid Trail Contracting, LLC, for the phase III construction of approximately 2.5 miles of new multi-use, bike-optimized natural surface trails in Enger and Central Park, in accordance with plans and specifications prepared by Barr Engineering, the consultant, dated February 2013, and the contractor's bid of \$103,716, payable from Parks Fund 205; Community Resources 130; Parks Capital 1220; Improvements Other than Buildings 5530; Project: CM205-Travrs - Cap Mtce Fund 205, Traverse Trail.

STATEMENT OF PURPOSE: This resolution authorizes a contract with Rock Solid Trail Contracting, LLC for the construction of approximately 2.5 miles of new multi-use, bike-optimized natural surface trails on public lands in Enger and Central Park for a total contract amount of \$103,716. This project is funded, in part, with a Federal Recreation Trail Program grant in the amount of \$96,750 with a match of \$32,250 from the Parks Fund.

This section of trail will be part of the Duluth Traverse Trail system which, once completed, will span the entire City of Duluth with 100 miles of trail.

The purchasing division posted the invitation to bid June 5, 2015, on the city's website and received two bids by the closing date. A committee consisting of City professional staff reviewed and verified each bid, and determined that Rock Solid Trail Contracting was the most qualified to do the work. The committee's review sheets are attached as Exhibit A. Rock Solid Trail Contracting's bid was under the budgeted amount of \$129,000. The bid tabulation is attached as Exhibit B.

Attachments: [Exhibit A](#)  
[Exhibit B](#)

This Resolution was adopted unanimously.

#### **BY COUNCILOR GARDNER (PERSONNEL)**

26. 15-0394R RESOLUTION CONFIRMING THE APPOINTMENT OF ANNA TANSKI TO THE DULUTH AIRPORT AUTHORITY, REPLACING MICHAEL LUNDSTROM.
- RESOLUTION CONFIRMING THE APPOINTMENT OF ANNA TANSKI TO THE DULUTH AIRPORT AUTHORITY, REPLACING MICHAEL LUNDSTROM.
- CITY PROPOSAL:  
RESOLVED, that the appointment by Mayor Ness of Anna Tanski to the Duluth airport authority for a term expiring on July 1, 2018, replacing Michael Lundstrom, is confirmed.

STATEMENT OF PURPOSE: This resolution confirms the appointment of Anna Tanski to the Duluth airport authority, replacing Michael Lundstrom.

Attachments: [Application](#)

**This Resolution was adopted unanimously.**

27. 15-0395R RESOLUTION CONFIRMING THE APPOINTMENT OF HEATHER RAND TO THE PLANNING COMMISSION, REPLACING DREW DIGBY.

CITY PROPOSAL:

RESOLVED, that the appointment by Mayor Ness of Heather Rand to the planning commission for a term expiring on March 31, 2016, replacing Drew Digby who resigned, is confirmed.

STATEMENT OF PURPOSE: This resolution confirms the appointment of Heather Rand to the planning commission, replacing Drew Digby, who resigned.

Attachments: [Application](#)

**This Resolution was adopted unanimously.**

28. 15-0396R RESOLUTION CONFIRMING THE APPOINTMENT OF YVONNE M. SOLON TO THE SANITARY SEWER BOARD OF THE WESTERN LAKE SUPERIOR SANITARY DISTRICT, REPLACING ALBERT KATZ.

CITY PROPOSAL:

RESOLVED, that the appointment by Mayor Ness of Yvonne M. Solon to the sanitary sewer board of the Western Lake Superior Sanitary District for a term expiring on July 1, 2017, replacing Albert Katz, is confirmed.

STATEMENT OF PURPOSE: This resolution confirms the appointment of Yvonne M. Solon to the sanitary sewer board of the WLSSD, replacing Albert Katz.

Attachments: [Application](#)

**This Resolution was adopted unanimously.**

29. 15-0397R RESOLUTION CONFIRMING THE APPOINTMENT OF ERIK S. VIKEN TO THE SPIRIT MOUNTAIN RECREATION AREA AUTHORITY, REPLACING GREGORY BENSON.

RESOLUTION CONFIRMING THE APPOINTMENT OF ERIK S. VIKEN TO THE SPIRIT MOUNTAIN RECREATION AREA AUTHORITY, REPLACING GREGORY BENSON.

## CITY PROPOSAL:

RESOLVED, that the appointment by Mayor Ness of Erik S. Viken to the Spirit Mountain recreation area authority for a term expiring on June 30, 2018, replacing Gregory Benson who resigned, is confirmed.

STATEMENT OF PURPOSE: This resolution confirms the appointment of Erik S. Viken to the Spirit Mountain recreation area authority, replacing Gregory Benson who resigned.

**Attachments:** [Application](#)

This Resolution was adopted unanimously.

- 30. 15-0437R** RESOLUTION APPROVING PROPOSED AMENDMENTS TO THE SPECIFICATIONS FOR THE EXISTING CIVIL SERVICE CLASSIFICATION OF PROSECUTION ASSISTANT, INCLUDING A TITLE CHANGE TO PROSECUTION & TECHNOLOGY ASSISTANT, AND SPECIFYING CONTRACT BENEFITS FOR SAME.

## CITY PROPOSAL:

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of prosecution assistant, including a title change to prosecution & technology assistant, which were approved by the civil service board on July 7, 2015, are approved. This classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 131, \$3,828 to \$4,485 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

STATEMENT OF PURPOSE: This existing classification has been revised to incorporate the need for technology experience. Although the job has not changed dramatically, the need for technology experience has increased due to how criminal evidence handling has changed over the last few years. There is no change in the rate of pay, which is Pay Range 131, pay rate of \$3,828 to \$4,485 per month.

**Attachments:** [Revised Strikeout Job Description.pdf](#)  
[Draft Job Description \(clean version\).pdf](#)

This Resolution was adopted unanimously.

**COMMITTEE 2****BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)**

31. 15-0427R RESOLUTION VACATING A PORTION OF STREET RIGHT-OF-WAY FOR VERMILION ROAD AT THE SOUTHEAST CORNER OF VERMILION ROAD AND ELK STREET (JOHN AND BONNIE GIBSON).

CITY PROPOSAL:

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (d) 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 this portion of the street easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, June 9, 2015, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the platted road easement, maintaining a public utility easement, described below:

LEGAL DESCRIPTION OF RIGHT-OF-WAY VACATION

All that part of Vermilion Road (platted as Market Avenue), as dedicated on GREYSOLON FARMS 1ST DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, MN, bounded as follows:

On the North: By the Westerly extension of the North line of Lot 12, Block 5, said GREYSOLON FARMS 1ST DIVISION OF DULUTH.

On the East: By the Easterly right of way line of Vermilion Road (platted as Market Avenue) on said GREYSOLON FARMS 1ST DIVISION OF DULUTH.

On the South: By the South line of Lot 9, Block 5 said GREYSOLON FARMS 1ST DIVISION OF DULUTH.

On the West: By a line parallel with and distant 33.0 feet east of the center line of Vermilion Road (platted as Market Avenue) said GREYSOLON FARMS 1ST DIVISION OF DULUTH.

Said parcel contains 17,773 square feet or 0.41 acres, more or less.

(e) 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 showing the platted easement

to be vacated.

STATEMENT OF PURPOSE: The resolution vacates an approximately 475 long portion of street right of way for Vermilion Road. It was originally platted as Market Avenue and had a curvilinear, not straight, design. If the partial vacation is approved, Vermilion Road would still have a right of way width of 66 feet.

On June 9, 2015, the Duluth city planning commission held a public hearing on the proposal and voted 8 yeas, 0 nays, and 0 abstentions to recommend the city council approve the vacation.

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

Petition Received: May 7, 2015

Action Deadline: September 4, 2015

Petitioner:

John and Bonnie Gibson  
4906 Vermilion Road  
Duluth, MN 55803-1423

PL 15-083

**Attachments:** [Signed Exhibit](#)

[Staff Report and Attachments](#)

**This Resolution was adopted unanimously.**

## **BY COUNCILOR KRUG (INTERGOVERNMENTAL RELATIONS)**

- 32. 15-0412R** RESOLUTION ENTERING INTO AN AGREEMENT ACCEPTING A GRANT OF \$233,287 FROM SENIOR SERVICE AMERICA, INC. TO OPERATE THE SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM FROM JULY 1, 2015 THROUGH JUNE 30, 2016.

CITY PROPOSAL:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement with senior service America, inc. (ssai) to serve Duluth

residents age 55 and older with work experience training and services in the amount of \$233,287 for the period of July 1, 2015 through June 30, 2016. Monies received shall be deposited into Senior Program Fund 270, Grants Division Agency 031, SCSEP SSAI Federal Organization 6330.

STATEMENT OF PURPOSE: This resolution is to authorize city officials to accept a grant of \$233,287 from Senior Service America, Inc. (SSAI) to provide funds to service Duluth residents age 55 and over with work experience training and employment services.

The city has operated the senior community service employment program since 1977. This grant is a renewal of previous grants and is the same amount as the previous grant year. The grant requires a local contribution of \$30,265. This entire amount will be provided through in-kind contributions of local agencies and city supervisory time and/or indirect costs. Monies received shall be deposited into Senior Programs Fund 270, Grants Division Agency 031, SCSEP SSAI Federal Organization 6330.

These funds are allocated under Title V of the Older American Act. The fund will provide part-time work experience and training for a minimum of 37 senior citizens. The grant period is July 1, 2015 through June 30, 2016.

Attachments: [SCSEP Contract](#)

**This Resolution was adopted unanimously.**

### **COMMITTEE 3**

#### **BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)**

- 33. 15-0416R** RESOLUTION ACCEPTING CONVEYANCE OF AN EASEMENT FROM THE WESTERN LAKE SUPERIOR SANITARY DISTRICT FOR RIDGEVIEW ROAD.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to accept the conveyance of an easement for public roadway and utility purposes substantially in the form attached hereto, from the sanitary board of the Western Lake Superior Sanitary District, a non-profit and political corporation organized under the laws of the state of Minnesota (a/k/a the Western Lake Superior Sanitary District, a public corporation and political subdivision of the state of Minnesota) at no cost to the city.

STATEMENT OF PURPOSE: The purpose of this resolution is to accept the donation of an easement from the Western Lake Superior Sanitary



District to facilitate reconditioning and reconstruction of an existing road known as Ridgeview Road.

The road will provide a secondary access road to the Minnesota Air National Guard (“MnANG”) base in Duluth. The city will receive a combination of funds provided by the MnANG and federal highway administration funds. The project funds will provide for reconditioning and reconstruction of this roadway to a surface capable of carrying higher volumes of traffic. In order to be able to use the federal funds, the roadway must be on a “public right-of-way.”

**Attachments:** [Attachment to 15-0416R](#)

**This Resolution was adopted unanimously.**

- 34. 15-0418R** RESOLUTION ACCEPTING CONVEYANCE OF AN EASEMENT FROM THE STATE OF MINNESOTA FOR RIDGEVIEW ROAD.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to accept the conveyance of an easement for public roadway and utility purposes from the state of Minnesota, a sovereign entity, acting by and through its department of administration, at no cost to the city, and enter into an easement agreement substantially in the form attached hereto, subject to the conditions thereof.

**STATEMENT OF PURPOSE:** The purpose of this resolution is to accept the donation of an easement from the state of Minnesota to facilitate reconditioning and reconstruction of an existing road known as Ridgeview Road.

The road will provide a secondary access road to the Minnesota Air National Guard (“MnANG”) base in Duluth. The city will receive a combination of funds provided by the MnANG and federal highway administration funds. The project funds will provide for reconditioning and reconstruction of this roadway to a surface capable of carrying higher volumes of traffic. In order to be able to use the federal funds, the roadway must be on a “public right-of-way.”

**Attachments:** [Attachment to 15-0418R](#)

**This Resolution was adopted unanimously.**

- 35. 15-0434R** RESOLUTION AUTHORIZING APPLICATION TO THE MINNESOTA DEPARTMENT OF TRANSPORTATION FOR THE SCENIC BYWAY PROGRAM FOR RETAINING WALL RESTORATION AT VARIOUS SCENIC OVERLOOK FACILITIES ON SKYLINE PARKWAY SCENIC BYWAY IN THE AMOUNT OF \$800,000.

## CITY PROPOSAL:

## THE CITY COUNCIL FINDS:

(a) That the city of Duluth is undertaking a project to restore the historic rock retaining walls at various scenic overlook facilities along Skyline Parkway in 2017;

(b) Transportation alternative grants are currently available for construction of scenic byway projects in 2017. Projects selected through this solicitation must meet the requirements of the transportation alternative definition and relate to surface transportation;

(c) To receive this money, the city must submit the application to the Minnesota department of transportation.

RESOLVED, that the proper city officials are hereby authorized to submit an application to the Minnesota department of transportation for funding of the Skyline Parkway Scenic Byway historic retaining wall restoration at various scenic overlook facilities.

FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the money, and the financial, technical and managerial capacity to ensure proper construction, operation and maintenance of the project for no less than 20 years.

FURTHER RESOLVED, that the city of Duluth estimates the grant amount to be \$800,000 and has matching funds available.

FURTHER RESOLVED, that if the city of Duluth is awarded a grant by the Minnesota department of transportation, the city of Duluth agrees to accept the grant award, and may enter into an agreement with the state of Minnesota for the above-referenced project. The city of Duluth will comply with all applicable laws, environmental requirements and regulations stated in the grant agreement.

FURTHER RESOLVED, that the city council of the city of Duluth names the fiscal agent for the city of Duluth for this project as:

Wayne Parson  
City Auditor  
City of Duluth  
411 West First Street  
Duluth, MN 55802

STATEMENT OF PURPOSE: This resolution will authorize submission of an application to the Minnesota department of transportation for the restoration of rock retaining walls at various scenic overlook facilities on Skyline Parkway. Because Skyline Parkway is a designated state scenic byway, it is eligible for scenic byway grants. This application includes work on the walls near Bardon's Peak, Hank Jensen Drive, Oneota and several

other locations on the west side of the parkway.

If awarded, the project would be funded with \$800,000 of federal highway grant funds, and the engineering (\$160,000) and city share (\$260,000) would be funded with permanent improvement funds.

**Attachments:** [HistoricRetainingWall\\_LocationMap](#)  
[HistoricRetainingWall\\_wExhibit\\_BardonsPeak\\_v2](#)  
[HistoricRetainingWall\\_wExhibit\\_Oneota\\_v2](#)  
[HistoricRetainingWall\\_wExhibit\\_Section3TurnOut\\_v2](#)  
[Scenic Byway Application \(15-0434R\)](#)

**This Resolution was adopted unanimously.**

### **BY COUNCILOR FOSLE (PUBLIC SAFETY)**

- 36. 15-0399R** RESOLUTION AUTHORIZING THE ACCEPTANCE OF A GRANT FROM THE MINNESOTA DEPARTMENT OF COMMERCE IN THE AMOUNT OF \$193,942 FOR AN AUTO THEFT INVESTIGATOR.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to accept a grant from the state of Minnesota department of commerce, in the amount of \$193,942, such funds to be used to employ an auto theft investigator within the Duluth police department, and to execute a grant agreement, substantially the same as the attached Exhibit A, funds to be deposited in fund number 215-200-2266-4220-02 (Duluth police grant fund, police department, Minnesota auto theft grant, state of MN operating).

STATEMENT OF PURPOSE: This resolution authorizes the proper city officials to accept a grant from the Minnesota department of commerce in the amount of \$193,942. This is a two-year grant to support the auto theft prevention project. This is an increase of \$22,152 over the last two-year award. The grant monies will be applied toward the salary of an auto theft investigator within the Duluth police department. The grant period is July 1, 2015 through June 30, 2017.

**Attachments:** [Grant Contract \(Exhibit A\)](#)

**This Resolution was adopted unanimously.**

- 37. 15-0402R** RESOLUTION AUTHORIZING CONSUMPTION OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES IN WEST DULUTH IN CONJUNCTION WITH SPIRIT VALLEY DAYS AND SUBJECT TO CERTAIN CONDITIONS.

## CITY PROPOSAL:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places on portions of Ramsey Street and 57th Avenue West between Grand Avenue and Central Avenue from August 5-7, 2015, in conjunction with Spirit Valley Days, provided that all alcoholic beverages consumed outside of the designated serving areas of licensed establishments be consumed only from paper or plastic cups.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the licensee and approved by the administration.

STATEMENT OF PURPOSE: This resolution waives the drinking in public prohibition for events in conjunction with Spirit Valley Days. Such waiver for special events is authorized by Section 8-22(b) of the City Code and is requested by the police department after consultation with the Western Area Business and Civic Association to eliminate the law enforcement problem of having to take action against persons wandering beyond the designated service areas with drinks. For safety purposes, all alcoholic beverages consumed in these areas will have to be in paper cups.

**This Resolution was adopted unanimously.**

- 38. 15-0403R** RESOLUTION AUTHORIZING CONSUMPTION OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES ON THE 100 BLOCK OF WEST FIRST STREET IN CONJUNCTION WITH THE TWELVE HOLY APOSTLES FIRST STREET DANCE AND SUBJECT TO CERTAIN CONDITIONS.

## CITY PROPOSAL:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places on the 100 block of West First Street on August 28, 2015, (rain date September 11, 2015) to coincide with the Twelve Holy Apostles special events license, provided that all alcoholic beverages consumed outside of the designat-ed serving areas of licensed establishments be consumed only from paper or plastic cups.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the

licensee and approved by the administration

STATEMENT OF PURPOSE: This resolution waives the drinking in public prohibition for the 100 block of West First Street in conjunction with the Twelve Holy Apostles special event permit. Such waiver for special events is authorized by Section 8-22(b) of the City Code and is requested by the police department after consultation with the race sponsors to eliminate the law enforcement problem of having to take action against persons wandering beyond the designated service areas with drinks. For safety purposes, all alcoholic beverages consumed in these areas will have to be in paper cups.

**This Resolution was adopted unanimously.**

- 39. 15-0417R** RESOLUTION AUTHORIZING CONSUMPTION OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES ON EAST FIRST STREET IN CONJUNCTION WITH THE CHAPERONE RECORDS ANNIVERSARY BLOCK PARTY AND SUBJECT TO CERTAIN CONDITIONS.

CITY PROPOSAL:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places on the 200 block of East First Street on September 5, 2015, from 2:00 p.m. to 11:00 p.m. to coincide with the Men As Peacemakers special events license for the Chaperone Records Anniversary Block Party, provided that all alcoholic beverages consumed outside of the designat-ed serving areas of licensed establishments be consumed only from paper or plastic cups.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the licensee and approved by the administration.

STATEMENT OF PURPOSE: This resolution waives the drinking in public prohibition for the 200 block of East First Street on September 5, 2015. Such waiver for special events is authorized by Section 8-22(b) of the City Code and is requested by the police department after consultation with the event sponsors to eliminate the law enforcement problem of having to take action against persons wandering beyond the designated service areas with drinks. For safety purposes, all alcoholic beverages consumed in these areas will have to be in paper cups.

**This Resolution was adopted unanimously.**

- 40. 15-0431R** RESOLUTION APPROVING AGREEMENT WITH HOUSING AND REDEVELOPMENT AUTHORITY OF DULUTH FOR SERVICES AND

FUNDING OF ONE PUBLIC HOUSING COMMUNITY BASED POLICE OFFICER FOR FIVE YEARS AND ACCEPTING A TOTAL OF \$338,510.94 TO FUND SAID POSITION.

**CITY PROPOSAL:**

RESOLVED, that the proper city officers are hereby authorized to execute an agreement substantially the same as the attached Agreement with the Housing and Redevelopment Authority of Duluth, Minnesota (HRA) to accept a total of \$338,510.94 to fund one officer position for and over a period of five years, said officer will work with HRA to improve social conditions which may otherwise foster drug use, criminal activities, and other abuses or public disruptions at Duluth HRA public housing sites, said sum to be payable to Fund No. 215-200-2293-4263 (Duluth Police Grant Programs Fund, Police Department, COPS HRA, Housing & Redevelopment Authority).

STATEMENT OF PURPOSE: The purpose of this resolution is to approve an agreement with the Housing Redevelopment Authority of Duluth (HRA) for the services and funding for five years of a Public Housing Community Based Police Officer assigned primarily to HRA sites.

**Attachments:** [Agreement for Services-Community Based Police Officer HRA](#)

This Resolution was adopted unanimously.

**BY COUNCILOR SIPRESS (RECREATION, LIBRARIES & AUTHORITIES)**

41. 15-0421R RESOLUTION AUTHORIZING AN AGREEMENT WITH HOISINGTON KOEGLER GROUP INC., FOR PROFESSIONAL SERVICES TO COMPLETE A MINI MASTER PLAN FOR VARIOUS CITY PARKS FOR AN AMOUNT NOT TO EXCEED \$75,000.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Hoisington Koegler Group Inc., (HKgl), agreement attached as Exhibit A, for professional services to complete mini master plans for various city parks, proposal attached as Exhibit B, for a total amount not to exceed \$75,000, payable from Tourism and Recreational Projects 452; Finance 030; Improvements Other than Buildings 5530; Project: HANDHTAX-1521 - half and half tax projects, neighborhood parks

and trails.

STATEMENT OF PURPOSE: This resolution authorizes an agreement with HKgl for professional services to complete mini master plans for various neighborhood parks located within the St. Louis River corridor for a total amount not to exceed \$75,000. The parks are Norton, Fond du Lac, Riverside, Blackmer, Piedmont, Harrison, Merritt, Keene Creek, Historical, Smithville, and Grassy Point. Once the mini master plans are complete, the intent is that, subject to future council approval, each of the parks will be eligible for one-to-one matching grants up to \$50,000 for plan implementation, payable from the half and half tax.

The purchasing division posted the request for proposals May 27, 2015, on the city's website and received four proposals by the closing date. A committee consisting of city professional staff reviewed each proposal and determined that HKgl was the best consultant for this project. The committee evaluation forms for each vendor are attached as Exhibit C; the bid tabulation is attached as Exhibit D.

**Attachments:** [Exhibit A](#)  
[Exhibit B](#)  
[Exhibit C](#)  
[Exhibit D](#)

**This Resolution was adopted unanimously.**

- 42. 15-0438R** RESOLUTION AUTHORIZING AN AGREEMENT WITH THE DULUTH AIRPORT AUTHORITY (DAA) TO INSURE CERTAIN DAA PROPERTY AND EQUIPMENT UNDER THE CITY'S PROPERTY INSURANCE POLICY.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with the Duluth airport authority (DAA), substantially in the form attached as Exhibit A, pursuant to which certain DAA property and equipment will be insured under the city's property insurance policy for the period from August 1, 2015 to February 16, 2016, and for which DAA shall pay the city in the amount of \$24,747, to be deposited in Fund No. 610-036-1659-4906 (self insurance liabilities, insurance accounts, insurance Airport, other insurance charges).

STATEMENT OF PURPOSE: This resolution authorizes the execution of an agreement with the Duluth airport authority (DAA) pursuant to which DAA-owned buildings and equipment will be insured under the city's

property insurance policy at a cost that will represent a substantial savings to DAA. The city has a blanket property policy with a \$100,000 deductible. The DAA's annual cost for the insurance (from February 16, 2015 to February 16, 2016) would be \$47,686. DAA will pay the city a prorated amount of \$24,747 for the period from August 1, 2015 to February 16, 2016. The buildings and equipment being insured are attached to the agreement as an Exhibit.

Attachments: [2015 Agreement with City 7-10-15](#)

**This Resolution was adopted unanimously.**

- 43. 15-0439R** RESOLUTION AUTHORIZING ACCEPTANCE AND EXECUTION OF A HOST SITE AGREEMENT WITH THE MINNESOTA POLLUTION CONTROL AGENCY FOR A 2015-2016 PROGRAM YEAR GREENCORPS MEMBER.

**CITY PROPOSAL:**

WHEREAS, the city of Duluth has applied to host an AmeriCorps member from the Minnesota GreenCorps, a program of the Minnesota pollution control agency (MPCA), for the 2015-2016 program year; and

WHEREAS, the MPCA has selected the city of Duluth, who is committed to implementing the proposed project as described in the host site application, and in accordance with the pre-scoped position description; and

WHEREAS, the MPCA requires that the city of Duluth enter into a host site agreement with the MPCA that identifies the terms, conditions, roles and responsibilities substantially the same as the form of Exhibit A.

BE IT RESOLVED, that the City of Duluth hereby agrees to enter into and sign a host site agreement with the MPCA to carry out the member activities specified therein and to comply with all of the terms, conditions, and matching provisions of the host site agreement.

FURTHER RESOLVED, that the proper city officials are authorized to accept a GreenCorps member from the Minnesota pollution control agency (MPCA) at no direct cost to the city and to execute a grant contract for the purpose of hosting a GreenCorps member for the 2015-2016 program year.

**STATEMENT OF PURPOSE:** This resolution authorizes the acceptance, by the proper city officials, of an agreement with the Minnesota pollution control agency (MPCA) for the purpose of hosting a GreenCorps member for the 2015-2016 program year. The GreenCorps member will assist the



city of Duluth with our urban forestry program, specifically related to the impact of invasive terrestrial plants. The member will engage community volunteers in removal and disposal standards and will educate the public on the negative impacts of invasive species on our urban forest. The GreenCorps member will improve our public land for future generations to enjoy.

This Minnesota GreenCorps member will be assigned to the parks and recreation division to complete the tasks and assignments as outlined in the agreement. There is no direct cost or match for the city. The in-kind requirements are to provide day-to-day supervision (3.2 hours per week minimum); attend supervisor training; develop member work plan; approve timesheets; participate in site visits; complete performance evaluation and handle disciplinary measures; provide member workspace, computer access, supplies, material, desk telephone, access to copy machine, internet access for GreenCorps related reporting, and an email address; provide on-site safety training; provide name badge; and submit in-kind documentation of supervision.

This will be the third GreenCorps member hosted by the parks and recreation division. The first two GreenCorps members both served for two program years.

Attachments: [Agreement](#)

**This Resolution was adopted unanimously.**

**44. 15-0440R RESOLUTION CONVEYING OWNERSHIP OF THE JOE GOMER MONUMENT TO THE ST. LOUIS COUNTY HISTORICAL SOCIETY.**

**CITY PROPOSAL:**

WHEREAS, pursuant to Resolution 14-0550, the city of Duluth ("city") accepted the donation of the Joe Gomer Monument from the Northland Veterans Service Committee ("NVSC"); and

WHEREAS, NVSC has worked out an arrangement pursuant to which the St. Louis County Historical Society has agreed to take ownership of the Joe Gomer Monument as well as the David Wheat Monument, both of which will be located in the Duluth International Airport terminal; and

WHEREAS, NVSC has requested the city convey the Joe Gomer Monument to the St. Louis County Historical Society.

NOW, THEREFORE, the city does hereby convey the ownership of the Joe Gomer Monument to the St. Louis County Historical Society.

STATEMENT OF PURPOSE: In November of 2014, the City of Duluth ("city") accepted a donation of the Joe Gomer Monument from the Northland

Veterans Service Committee (“NVSC”). The Joe Gomer Monument is located on the second floor of the Duluth International Airport. It was intended that the city would enter into an agreement with the Duluth Airport Authority that would require the city to maintain the Joe Gomer Monument at the City’s cost.

Subsequently, NVSC has been in contact with the Historical Society which has agreed to take ownership and maintenance responsibility of both the Joe Gomer Monument and the David Wheat Monument, which will also be located in the Airport. The purpose of this resolution is to convey the Joe Gomer Monument to the St. Louis County Historical Society. The Historical Society will be entering into a license agreement with the Airport Authority pursuant to which it will agree to maintain both monuments.

**This Resolution was adopted unanimously.**

## **END OF CONSENT AGENDA**

**The following entitled resolutions were also considered:**

### **COMMITTEE 1**

#### **BY COUNCILOR HANSON (PURCHASING & LICENSING)**

45. 15-0423R RESOLUTION OF SUPPORT FOR NAMING THE LITTLE LEAGUE FIELDS LOCATED BEHIND WADE STADIUM THE JOHN BAGGS LITTLE LEAGUE FIELDS.

BY COUNCILOR HANSON:

WHEREAS, John Baggs was a baseball coach for the College of St. Scholastica for 17 years up until his death in 2009; and

WHEREAS, John Baggs brought the St. Scholastica baseball program from relative obscurity to national prominence; and

WHEREAS, the St. Scholastica baseball team won 12 straight Upper Midwest Conference Titles under the leadership of John Baggs and he was named Upper Midwest Conference Coach of the year ten times; and

WHEREAS, John Baggs was a beloved coach, mentor and leader in Duluth’s baseball community and inspired many local youth; and

WHEREAS, there is strong community support to honor Johns Baggs’ memory by naming a baseball field in his name.

WHEREAS, the Little League fields outside of Wade Stadium are currently unnamed.

THEREFORE, BE IT RESOLVED, that the city council, in recognition of Mr. Baggs’ remarkable coaching career and community involvement,

hereby supports the naming of the little league fields located behind Wade Stadium.

STATEMENT OF PURPOSE: This resolution recognizes the leadership and exceptional contributions of John Baggs to the sport of baseball in Duluth. Accordingly, the city council supports the naming of the little league fields behind Wade Stadium in honor of Mr. Baggs.

**Sponsors:** Hanson

Councilor Sipress moved to table the resolution for response from the naming committee, community and the families involved.

**The motion was seconded and carried by the following vote:**

**Yea:** 6 - Councilors Filipovich, Gardner, Hanson, Russ, Sipress and President Larson

**Nay:** 2 - Councilors Fosle and Krug

**Absent:** 1 - Councilor Julsrud

**46. 15-0424R RESOLUTION OF SUPPORT FOR NAMING THE TWO SOFTBALL FIELDS OUTSIDE WADE STADIUM THE DICK SWANSON FIELDS.**

BY COUNCILOR HANSON:

WHEREAS, Dick Swanson has been a long time coach of youth sports in the city of Duluth; and

WHEREAS, Mr. Swanson was formerly the girls' basketball coach at both Duluth Denfeld and Duluth Central high schools; and

WHEREAS, Mr. Swanson is currently the coach of the Denfeld Hunter's softball team and has been the Denfeld high school softball coach for nearly twenty years; and

WHEREAS, Mr. Swanson has also coached numerous girls youth softball teams at the softball fields outside of Wade Stadium; and

WHEREAS, Mr. Swanson is recognized by the citizens of West Duluth as a leader and advocate of youth softball; and

WHEREAS, the softball fields outside of Wade Stadium are known as "Wade Fields" simply because of their location and have not been previously named.

THEREFORE, BE IT RESOLVED, that the city council, in recognition of Mr. Swanson's leadership and efforts promoting youth softball, hereby supports the naming of the two softball fields outside of Wade Stadium for Dick Swanson and requests that the proper city officials take the necessary steps to initiate the process of naming.

STATEMENT OF PURPOSE: This resolution recognizes the leadership and exceptional contributions of Dick Swanson to the sport of softball in

West Duluth. Accordingly, the city council supports the naming of the two softball fields outside of Wade Stadium in honor of Mr. Swanson.

**Sponsors:** Hanson

Councilor Sipress moved to table the resolution for response from the naming committee, community and the families involved.

**The motion was seconded and carried by the following vote:**

**Yea:** 7 - Councilors Filipovich, Fosle, Gardner, Hanson, Russ, Sipress and President Larson

**Nay:** 1 - Councilor Krug

**Absent:** 1 - Councilor Julsrud

### COMMITTEE 3

#### BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)

- 47. 15-0430R** RESOLUTION AWARDING A CONTRACT TO NORTHLAND CONSTRUCTORS OF DULUTH, LLC FOR CONSTRUCTION OF THE CROSS CITY TRAIL PHASE IV IN THE AMOUNT OF \$953,254.43.

#### CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to award a contract to Northland Constructors of Duluth, LLC, for construction of the Cross City Trail Phase IV in the amount of \$953,254.43, payable from Capital Improvement Fund 450, Department 030 (finance), Object 5530 (improvements other than buildings), City Project No. 0676TR, S.P. 118-090-021.

STATEMENT OF PURPOSE: This resolution will authorize award of a contract to Northland Constructors of Duluth, LLC, in the amount of \$953,254.43 for the construction of the Cross City Trail Phase IV. Northland Constructors was the only bidder to respond. The engineer's estimate was \$935,237.65; payable out of Capital Improvement Fund 450, Department 030 (finance), Object 5530 (improvements other than buildings), City Project No. 0676TR, S.P. 118-090-021, Requisition No. 15-0337.

TABULATION OF BIDS RECEIVED JULY 1, 2015:  
Northland Constructors of Duluth, LLC, Duluth, MN - \$953,254.53

**Attachments:** [15-0430 Map](#)

A motion was made and seconded that this Resolution be adopted. The motion carried by the following vote:

**Yea:** 8 - Councilors Filipovich, Fosle, Gardner, Hanson, Krug, Russ, Sipress and President Larson

**Absent:** 1 - Councilor Julsrud

## INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

### COMMITTEE 1

#### BY COUNCILOR FILIPOVICH (FINANCE)

48. 15-059-O AN ORDINANCE AMENDING CHAPTER 8, SECTION 41, OF THE DULUTH CITY CODE, 1959, AS AMENDED, ELIMINATING THE PROHIBITION AGAINST GRANTING ALCOHOLIC BEVERAGE LICENSES TO CITY OFFICIALS NOT EMPLOYED IN THE POLICE OR FIRE DEPARTMENTS.

BY COUNCILOR FILIPOVICH::

The city of Duluth does ordain:

Section 1. That Chapter 8, Section 41, of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 8 41. Types generally.

(a) With respect to intoxicating liquor, there shall be the following types of licenses: on sale, on sale club, on sale wine, on sale culinary class, on sale theater, on sale brewer taproom, on sale microdistillery cocktail room, temporary on sale, off sale and a brewery malt liquor off sale;

(b) On sale licenses authorize the licensee to sell intoxicating liquor at retail for consumption only on the licensed premises. The following additional requirements apply to specific types of on sale licenses:

(1) On sale culinary class licenses authorize on sales subject to the restrictions of Section 8-44(d) of this Chapter and Minnesota Statutes Section 340A.4041, or its successor;

(2) On sale theater licenses authorize on sales each day of the week to persons attending events at the theater;

(3) On sale brewer taproom licenses authorize on sales of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer, subject to the restrictions of this Chapter and Minnesota Statutes Section 340A.301,

subd. 6(b), or its successor. Notwithstanding Section 8-17 of this Chapter or Minnesota Statutes Section 340A.504, subdivision 3, a taproom may be open and may conduct on sale business on Sundays if authorized by the city in the license. All Sunday sales are subject to the limitation on hours of sale provided in Section 8-46 of this Chapter;

(4) On sale microdistillery cocktail room licenses authorize on sales of distilled liquor produced by the distiller for consumption on the premises of or adjacent to one distillery location owned by the distiller subject to the restrictions of Section 8-44(h) of this Chapter and Minnesota Section 340A.22 or its successor;

(5) Temporary on sale licenses authorize temporary on sales in connection with a social event sponsored by the licensee and only at the designated licensed premise;

(c) Except as provided herein, off sale licenses authorize the licensee to sell intoxicating liquor at retail in original packages only for consumption off the licensed premises. The following additional requirements apply to specific types of off sale licenses:

(1) Brewery malt liquor licenses permit breweries holding on sale licenses, or breweries that manufacture fewer than 3,500 barrels of malt liquor in a year, to sell malt liquor off sale in 64-ounce containers commonly known as growlers, subject to the restrictions in Minnesota Statutes, Section 340A.301, subd. 7(b), or its successor, and this Chapter;

(2) Notwithstanding the provisions of sections 8-21 and 8-22 of this Chapter, it shall be lawful for the holder of an off sale intoxicating liquor license or a brewery malt liquor off sale license to provide samples as provided in Minnesota Statutes, Section 340A.510, or its successor;

(d) With respect to 3.2 percent malt liquor, there shall be three types of licenses: on sale, off sale and temporary on sale. Each type of 3.2 percent malt liquor license authorizes the licensee to sell 3.2 percent malt liquor subject to the following additional requirements applicable to the specific type of license:

(1) On sale licenses authorize the sale of 3.2 percent malt liquor at retail for consumption only on the licensed premises;

(2) Off sale licenses authorize the sale of 3.2 percent malt liquor at retail in original packages for consumption only off the licensed premises;

(3) Temporary on sale licenses authorize the sale of 3.2 percent malt liquor at retail for a limited period of time, and only at the designated licensed premise;

(e) No alcoholic beverage license of any type shall be granted ~~to any elective, appointed, executive or administrative officer of the city,~~ to any employee holding a position in the classified service of the city and working as a licensed peace officer in the police department, to any police chief, deputy chief of police, fire chief, deputy fire chief, fire marshal or deputy fire marshal, nor shall any such officer or employee engage in the business, be employed by an establishment licensed by the city, or have an ownership interest in such business licensed by the city.

STATEMENT OF PURPOSE: The purpose of this ordinance is to eliminate the prohibition against granting an alcoholic beverage license to elective, appointed, executive or administrative city officials who are not employed in the fire or police department and to have the city of Duluth's alcoholic beverage license requirements be consistent with state statutes.

Sponsors: Filipovich

This Ordinance was read for the first time.

## COMMITTEE 2

### BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)

49. 15-055-O AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RR-1 TO MU-B 160 ACRES ALONG THE EAST SIDE OF RICE LAKE ROAD SOUTH OF RIDGEVIEW ROAD (JLH PROPERTIES OF DULUTH LLC).

#### CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That approximately 160 acres of land located on the east side of Rice Lake Road south Ridgeview Road and as more particularly described as follows:

Northwest Quarter of Section 5, Township 50 North of Range 14 West of the Fourth Principle Meridian, Saint Louis County, Minnesota; be reclassified from Residential-Rural 1 (RR-1) to Mixed Use-Business Park (MU-B), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as shown on the attached map.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

STATEMENT OF PURPOSE: This zoning map amendment provides a zoning change from RR-1 to MU-B for 160 acres of land on the east side of Rice Lake Road south of Ridgeview Road.

On May 12, 2015, the Duluth city planning commission held a public hearing on the proposal and tabled the matter to learn more about why the comprehensive plan future land use map designated the property general mixed use. The attached memo, in addition to the staff report, provides explanations. On June 9, 2015 the Duluth city planning commission voted 8 yeas, 0 nays and 0 abstentions, to recommend that the city council

approve the rezoning requested for the following reasons:

This proposed MU-B District is consistent with the comprehensive land use plan future land use map designation for the property of general mixed use. The planning commission review of the platting of the property and/or application of UDC development standards during staff review of development proposals for the site will allow for implementation of the purpose statement of the MU-B zone district through setting aside land for natural resources protections, buffering to protect surrounding properties from possible impacts, and the evaluation of transportation connections to the site.

The applicant did not submit written consent of 2/3 of property owners within 100 feet of the property to be rezoned. Therefore, the motion to approve the rezoning ordinance must prevail with an affirmative vote of 6/9 of the city council.

Date of application: April 10, 2015

Action deadline: August 8, 2015

Petitioner:

JLH Properties of Duluth LLC

4843 Rice Lake Road

Duluth, MN 55803

PL 15-064

**Attachments:** [Map Attachment](#)

[Staff Report and Attachments](#)

**This Ordinance was read for the first time.**

- 50. 15-056-O** AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO P-1, FOR CONGDON PARK, LONGVIEW TENNIS COURTS, MORLEY PARK, OLD MAIN PARK AND WAVERLY PARK (CITY OF DULUTH).



**CITY PROPOSAL:**

The city of Duluth does ordain:

Section 1. That the subject properties located on located on the eastern and northeast portions of the city and as more particularly described as follows:

010-0710-00240  
010-2710-03625  
010-4120-00520  
010-3320-00560  
010-1380-03455  
010-4450-00830  
010-2610-01320

be reclassified from Residential-Traditional (R-1) to Park and Open Space (P-1), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as shown on the attached map.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

**STATEMENT OF PURPOSE:** This zoning map amendment provides a zoning change for the park properties located on the eastern portion of the City including Congdon Park, Longview Tennis Courts, Morley Heights Park, Old Main Park and Waverly Park from the current zoning districts of Residential- Traditional(R-1) to Park and Open Space (P-1).

On February 11, 2015 the Duluth parks and recreation commission unanimously passed a resolution in support of the rezoning of city park property.

On June 9, 2015, the Duluth city planning commission held a public hearing on the proposal and voted 8 yeas, 0 nays and 0 abstentions, to recommend that the city council approve the rezoning requested for the following reasons:

Rezoning to Park and Open Space (P-1) is the zone most reasonably able to implement the objectives of the comprehensive plan related to the proposed land use for this area.

The rezoning is consistent with the comprehensive-plan future land use map.

While providing protection for this area, the P-1 zone will also provide flexibility to permitted uses the ability to improve their facilities, via the special use permit process as required by Section 50-37.10, in order to increase their public benefit.

Material adverse impacts on nearby properties are not anticipated.

licable  
ble

Petitioner:  
City of Duluth  
Planning Division  
Room 208  
City Hall  
Duluth, Minnesota

PL 15-082

**Attachments:** [Zoning Map Attachment](#)  
[Staff Report and Attachments](#)

**This Ordinance was read for the first time.**

- 51. 15-058-O** AN ORDINANCE GRANTING A CONCURRENT USE PERMIT FOR UNDERGROUND UTILITIES IN THE RIGHT OF WAY OF 5TH AVENUE EAST BETWEEN 2ND STREET AND 4TH STREET (ESSENTIA HEALTH)

**CITY PROPOSAL:**

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 granted to Essentia Health, and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) Private underground utilities to provide emergency power generation and communications wiring for the Essentia campus, to include the following: two underground concrete duct banks, electrical conduit, and a 4" PVC sump drain in the right of way of 5th Avenue E, approximately between the E 3rd Street alley and just south of E 4th Street, as shown in the exhibits.

Section 2. Before this ordinance shall be effective for any purpose whatsoever, the permittee shall file with the planning division a certification of insurance approved as to form by the city attorney evidencing that the permittee has in force a policy of insurance meeting the following requirements:

(a) Comprehensive general liability insurance in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage; and

(b) Insurance coverage shall include all permittee's activities occurring upon or within public right of way or easement occupied pursuant to this ordinance whether said activities are performed by the permittee or its agents or representatives; and

(c) The insurance policy shall be approved by the city attorney; and

(d) The policy shall contain a condition that it may not be canceled without 30 days written notice to the city of Duluth and directed to the attention of the city attorney; and

(e) The city of Duluth shall be named as an additional insured; and

(f) The certificate shall also reference this ordinance by its ordinance number.

Section 3. The permit granted by this ordinance may be terminated at any time by the city official exercising departmental authority of the public easement if the city of Duluth determines to use the area occupied by the permittee for any public purpose in accordance with the duly dedicated public easement or other lawful use.

Unless a shorter notice period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance, giving the permittee 30 days written notice delivered to the last known electronic address, facsimile number, or mailing address of the permittee shall be sufficient notice of termination.

Upon termination permittee shall cause all private improvements to be removed by the deadline provided in termination notice. Permittee shall be responsible for all costs incurred to remove the private improvements, including any costs associated with repairing damage caused to the public easement by the removal and without right to claim from the city of Duluth, or any of its officers, agents or servants, any compensation or reimbursement for damages of any kind whatsoever.

Section 4. By accepting the terms of this ordinance, the permittee agrees to hold harmless and defend and indemnify the city of Duluth against claims or demand which may arise against the city of Duluth by reason of the existence of private improvements, or any act or omission of the permittee, its employees, agents, and assigns. The permittee agrees that the city of Duluth shall not be liable for damage caused to the private improvements while the city engages in the repair and maintenance to, or replacement of, the public improvements or public utilities, including any snow removal operations. The permittee agrees to pay to the city of Duluth all extra costs of installation of any public improvements or public utilities made necessary by the presence of the private improvements.

Section 5. The permittee shall, at its expense, protect, support, temporarily disconnect, or remove from the public easement, the private improvements when required by city officials by reason of snow removal, traffic conditions, public safety, street vacation, freeway and street

construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines and tracks, the installation or repair of any type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

Section 6. Upon the sale or transfer of permittee's interest in the permit granted by this ordinance, the permittee shall provide written notice to the planning division within five days of such transfer. The permittee's successor in interest shall file with the planning division within ten days of such transfer a duly executed and acknowledged written acceptance of the terms of this ordinance and the certificate of insurance required in Section 2 above.

Section 7. The permit granted by this ordinance is subject to termination by the city of Duluth upon permittee's failure to comply with any of the terms and conditions of this permit. Ten days written notice, delivered as provided in Section 3 above shall be sufficient notice of termination. Upon termination, permittee shall remove the private improvements as provided in Section 3.

Section 8. The permittee shall observe the following conditions:

(a) Permittee's use of the public right of way or easement shall be limited to the designated area described in Section 1 above and further shown on the exhibits; and

(b) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as in no way interfere with or damage any portion of any public improvement, or other public utilities now or to hereinafter located in any part of said public easement.

(c) Maintenance of the duct banks, conduit, and sump drain, and all other utilities in this right of way owned by permittee, will be the responsibility of the permittee, including performing locates when needed.

(d) Permittee shall provide the City with as-built information once improvements are installed.

Section 9. The following events shall automatically cause the termination of the term of this ordinance:

(a) The failure by the permittee to file the required insurance certificate as specified in Section 2 30 days after this ordinance takes effect; or

(b) The failure of the permittee to commence the improvements authorized by this ordinance within 180 days after this ordinance takes effect.

Section 10. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

STATEMENT OF PURPOSE: This ordinance grants Essentia Health a concurrent use permit for right of way of 5th Avenue E, between the E 3rd Street alley and E 4th Street, for private underground utilities providing emergency power and communications.

On June 9, 2015, the planning commission held a public hearing on the proposal, and voted 8 yeas, 0 nays, and 0 abstentions to recommend that

the city council approve the request for a concurrent use of streets.

Petition received: May 1, 2015  
Action deadline: August 29, 2015

Applicant  
Essentia Health  
Attn: John Rice  
502 E 2nd Street  
Duluth, MN 55805

PL 15-076

**Attachments:** [Legal Description](#)  
[Exhibit](#)  
[Staff Report and Attachments](#)

**This Ordinance was read for the first time.**

### COMMITTEE 3

#### BY COUNCILOR FOSLE (PUBLIC SAFETY)

52. 15-057-O AN ORDINANCE AMENDING CHAPTER 33, SECTION 91, OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO UNATTENDED MOTOR VEHICLES.

#### CITY PROPOSAL:

The city of Duluth does ordain:

Section 1: That Chapter 33, Section 91, of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:  
Sec. 33 91. Keys to be removed from unattended vehicles.

Except for police officers and other public safety employees engaged in the performance of their official duties, No person shall leave a motor vehicle, except a truck which is engaged in loading or unloading, unattended on any street, alley, used car lot or unattended parking lot without first stopping the engine, locking the ignition and removing all ignition keys from the vehicle; provided, however, that any violation of these provisions shall not mitigate the offense of stealing such motor vehicle, nor shall such violation be used to effect a recovery in any civil action for theft of such motor vehicle, or the insurance thereon, or have any other bearing in any civil action.

Whenever any police officer of the city shall find any such motor vehicle standing in violation of the foregoing provisions, such police officer is authorized and directed to remove therefrom the keys left therein and to deliver the same to the officer in charge at police headquarters.

Section 2: That this ordinance shall take effect 30 days after its passage and publication.

STATEMENT OF PURPOSE: This ordinance amends Chapter 33, Section 91, of the Duluth City Code to exempt police officers and other public safety officials from the requirements of the section while engaged in their official duties. This amendment is in response to the decision of the Minnesota Court of Appeals in *Briggs v Rasicot*, (A14-2022, Minn. App. 6/29/2015). In *Briggs* an officer left his squad running and unlocked during an attempted arrest. The suspect stole the squad and caused an accident resulting in death to an occupant of a civilian vehicle. The court held that the officer and the city that employed the officer were liable because the city code, which is similar to Section 91, did not exempt the officer from the requirements of the code. Because it is not practicable for officers and other public safety employees to always lock their vehicles while engaged in their official duties, it is necessary to amend Section 91 in order to avoid liability for the theft of a public safety vehicle.

**This Ordinance was read for the first time.**

**The following entitled ordinance was read for the second time:**

### **COMMITTEE 3**

#### **BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)**

- 53. 15-048-O AN ORDINANCE DEDICATING AN EASEMENT FOR PUBLIC ROADWAY AND UTILITY PURPOSES ON CITY-OWNED PROPERTY RELATED TO RECONDITIONING AND RECONSTRUCTION OF RIDGEVIEW ROAD.**

#### **CITY PROPOSAL:**

The city of Duluth does ordain:

Section 1. That the city of Duluth does hereby dedicate to the general public a perpetual easement for roadway and utility right-of-way purposes over city-owned property in St. Louis County, Minnesota, as legally described in the attached Exhibit.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective Date August 19 2015)

STATEMENT OF PURPOSE: The purpose of this ordinance is to dedicate a 33 foot wide easement for roadway and utility purposes across city-owned property to facilitate reconditioning and reconstruction of an existing road known as Ridgeview Road.

The road will provide a secondary access road to the Minnesota Air National Guard base in Duluth. The city will receive a combination of funds provided by MnANG and federal highway administration funds. The project funds will provide for reconditioning and reconstruction of this roadway to a surface capable of carrying higher volumes of traffic. In order to be able to use the federal funds, the roadway must be on a "public right-of-way."

**Attachments:** [Exhibit](#)

**A motion was made and seconded that this Ordinance be adopted. The motion carried unanimously.**

**The meeting was adjourned at 7:27 p.m.**



# City of Duluth

411 West First Street  
Duluth, Minnesota 55802

## Minutes

### City Council

**MISSION STATEMENT:** *The mission of the Duluth City Council is to develop effective public policy rooted in citizen involvement that results in excellent municipal services and creates a thriving community prepared for the challenges of the future.*

**TOOLS OF CIVILITY:** *The Duluth City Council promotes the use and adherence of the tools of civility in conducting the business of the council. The tools of civility will provide increased opportunities for civil discourse in order to find positive resolutions to the issues that face the city. These tools include: pay attention, listen, be inclusive, do not gossip, show respect, be agreeable, apologize, give constructive criticism and take responsibility. [Approved by the council on August 25, 2003]*

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Monday, July 27, 2015

7:00 PM

Council Chamber

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#### ROLL CALL

**Present:** 8 - Councilors Zach Filipovich, Jay Fosle, Sharla Gardner, Howie Hanson, Jennifer Julsrud, Linda Krug, Barb Russ and Joel Sipress.

**Absent:** 1- President Emily Larson

#### **PUBLIC HEARING - 7:00 PM - Proposed Confirmation of Assessment Roll for the Riverside Reconstruction.**

At this time, 7:03 p.m., the public hearing began.

Carole Newkumet expressed her dissatisfaction about the quality of work that was done on this project.

At this time, 7:06 p.m., the public hearing was declared closed and the regular order of business resumed.

#### **PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

- 1. 15-021** Colleen Baggs and Dick Swanson communication, submitted by Councilor Hanson, regarding the proposed renaming of ball fields near Wade Stadium (15-0423R and 15-0424R).

**Attachments:** [Communication](#)

**This Petition/Other Communication was received.**

- 2. 15-023** Bev Berglund communication regarding the proposed confirmation of the assessment roll for the Riverside reconstruction (15-0387R).



**Attachments:** [Communication](#)

**This Petition/Other Communication was received.**

3.     **15-024**     Barbara Hoffman communication regarding the proposed vacation of alleys southwest of Kenwood Avenue and Arrowhead Road (15-0429R).

**Attachments:** [Communication](#)

**This Petition/Other Communication was received.**

## REPORTS FROM OTHER OFFICERS

4.     **15-016**     Clerk applications for exempt permits (raffles) to the Minnesota gambling control board from Circle of Hope on October 18, 2015, Essentia Health - Duluth and Essentia Health St. Mary's Medical Center on November 6, 2015.

**Attachments:** [Application\\_CircleofHope](#)  
[Application\\_EssentiaHealthDuluth](#)  
[Application\\_EssentiaHealthSMMC](#)

**This Other Officers Report was received.**

## REPORTS OF BOARDS AND COMMISSIONS

5.     **15-019**     Duluth airport authority minutes of June 16, 2015, regular and special meetings.

**Attachments:** [Regular Meeting Minutes](#)  
[Special Meeting Minutes](#)

**This Board or Commission Report was received.**

6.     **15-020**     Duluth public utilities commission minutes of May 19, 2015, meeting and resolution amending water customer category C/I 6 to include golf course irrigation (15PUC-005).

**Attachments:** [Minutes](#)  
[15PUC-005](#)

**This Board or Commission Report was received.**

7. **15-022** Duluth parking commission minutes of August 15, September 19, October 3, November 7 and December 5, 2014.

Attachments: [08152014 Minutes](#)  
[09192014 Minutes](#)  
[10032014 Minutes](#)  
[11072014 Minutes](#)  
[12052014 Minutes](#)

This Board or Commission Report was received.

## OPPORTUNITY FOR CITIZENS TO BE HEARD

## RESOLUTIONS TABLED

## COMMITTEE 1

## BY COUNCILOR HANSON (PURCHASING & LICENSING)

8. **15-0423R** RESOLUTION OF SUPPORT FOR NAMING THE LITTLE LEAGUE FIELDS LOCATED BEHIND WADE STADIUM THE JOHN BAGGS LITTLE LEAGUE FIELDS.

### BY COUNCILOR HANSON:

WHEREAS, John Baggs was a baseball coach for the College of St. Scholastica for 17 years up until his death in 2009; and

WHEREAS, John Baggs brought the St. Scholastica baseball program from relative obscurity to national prominence; and

WHEREAS, the St. Scholastica baseball team won 12 straight Upper Midwest Conference Titles under the leadership of John Baggs and he was named Upper Midwest Conference Coach of the year ten times; and

WHEREAS, John Baggs was a beloved coach, mentor and leader in Duluth's baseball community and inspired many local youth; and

WHEREAS, there is strong community support to honor John's Baggs' memory by naming a baseball field in his name.

WHEREAS, the Little League fields outside of Wade Stadium are currently unnamed.

THEREFORE, BE IT RESOLVED, that the city council, in recognition of Mr. Baggs' remarkable coaching career and community involvement, hereby supports the naming of the little league fields located behind Wade Stadium.

STATEMENT OF PURPOSE: This resolution recognizes the leadership and exceptional contributions of John Baggs to the sport of baseball in Duluth. Accordingly, the city council supports the naming of the little league fields behind Wade Stadium in honor of Mr. Baggs.

Sponsors: Hanson

Councilor Hanson moved to remove the resolution from the table, which motion was seconded and unanimously carried.

**This Resolution was adopted unanimously.**

**9. 15-0424R RESOLUTION OF SUPPORT FOR NAMING THE TWO SOFTBALL FIELDS OUTSIDE WADE STADIUM THE DICK SWANSON FIELDS.**

BY COUNCILOR HANSON:

WHEREAS, Dick Swanson has been a long time coach of youth sports in the city of Duluth; and

WHEREAS, Mr. Swanson was formerly the girl's basketball coach at both Duluth Denfeld and Duluth Central high schools; and

WHEREAS, Mr. Swanson is currently the coach of the Denfeld Hunter's softball team and has been the Denfeld high school softball coach for nearly twenty years; and

WHEREAS, Mr. Swanson has also coached numerous girls youth softball teams at the softball fields outside of Wade Stadium; and

WHEREAS, Mr. Swanson is recognized by the citizens of West Duluth as a leader and advocate of youth softball; and

WHEREAS, the softball fields outside of Wade Stadium are know as "Wade Fields" simply because of their location and have not been previously named.

THEREFORE, BE IT RESOLVED, that the city council, in recognition of Mr. Swanson's leadership and efforts promoting youth softball, hereby supports the naming of the two softball fields outside of Wade Stadium for Dick Swanson and requests that the proper city officials take the necessary steps to initiate the process of naming.

STATEMENT OF PURPOSE: This resolution recognizes the leadership and exceptional contributions of Dick Swanson to the sport of softball in West Duluth. Accordingly, the city council supports the naming of the two softball fields outside of Wade Stadium in honor of Mr. Swanson.

Sponsors: Hanson

Councilor Hanson moved to remove the resolution from the table, which motion

was seconded and unanimously carried.

**This Resolution was adopted unanimously.**

## **MOTIONS AND RESOLUTIONS**

### **CONSENT AGENDA**

## **COMMITTEE 2**

### **BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)**

11.     **15-0429R**     RESOLUTION VACATING ALLEYS IN BLOCKS 1, 2, AND 11, MYERS AND WHIPPLES ADDITION TO DULUTH, LOCATED SOUTHWEST OF KENWOOD AVENUE AND ARROWHEAD ROAD, RETAINING A UTILITY EASEMENT OVER WESTERN PORTION OF THE ALLEY (KENWOOD VILLAGE LLC)

#### **CITY PROPOSAL:**

##### **RESOLVED, that:**

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (d) 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 this portion of the street easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, June 9, 2015 regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the platted road easement, maintaining a public utility easement, described below:

**VACATION LEGAL DESCRIPTION:**

All those parts of alleys appurtenant to Blocks Two (2) and Eleven (11) and Lots Five (5) through Ten (10), Block One (1) Excepting the north 19 feet thereof, all in Myers & Whipples Addition to Duluth, City of Duluth, St. Louis County, Minnesota.

**PUBLIC UTILITY EASEMENT:**

All that part of alley appurtenant to Lots Nine (9) through Eighteen (18), Blocks Two (2) and Eleven (11), Myers & Whipples Addition to Duluth, City of Duluth, St. Louis County, Minnesota, lying westerly of a line drawn between a point that is the 5.00 feet easterly of, and parallel with, the westerly line of said Lot 9, Block 2 intersected with the north line of said alley and a point 15.00 feet easterly of, and parallel with, the westerly line of said Lot 9, Block 11 intersected with the south line of said alley.

(e) 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 showing the platted easement to be vacated; and

(f) The applicant has agreed to pay for all utility relocation or alteration expenses associated with this application.

**STATEMENT OF PURPOSE:** This resolution vacates alleys in the area of the proposed Kenwood Village development, southwest of the Kenwood Avenue/Arrowhead Road intersection. A utility easement will be retained to provide Minnesota Power access to existing utility lines adjacent to existing single-family homes.

On June 9, 2015, the Duluth city planning commission held a public hearing on the proposal and voted 8 yeas, 0 nays, and 0 abstentions to recommend the city council approve the vacation.

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

Petition Received: May 5, 2015

Action Deadline: September 2, 2015

Petitioner:

Kenwood Village LLC

3600 American Boulevard West, Suite 750

Bloomington, MN 55431

PL 15-079

**Attachments:** [final signed exhibit](#)

[Staff Report and Attachments](#)

This Resolution was adopted.

12.     **15-0436R**     RESOLUTION AUTHORIZING A DEVELOPMENT AGREEMENT WITH ONE ROOF COMMUNITY HOUSING FOR THE JAY STREET HOUSING PROJECT.

CITY PROPOSAL:

RESOLVED, that the proper city official are hereby authorized to enter into a development agreement, substantially in the form of that attached hereto, with One Roof Community Housing (“Developer”) pursuant to which the city agrees to convey property in St. Louis County legally described as Lots 1 through 16, Block 104, London Road addition to Developer at no cost, which conveyance was authorized pursuant to Ordinance No. 15-026-O effective June 21, 2015, and Developer agrees to perform environmental remediation, replat the property and construct market rate and moderate income housing on the site; the cost of the environmental remediation in an amount up to \$285,419 to be paid by the city from Fund No. 255-020-5458 (economic development, planning department, payment to developers); 75% being funded from a department of employment and economic development (“DEED”) contamination cleanup grant in an amount up to \$214,064 and 25% being funded by city utility funds in an amount up to \$71,355; and an additional 25% of the cost of removal of the concrete pad to be paid by Fund No. 510-500-1905-5535 (gas fund, public works & utilities, capital, non-capital improvements) in an amount up to \$12,085; for a total cost of up to \$297,504.

STATEMENT OF PURPOSE: The purpose of this resolution is to approve a Development Agreement with Developer for the Jay Street housing project. The City will convey property located between Jay and Dodge Streets and 40th and 41st Avenues East to the Developer. The conveyance was previously authorized by ordinance. The developer will undertake the environmental remediation of the site, 75% of the cost of which is being funded through a DEED Contamination Cleanup Grant and 25% of which is being funded by the City. The City is reimbursing the Developer for 25% of the cost of removing the concrete pad on the site. Developer will replat the property and construct at least three units of moderate income housing priced at \$226,881 or less and up to five units of market rate housing.

Attachments: [Jay Street Development Agreement](#)

This Resolution was adopted unanimously.

- 13. 15-0462R** RESOLUTION AUTHORIZING A SUBORDINATION AGREEMENT RELATING TO THE REFINANCING OF THE VILLAGE AT MATTERHORN HOUSING PROJECT.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to execute a Subordination Agreement, substantially in the form of that attached hereto as Exhibit A, with Oak Grove Commercial Mortgage, LLC, and Matterhorn Apartments, LLC, relating to the refinancing of the Village at Matterhorn Housing Project.

STATEMENT OF PURPOSE: Located at the end of Burning Tree Road, the Village at Matterhorn project consists of 96 units of mixed-income housing in two apartment buildings and 15 townhomes. Of the 96 total, 68 are tax credit units (30 of which are also HOPE VI units) and 28 market rate units. In 2006, the city provided \$150,000 of Housing Investment Fund ("HIF") monies to the project. The HIF monies are a 0% deferred loan for a period of 30 years at which time the balance is due and payable. Projects providing long-term affordability may be considered for forgivable loans. The decision to forgive cannot occur before one year prior to the end of the loan period.

The city's HIF loan is in seventh mortgage position currently behind two Wells Fargo loans in the combined amount of \$2,725,000, an HRA loan in the amount of \$1,592,580, two loans of Minnesota Housing Finance Agency in the combined amount of \$1,627,929 and Greater Minnesota Housing Fund loan in the amount of \$1,000,000. The combined Wells Fargo loan is being refinanced with a new \$3,250,000 HUD loan. The increased value of the HUD mortgage along with all subordinate debt has been verified through an appraisal performed by Diversified Real Estate Services. Under the refinancing, the city will retain its seventh position behind approximately \$525,000 in additional debt, part of which includes added HUD reserve requirements, an origination fee, survey and legal fees and some amortization of a deferred developer fee which is required for tax credit projects. The subordination agreement calls for the extension of the maturity of the HIF loan to coincide with the new maturity on the HUD loan which is August 1, 2050 and further provides that if the term of the HUD Loan is extended, that the HIF Loan would also effectively be extended.

Attachments: [Exhibit A - 15-0462R](#)

This Resolution was adopted unanimously.

### COMMITTEE 3

#### BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)

14.     **15-0450R**     RESOLUTION AWARDING A CONTRACT TO UTILITY SYSTEMS OF AMERICA, INC. FOR KNOWLTON CREEK WATER MAIN RELOCATIONS AT GRAND AVENUE IN THE AMOUNT OF \$292,897.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Utility Systems of America, Inc. for the relocation of the Knowlton Creek water mains at Grand Avenue in the amount of \$292,897, payable out of Water Fund 510, Department 500 (Public Works & Utilities), Division 1905 (Capital), Object 5533 (Capital Improvement - Revenue), city project no. 1416.

**STATEMENT OF PURPOSE:** This resolution will authorize the relocation of water mains at Knowlton Creek at Grand Avenue by Utility Systems of America, Inc. for the amount of \$292,897, payable from Water Fund 510, Department 500 (Public Works & Utilities), Division 1905 (Capital), Object 5533 (Capital Improvement - Revenue), city project no. 1416, requisition no. 15-0405. Utility Systems of America, Inc. was the lowest bidder of the five companies that responded. The engineer's estimate was \$340,000. The water mains are being relocated due to MnDOT's TH 23 project, in which the existing box culvert will be replaced with a bridge.

**TABULATION OF BIDS RECEIVED JULY 15, 2015**

Utility Systems of America, Inc.	Eveleth, MN	\$292,897.00
Hibbing Excavating, Inc.	Hibbing, MN	\$305,935.00
Hanco Utilities, Inc.	Lake Nebagamom, WI	\$326,210.00
GM Contracting, Inc.	Lake Crystal, MN	\$369,994.20
RJS Construction Group, Inc.	Superior, WI	\$372,725.00

Attachments: [15-0450R Map](#)

This Resolution was adopted.



**BY COUNCILOR FOSLE (PUBLIC SAFETY)**

15.     **15-0467R**     RESOLUTION SCHEDULING A PUBLIC HEARING ON THE PROPOSED DESIGNATION OF CERTAIN STREETS IN THE VICINITY OF UNIVERSITY OF MINNESOTA DULUTH AS RESIDENT PERMIT PARKING.

## CITY PROPOSAL:

RESOLVED, that in accordance with Section 33-125 of the Duluth City Code, 1959, as amended, the city council hereby indicates that on Monday, August 10, 2015, at 7:00 P.M. in the Council Chamber on the third floor in City Hall, the council will conduct a public hearing on whether to designate portions of Lyons Street, East Niagara Street and Missouri Avenue as resident permit parking, as shown on the map attached hereto.

FURTHER RESOLVED, that the city clerk is hereby directed to mail notice of such hearing by addressing such notice to occupant at each address within or abutting the parking areas of the portions of the streets so proposed to be designated.

STATEMENT OF PURPOSE: This resolution schedules a public hearing and provides notice thereof pursuant to the requirements of Section 33-125 of the Duluth City Code, 1959, as amended, regarding the proposed designation of portions of Lyons Street, East Niagara Street and Missouri Avenue as resident permit parking. This proposal has been reviewed and recommended by the Duluth parking commission.

Attachments:   [Attachment for 15-0467R](#)

This Resolution was adopted unanimously.

**BY COUNCILOR SIPRESS (RECREATION, LIBRARIES & AUTHORITIES)**

16.     **15-0451R**     RESOLUTION AUTHORIZING ACCEPTANCE OF A QUIT CLAIM DEED FROM BRADLEY E. LINDER FOR PROPERTY TO BE USED AS PART OF THE AMITY CREEK GRANT-IN-AID CONNECTOR SNOWMOBILE TRAIL TO THE C.J. RAMSTAD/NORTH SHORE STATE TRAIL.

RESOLUTION AUTHORIZING ACCEPTANCE OF A QUIT CLAIM DEED FROM BRADLEY E. LINDER FOR PROPERTY TO BE USED AS PART OF THE AMITY CREEK GRANT-IN-AID CONNECTOR SNOWMOBILE TRAIL TO THE C.J. RAMSTAD/NORTH SHORE STATE TRAIL.

## CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to accept

the donation of property for park and trail purposes by a quit claim deed, substantially in the form of that attached hereto as Exhibit A, from Bradley E. Linder, a single person, at no cost to the city.

STATEMENT OF PURPOSE: The purpose of this resolution is to accept the donation of certain property from Bradley E. Linder to allow the public to continue to use a trail corridor across the property.

Attachments: [Exhibit A](#)  
[Linder Parcel Map](#)

**This Resolution was adopted unanimously.**

17.     **15-0464R**     RESOLUTION AUTHORIZING CITY OFFICIALS TO APPLY FOR, ACCEPT, AND EXECUTE AN AGREEMENT FROM THE NATIONAL PARKS SERVICE RIVERS, TRAILS AND CONSERVATION ASSISTANCE PROGRAM FOR NON-MONETARY TECHNICAL ASSISTANCE IN PREPARING A MASTER PLAN AROUND THE INVESTMENTS IN A FUTURE NATIONAL WATER TRAIL ON THE ST. LOUIS RIVER.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to apply to the National Parks Service for technical assistance through the Rivers and Trails Conservation Assistance Program (RTCA) on behalf of the city.

FURTHER RESOLVED, that if the city of Duluth is awarded aforesaid assistance, the city of Duluth agrees to accept the program assistance and the proper city officials are authorized to enter into an agreement with the National Parks Service Rivers, Trails and Conservation Assistance Program, substantially the same as the form of Exhibit A.

STATEMENT OF PURPOSE: This resolution authorizes, by the proper City Officials, the application for and acceptance of, if offered, a grant agreement from the National Parks Service Rivers, Trails and Conservation Assistance program. This program is a division of the National Parks Service. The National Parks Service Rivers, Trails and Conservation Assistance program supports successful partnerships with

communities across America in achieving their conservation and outdoor recreation visions.

The RTCA would assist the city of Duluth in creating a master plan around investments in a future National Water Trail on the St. Louis River. This assistance is in the form of time committed by an RTCA staff person and the application process is minimal. The project assistance will aid in offsetting the costs associated with planning for a National Water Trail designation.

Community technical assistance is a major component of RTCA. This program assists communities in a variety of ways but is mainly associated with master planning processes. The city of Duluth plans to submit an application by August 1, 2015, for Community Assistance. Rivers, Trails and Conservation Assistance program does not award monetary grants or loans. Instead, one of the RTCA staff with extensive experience in community-based outdoor recreation and conservation will work with the city of Duluth and community partners to get the project off the ground. If funding is necessary to achieve project goals, RTCA can often assist in identifying and securing sources of financial assistance.

**Attachments:** [15-0464R EXHIBIT A -DRAFT APP.pdf](#)

**This Resolution was adopted unanimously.**

- 18. 15-0466R** RESOLUTION AUTHORIZING A LEASE AGREEMENT WITH COMMUNITY ACTION DULUTH FOR USE OF A CITY-OWNED GARAGE IN THE LINCOLN PARK NEIGHBORHOOD.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to enter into a one-year agreement, with the option to extend the agreement for two additional one-year periods, substantially in the form of that attached hereto, with Community Action Duluth, a non-profit corporation, for the lease of a city-owned garage in the Lincoln Park neighborhood with monthly rent of \$25 payable into Fund 110-121-1222-4622 (general, public administration, facilities management, rent of buildings).

**STATEMENT OF PURPOSE:** This resolution authorizes the city to enter into a one-year lease agreement, with the option to extend agreement for two additional one-year periods, with Community Action Duluth ("CAD") for the lease of a city-owned garage in the Lincoln Park neighborhood. The

garage, located on the corner of 25th Avenue West and West 5th Street, will be used to store supplies and tools for CAD's Seeds of Success and Stream Corps programs. The agreement may be terminated by either party upon 20 days' notice. In consideration, CAD will pay the city \$25 a month in rent.

**Attachments:** [Attachment to 15-0466R](#)

**This Resolution was adopted unanimously.**

- 19. 15-0468R** RESOLUTION AUTHORIZING PROPER CITY OFFICIALS TO ACCEPT A GRANT FROM THE STATE OF MINNESOTA IN THE AMOUNT OF \$320,000.00 FOR THE LAKE SUPERIOR ZOO.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to accept a grant from the state of Minnesota in the amount of \$320,000, such funds to be used to support the operation of the Lake Superior Zoo, and to execute a grant agreement, substantially the same as Exhibit A, funds to be deposited in Fund 200-130-4220-02 (zoo, community resources).

**STATEMENT OF PURPOSE:** This resolution authorizes the proper city officials to accept a grant from the state of Minnesota for the operation of the Lake Superior Zoo and further authorizes city officials to execute the grant agreement.

This is a biennial allocation from the Legislature since 2001. The grant is for Lake Superior Zoo and Como Park Zoo. The DNR is the state agency that receives the funds. No matching funds are required and reimbursements are distributed quarterly through the DNR. The grant's start date is July 1, 2015 and it expires on June 30, 2017.

This grant and a specific allocation from the city's tourism tax fund are available to the Lake Superior Zoo each year for operating expenses. These allocations are part of the city's agreement with the Lake Superior Zoological Society.

**Attachments:** [Exhibit A -Duluth Zoo Contract FY16 with City signature page.pdf](#)

**T This Resolution was adopted unanimously.**

**END OF CONSENT AGENDA**

The following entitled resolution was also considered:

**COMMITTEE 1**

**BY COUNCILOR FILIPOVICH (FINANCE)**

10. 15-0387R RESOLUTION CONFIRMING ASSESSMENT ROLL LEVIED TO DEFRAY THE ASSESSABLE PORTIONS OF THE RIVERSIDE RECONSTRUCT.

CITY PROPOSAL:

RESOLVED, that the assessable rolls levied to defray the assessable portions of the following are hereby confirmed:

(a) Riverside Reconstruct: total reconstruction of utilities and streets for St. Louis Ct, Industrial Ave, Viewcrest Ave, Riverview Ave, Marine Ct, Spring St, Riverside Dr, Manitou St, Sunnyside St, Union St, England Ave, Cato Ave, Penton Blvd and East Penton Blvd Alley.

Contract 9902650 - total assessable amount of \$517,497.00 to be deposited in Fund 440.

STATEMENT OF PURPOSE: This resolution confirms the assessable portion of the above-related projects.

Attachments: [Riverside Resolution Attachment](#)

This Resolution was adopted unanimously.

The following entitled ordinances were read for the first time:

**COMMITTEE 1**

**BY COUNCILOR FILIPOVICH (FINANCE)**

20. 15-063-O AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF TAXABLE GENERAL OBLIGATION STEAM UTILITY REVENUE BONDS OF THE CITY OF DULUTH IN AN AMOUNT NOT TO EXCEED \$4,150,000 UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES

## FOR THE PAYMENT THEREOF.

## CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. Bond Purpose and Authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Minnesota Laws, 1979, Chapter 113 and Chapter 475 of Minnesota Statutes and other pertinent provisions of said Charter and statutes, the city is authorized to issue its general obligation revenue bonds to provide funds for the improvement of the municipal steam plant, which bonds shall be a specific lien upon such plant and may be payable primarily from net revenues to be derived from service charges pledged for their payment.

1.02 The city council determines that it is necessary and desirable to make capital improvements to the municipal steam utility located in the downtown area of Duluth (the "Municipal Steam Utility"), including the (i) capital maintenance improvements; (ii) emergency generator upgrades; (iii) boiler natural gas system upgrades; (iv) DECC piping system repairs and hot water extension to the Great Lakes Aquarium; and (v) biomass cofiring facilities; and determines that it is necessary to issue taxable general obligation steam utility revenue bonds in an amount not exceeding \$4,150,000 for the purpose of paying for the improvements and paying for a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56.

1.03 The city heretofore issued and sold Taxable General Obligation Steam Utility Revenue Refunding Bonds, Series 2012G, dated November 27, 2012 (the "2012G Bonds"), now outstanding in the amount of \$4,250,000. Under the provisions of the resolution authorizing said bonds, the city reserved the privilege of issuing additional bonds payable from said net revenues on a parity with the 2012G Bonds.

1.04 Pursuant to the authority herein recited, the City Council authorizes and directs the sale of taxable general obligation steam utility revenue bonds of the city of Duluth in an amount not exceeding \$4,150,000 for the purposes stated in Section 1.02 hereof and pledges the full faith and

credit and taxing powers of the city irrevocably to the extent required, for the payment of the principal and interest when due on such bonds, and also pledges and appropriates irrevocably for such payments the income and revenues to be derived from time to time from the operation of the Municipal Steam Utility in excess of the normal reasonable and current costs of the operating and maintenance thereof.

1.05 The city reserves the right and privilege of issuing additional bonds and of pledging and appropriating the income and revenues of the Municipal Steam Utility for the payment thereof, when authorized in accordance with the law and the City Charter and determined by the city council to be necessary for the improvement of the utility or for the refunding of indebtedness payable from said income and revenues, provided that no such pledge shall constitute a lien upon the income and revenues superior to the pledge thereof for the payment of the bonds issued hereunder.

#### Section 2. Terms of Bonds.

2.01 The city council shall, by resolution or resolutions, provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions and other terms and conditions of such bonds, and covenants securing their payment, and prescribe the form thereof, and offer to sell such bonds in such a manner and at such time or times as shall be deemed in the public interest, all in accordance with the authority recited in Section 1.01 of the ordinance.

#### Section 3. Revenues and Accounts.

3.01 The city council shall, by resolution or resolutions, provide for the method of imposing and collecting just and equitable charges for all use and for the availability of facilities of the Municipal Steam Utility at the times and amounts required to pay the normal, reasonable and current operating expenses and to maintain the Municipal Steam Utility and also to produce net revenues at least adequate at all times to pay the principal and interest due on the bonds issued hereunder and on all other bonds heretofore or hereafter issued and made payable from said net revenues.

3.02 The city council shall, by further resolution or resolutions, establish appropriate accounts and credit monies from the proceeds of the bonds herein authorized to accounts, all in accordance with Section 54 of the City Charter and Chapter 475 of Minnesota Statutes.

#### Section 4. Certificates of Proceedings.

4.01 The city clerk is directed to file with the county auditor of St. Louis County, Minnesota, a certified copy of this ordinance, and such other

information as the county auditor may require, and to obtain from the county auditor a certificate stating that the bonds herein authorized have been duly entered on his register.

4.02 The officers of the city and the county auditor are authorized and directed to prepare and furnish to the purchasers of the bonds and to bond counsel, certified copies of all proceedings and records of the city relating to the authorization and issuance of the bonds and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the bonds, as such facts appear from the official books and records in the officers' custody or are otherwise known to them. All such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the city as to the correctness of the facts recited therein and the actions stated therein to have been taken.

#### Section 5. Effective Date.

5.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. This ordinance shall be published one time on the city's official website and remain on such website for a period of at least 30 days.

**STATEMENT OF PURPOSE:** This ordinance authorizes the issuance of taxable general obligation steam utility revenue bonds in an amount not exceeding \$4,150,000 for improvements to the municipal steam utility located in the downtown area and are payable primarily from net revenues of such steam utility. The improvements to such steam plant include (i) capital maintenance improvements; (ii) emergency generator upgrades; (iii) boiler natural gas system upgrades; (iv) DECC piping system repairs and hot water extension to the Great Lakes Aquarium; and (v) biomass co-firing facilities.

**This Ordinance was read for the first time.**

### **BY COUNCILOR GARDNER (PERSONNEL)**

21. **15-060-O** AN ORDINANCE AMENDING CHAPTER II, SECTION 4, OF THE CITY CHARTER TO ALLOW AN ELIGIBLE PERSON TO FILL A VACANCY UNTIL THE FIRST MONDAY IN JANUARY AFTER THE NEXT MUNICIPAL ELECTION.



## CITY PROPOSAL/BY COUNCILOR GARDNER:

The city of Duluth does ordain:

Section 1. That Chapter II, Section 4, of the 1912 Home Rule Charter of the city of Duluth, as amended, is hereby amended, to read as follows:

Section 4. The office of mayor or councilor shall be deemed vacant in case of failure to qualify within ten (10) days after election, or by reason of death, resignation, removal from the city or the district except as in Section 2 provided, conviction of a felony, violation of any of the duties of office, which, by provisions of this Charter, render the office vacant, or continuous absence from the city for more than thirty days, but if additional time is needed, leave may be granted by the council for a longer absence.

If any such vacancy occurs (other than by recall or resignation after recall petition is filed) the Council shall without delay appoint an eligible person to fill the same until the first Monday in January after the next municipal election, when the office shall be filled by election for the unexpired term.

In the case of an absence of shorter duration than renders the office of mayor vacant, or in the event of disability of the mayor, the mayor's duties shall be filled by an acting mayor who shall be appointed by the mayor from the councilors-at-large after each general municipal election. Should the mayor become disabled or be absent for more than ten (10) days without having appointed an acting mayor, the district councilors, by majority vote, shall appoint one of the councilors-at-large as acting mayor. The mayor shall not be considered disabled within the meaning of this Charter unless such disability shall be determined by the council at a hearing held upon notice to the mayor for the purpose of making such determination. The appointment of a councilor as acting mayor shall not be deemed to create a vacancy in the office of councilor-at-large, but while serving as acting mayor such councilor shall not perform city council duties.

The compensation of the acting mayor during the absence or disability of the mayor shall be set by the city council in an amount commensurate with the duties required of the acting mayor from time to time.

Section 2. That this ordinance shall take effect 90 days after its passage and publication.

STATEMENT OF PURPOSE: This ordinance amends Section 4 of the City Charter to allow an eligible person chosen to fill a vacancy to serve until the first Monday in January after an election for that position has been held. The proposed charter change was reviewed and recommended by the Charter commission at its meeting of July 8, 2015.

This ordinance requires a unanimous vote for approval.

Sponsors: Gardner

This Ordinance was read for the first time.

22. 15-061-O AN ORDINANCE AMENDING CHAPTER II, SECTION 5, OF THE CITY CHARTER TO ESTABLISH A PROCEDURE TO SET THE FEE PAID TO CITY COUNCIL MEMBERS FOR SERVING AS MEMBERS OF THE CITY COUNCIL.

CITY PROPOSAL/BY COUNCILOR GARDNER:

Section 1. That Chapter II, Section 5, of the 1912 Home Rule Charter of the city of Duluth, as amended, is hereby amended, to read as follows:

Section 5. The salary of the mayor shall be set by the council.

The council shall provide in the annual operating budget a contingent fund of five thousand dollars (\$5,000) unless and until increased by the council. This fund may be expended by the mayor for such public purposes as the mayor may deem proper.

The appointed chief administrative officer shall be paid a salary set by the mayor with the approval of the council.

The council shall not decrease the salary of any mayor or incumbent chief administrative officer, except prior to the general municipal election, and to take effect at the beginning of the next term of office for mayor.

The councilors shall be paid a fee of ~~eight hundred thirty-three dollars (\$833) per month~~ for service as a member of the council. The Charter commission shall determine a suitable fee for service and recommend said fee to the council. The council must approve the recommended fee by at least a two-thirds vote. The new fee amount may not take effect until the month of January after the next municipal election. Service as a member of the council, to be eligible for this fee, shall require that the councilor shall be present and in attendance for at least one full formal meeting of the council during the month for which this fee is paid.

Section 2. That this ordinance shall take effect 90 days after its passage and publication.

STATEMENT OF PURPOSE: This ordinance amends Section 5 of the City Charter to allow the charter commission to set the fee paid to council members. The council must approve the fee by a two-thirds vote. The new fee amount will take effect the month of January after the next succeeding municipal election.

The proposed Charter change was reviewed and recommended by the

Charter commission at its meeting of July 8, 2015.

This ordinance requires a unanimous vote for approval.

**Sponsors:** Gardner

**This Ordinance was read for the first time.**

- 23. 15-062-O** AN ORDINANCE AMENDING CHAPTER II, SECTION 4, OF THE CITY CHARTER TO ALLOW THE CITY COUNCIL TO CHOOSE AN ELIGIBLE PERSON BY COIN TOSS TO FILL A VACANCY IF THE COUNCIL IS DEADLOCKED.

AN ORDINANCE AMENDING CHAPTER II, SECTION 4, OF THE CITY CHARTER TO ALLOW THE CITY COUNCIL TO CHOOSE AN ELIGIBLE PERSON BY COIN TOSS TO FILL A VACANCY IF THE COUNCIL IS DEADLOCKED.

CITY PROPOSAL/BY COUNCILOR GARDNER:

The city of Duluth does ordain:

Section 1. That Chapter II, Section 4, of the 1912 Home Rule Charter of the city of Duluth, as amended, is hereby amended to read as follows:

Section 4. The office of mayor or councilor shall be deemed vacant in case of failure to qualify within ten (10) days after election, or by reason of death, resignation, removal from the city or the district except as in Section 2 provided, conviction of a felony, violation of any of the duties of office, which, by provisions of this Charter, render the office vacant, or continuous absence from the city for more than thirty days, but if additional time is needed, leave may be granted by the council for a longer absence.

If any such vacancy occurs (other than by recall or resignation after recall petition is filed) the Council shall without delay appoint an eligible person to fill the same until the next municipal election, when the office shall be filled by election for the unexpired term. If the council vote to appoint an eligible person to fill a vacancy results in a deadlock, an eligible person will be chosen by coin toss.

In the case of an absence of shorter duration than renders the office of mayor vacant, or in the event of disability of the mayor, the mayor's duties shall be filled by an acting mayor who shall be appointed by the mayor from the councilors-at-large after each general municipal election. Should the mayor become disabled or be absent for more than ten (10) days without having appointed an acting mayor, the district councilors, by majority vote, shall appoint one of the councilors-at-large as acting mayor. The mayor shall not be considered disabled within the meaning of this Charter unless such disability shall be determined by the council at a hearing held upon notice to the mayor for the purpose of making such determination. The appointment of a councilor as acting mayor shall not be deemed to create a vacancy in the office of councilor-at-large, but while

servicing as acting mayor such councilor shall not perform city council duties.

The compensation of the acting mayor during the absence or disability of the mayor shall be set by the city council in an amount commensurate with the duties required of the acting mayor from time to time.

Section 2. That this ordinance shall take effect 90 days after its passage and publication.

**STATEMENT OF PURPOSE:** This ordinance amends Section 4 of the City Charter to specify that if the city council should deadlock when choosing an eligible person to fill a vacancy, the person will be chosen by coin toss. Minnesota Statute, Sec. 204C.34, allows for usage of a coin toss to break an election deadlock.

The proposed charter change was reviewed and recommended by the Charter commission at its meeting of July 8, 2015.

This ordinance requires a unanimous vote for approval.

**Sponsors:** Gardner

**This Ordinance was read for the first time.**

## COMMITTEE 2

### BY PRESIDENT LARSON (COMMITTEE OF THE WHOLE)

24. 15-064-O AN ORDINANCE AMENDING CHAPTER I, SECTION 1, OF THE CITY CHARTER AMENDING THE LEGAL DESCRIPTION FOR THE CITY OF DULUTH.

#### CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Chapter I, Section 1 of the 1912 Home Rule Charter of the city of Duluth, as amended, is hereby amended, to read as follows:

Section 1. The city of Duluth in the County of St. Louis and State of Minnesota shall continue to be, upon the adoption of this Charter, a municipal corporation of the same name, and with the same boundaries as it now has, to-wit: Commencing at a point where the north line of section twenty-five (25) township fifty-one (51) north of range thirteen (13) west, in St. Louis County, Minnesota, intersects the shore line of Lake Superior; thence west to the northwest corner of section twenty-six (26), in said township fifty-one (51) north of range thirteen (13) west; thence south to the

quarter corner post on the west line of said section twenty-six (26); thence west to the center of section twenty-seven (27) in said township fifty-one (51) north of range thirteen (13) west; thence south to the quarter corner post on the south line of said section twenty-seven (27); thence west to the northwest corner of section thirty-five (35) in township fifty-one (51) north of range fourteen (14) west; thence south to the southwest corner of said section thirty-five (35); thence west to the northwest corner of township fifty (50) north of range fourteen (14) west (A.); thence south to the southwest corner of said township fifty (50) north of range fourteen (14) west; thence west to the northwest corner of section two (2) in township forty-nine (49) north of range fifteen (15) west (B.); thence south to the southwest corner of section fourteen (14) in said township forty-nine (49) north of range fifteen (15) west, thence west to the northwest corner of section twenty-two (22) in said township forty-nine (49) north of range fifteen (15) west; thence south to the southwest corner of section thirty-four (34) in said township forty-nine (49) north of range fifteen (15) west; thence west on the town line between township forty-eight (48) north of range fifteen (15) west and township forty-nine (49) north of range fifteen (15) west, to the southwest corner of said township forty-nine (49) north of range fifteen (15) west; thence south on the range line between township forty-eight (48) north of range fifteen (15) west and township forty-eight (48) north of range sixteen (16) west, to the center line of the channel of the St. Louis River; thence easterly along the center line of the channel of said river to the state boundary line between the States of Minnesota and Wisconsin; thence along said state boundary line to the mouth of the St. Louis River at the entry of the Bay of Superior between Minnesota and Wisconsin points; thence in a straight line to the place of beginning.

By and in its corporate name, it shall have perpetual succession; save as herein otherwise provided and save as prohibited by the Constitution or Statutes of the State of Minnesota, it shall have and exercise all powers, functions, rights and privileges possessed by the city of Duluth prior to the adoption of this Charter; also all powers, functions, rights and privileges now or hereafter given or granted to municipal corporations of the first class having "home rule charters" by the Constitution and laws of the State of Minnesota; also all powers, functions, rights and privileges usually exercised by, or which are incidental to, or inhere in, municipal corporations of like power and degree; also all municipal power, functions, rights, privileges and immunities of every name and nature whatsoever; and in addition, it shall have all the powers, and be subject to the restrictions contained in this Charter. In its corporate name, it may take and hold, by purchase, condemnation, gift or devise, and lease and convey any and all such real, personal or mixed property, within or without its boundaries as its purposes may require, or as may be useful or beneficial to its inhabitants.

Section 1(A). Certain lands upon which the Duluth International Airport is located were annexed to the corporate limits of the city of Duluth

by Ord. No. 7564, passed February 13, 1967, under authority of M.S.A. 414.03, Subd. 2.

Section 1(B). Certain lands upon which the South St. Louis County fairgrounds is located were detached from the corporate limits of the city of Duluth by Resolution No. 11-0052 and subsequent order by the state of Minnesota chief administrative law judge, under authority of M.S.A. 414.061, Subd. 1.

Section 1(C). Certain lands formerly in Midway Township were annexed to the corporate limits of the city of Duluth by Ord. No. 10321, passed July 21, 2014, under authority of M.S.A. 414.0325.

Section 2. That this ordinance shall take effect 90 days after its passage and publication.

STATEMENT OF PURPOSE: This ordinance amends Section 1 of the City Charter amending the municipal boundaries of the city of Duluth.

The proposed charter change was reviewed and recommended by the Charter commission at its meeting of April 10, 2013.

This ordinance requires a unanimous vote for approval.

**This Ordinance was read for the first time.**

**The following entitled ordinances were read for the second time:**

**COMMITTEE 1**

**BY COUNCILOR FILIPOVICH (FINANCE)**

25. 15-059-O AN ORDINANCE AMENDING CHAPTER 8, SECTION 41, OF THE DULUTH CITY CODE, 1959, AS AMENDED, ELIMINATING THE PROHIBITION AGAINST GRANTING ALCOHOLIC BEVERAGE LICENSES TO CITY OFFICIALS NOT EMPLOYED IN THE POLICE OR FIRE DEPARTMENTS.

BY COUNCILOR FILIPOVICH::

The city of Duluth does ordain:

Section 1. That Chapter 8, Section 41, of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 8 41. Types generally.

(a) With respect to intoxicating liquor, there shall be the following types of licenses: on sale, on sale club, on sale wine, on sale culinary class, on sale theater, on sale brewer taproom, on sale microdistillery cocktail room, temporary on sale, off sale and a brewery malt liquor off sale;

(b) On sale licenses authorize the licensee to sell intoxicating liquor at retail for consumption only on the licensed premises. The following additional requirements apply to specific types of on sale licenses:

(1) On sale culinary class licenses authorize on sales subject to the restrictions of Section 8-44(d) of this Chapter and Minnesota Statutes Section 340A.4041, or its successor;

(2) On sale theater licenses authorize on sales each day of the week to persons attending events at the theater;

(3) On sale brewer taproom licenses authorize on sales of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer, subject to the restrictions of this Chapter and Minnesota Statutes Section 340A.301, subd. 6(b), or its successor. Notwithstanding Section 8-17 of this Chapter or Minnesota Statutes Section 340A.504, subdivision 3, a taproom may be open and may conduct on sale business on Sundays if authorized by the city in the license. All Sunday sales are subject to the limitation on hours of sale provided in Section 8-46 of this Chapter;

(4) On sale microdistillery cocktail room licenses authorize on sales of distilled liquor produced by the distiller for consumption on the premises of or adjacent to one distillery location owned by the distiller subject to the restrictions of Section 8-44(h) of this Chapter and Minnesota Section 340A.22 or its successor;

(5) Temporary on sale licenses authorize temporary on sales in connection with a social event sponsored by the licensee and only at the designated licensed premise;

(c) Except as provided herein, off sale licenses authorize the licensee to sell intoxicating liquor at retail in original packages only for consumption off the licensed premises. The following additional requirements apply to specific types of off sale licenses:

(1) Brewery malt liquor licenses permit breweries holding on sale licenses, or breweries that manufacture fewer than 3,500 barrels of malt liquor in a year, to sell malt liquor off sale in 64-ounce containers commonly known as growlers, subject to the restrictions in Minnesota Statutes, Section 340A.301, subd. 7(b), or its successor, and this Chapter;

(2) Notwithstanding the provisions of sections 8-21 and 8-22 of this Chapter, it shall be lawful for the holder of an off sale intoxicating liquor license or a brewery malt liquor off sale license to provide samples as provided in Minnesota Statutes, Section 340A.510, or its successor;

(d) With respect to 3.2 percent malt liquor, there shall be three types of licenses: on sale, off sale and temporary on sale. Each type of 3.2 percent malt liquor license authorizes the licensee to sell 3.2 percent malt liquor subject to the following additional requirements applicable to the specific

type of license:

(1) On sale licenses authorize the sale of 3.2 percent malt liquor at retail for consumption only on the licensed premises;

(2) Off sale licenses authorize the sale of 3.2 percent malt liquor at retail in original packages for consumption only off the licensed premises;

(3) Temporary on sale licenses authorize the sale of 3.2 percent malt liquor at retail for a limited period of time, and only at the designated licensed premise;

(e) No alcoholic beverage license of any type shall be granted ~~to any~~ elective, appointed, executive or administrative officer of the city, to any employee holding a position in the classified service of the city and working as a licensed peace officer in the police department, to any police chief, deputy chief of police, fire chief, deputy fire chief, fire marshal or deputy fire marshal, nor shall any such officer or employee engage in the business, be employed by an establishment licensed by the city, or have an ownership interest in such business licensed by the city.

(Effective Date: August 26, 2015)

STATEMENT OF PURPOSE: The purpose of this ordinance is to eliminate the prohibition against granting an alcoholic beverage license to elective, appointed, executive or administrative city officials who are not employed in the fire or police department and to have the city of Duluth's alcoholic beverage license requirements be consistent with state statutes.

Sponsors: Filipovich

A motion was made that this Ordinance be adopted. The motion carried unanimously.

## COMMITTEE 2

### BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)

26. 15-055-O AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RR-1 TO MU-B 160 ACRES ALONG THE EAST SIDE OF RICE LAKE ROAD SOUTH OF RIDGEVIEW ROAD (JLH PROPERTIES OF DULUTH LLC).

CITY PROPOSAL:



The city of Duluth does ordain:

Section 1. That approximately 160 acres of land located on the east side of Rice Lake Road south Ridgeview Road and as more particularly described as follows:

Northwest Quarter of Section 5, Township 50 North of Range 14 West of the Fourth Principle Meridian, Saint Louis County, Minnesota; be reclassified from Residential-Rural 1 (RR-1) to Mixed Use-Business Park (MU-B), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as shown on the attached map.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective Date: August 26, 2015)

STATEMENT OF PURPOSE: This zoning map amendment provides a zoning change from RR-1 to MU-B for 160 acres of land on the east side of Rice Lake Road south of Ridgeview Road.

On May 12, 2015, the Duluth city planning commission held a public hearing on the proposal and tabled the matter to learn more about why the comprehensive plan future land use map designated the property general mixed use. The attached memo, in addition to the staff report, provides explanations. On June 9, 2015 the Duluth city planning commission voted 8 yeas, 0 nays and 0 abstentions, to recommend that the city council approve the rezoning requested for the following reasons:

This proposed MU-B District is consistent with the comprehensive land use plan future land use map designation for the property of general mixed use. The planning commission review of the platting of the property and/or application of UDC development standards during staff review of development proposals for the site will allow for implementation of the purpose statement of the MU-B zone district through setting aside land for natural resources protections, buffering to protect surrounding properties from possible impacts, and the evaluation of transportation connections to the site.

The applicant did not submit written consent of 2/3 of property owners within 100 feet of the property to be rezoned. Therefore, the motion to approve the rezoning ordinance must prevail with an affirmative vote of 6/9 of the city council.

Date of application: April 10, 2015

Action deadline: August 8, 2015

Petitioner:

JLH Properties of Duluth LLC  
4843 Rice Lake Road

Duluth, MN 55803

PL 15-064

**Attachments:** [Map Attachment](#)  
[Staff Report and Attachments](#)

**A motion was made that this Ordinance be adopted. The motion carried unanimously.**

- 27. 15-056-O** AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO P-1, FOR CONGDON PARK, LONGVIEW TENNIS COURTS, MORLEY PARK, OLD MAIN PARK AND WAVERLY PARK (CITY OF DULUTH).

**CITY PROPOSAL:**

The city of Duluth does ordain:

Section 1. That the subject properties located on located on the eastern and northeast portions of the city and as more particularly described as follows:

010-0710-00240  
010-2710-03625  
010-4120-00520  
010-3320-00560  
010-1380-03455  
010-4450-00830  
010-2610-01320

be reclassified from Residential-Traditional (R-1) to Park and Open Space (P-1), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as shown on the attached map.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

STATEMENT OF PURPOSE: This zoning map amendment provides a zoning change for the park properties located on the eastern portion of the City including Congdon Park, Longview Tennis Courts, Morley Heights Park, Old Main Park and Waverly Park from the current zoning districts of Residential- Traditional(R-1) to Park and Open Space (P-1).

On February 11, 2015 the Duluth parks and recreation commission unanimously passed a resolution in support of the rezoning of city park property.

On June 9, 2015, the Duluth city planning commission held a public hearing on the proposal and voted 8 yeas, 0 nays and 0 abstentions, to recommend that the city council approve the rezoning requested for the following reasons:

Rezoning to Park and Open Space (P-1) is the zone most reasonably able to implement the objectives of the comprehensive plan related to the proposed land use for this area.

The rezoning is consistent with the comprehensive-plan future land use map.

While providing protection for this area, the P-1 zone will also provide flexibility to permitted uses the ability to improve their facilities, via the special use permit process as required by Section 50-37.10, in order to increase their public benefit.

Material adverse impacts on nearby properties are not anticipated.  
(Effective Date: August 26, 2015)

licable  
ble

Petitioner:  
City of Duluth  
Planning Division  
Room 208  
City Hall  
Duluth, Minnesota

PL 15-082

**Attachments:** [Zoning Map Attachment](#)  
[Staff Report and Attachments](#)

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A motion was made that this Ordinance be adopted. The motion carried unanimously.

28. 15-058-O AN ORDINANCE GRANTING A CONCURRENT USE PERMIT FOR UNDERGROUND UTILITIES IN THE RIGHT OF WAY OF 5TH AVENUE EAST BETWEEN 2ND STREET AND 4TH STREET (ESSENTIA HEALTH)

CITY PROPOSAL:

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 granted to Essentia Health, and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) Private underground utilities to provide emergency power generation and communications wiring for the Essentia campus, to include the following: two underground concrete duct banks, electrical conduit, and a 4" PVC sump drain in the right of way of 5th Avenue E, approximately between the E 3rd Street alley and just south of E 4th Street, as shown in the exhibits.

Section 2. Before this ordinance shall be effective for any purpose whatsoever, the permittee shall file with the planning division a certification of insurance approved as to form by the city attorney evidencing that the permittee has in force a policy of insurance meeting the following requirements:

(a) Comprehensive general liability insurance in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage; and

(b) Insurance coverage shall include all permittee's activities occurring upon or within public right of way or easement occupied pursuant to this ordinance whether said activities are performed by the permittee or its agents or representatives; and

(c) The insurance policy shall be approved by the city attorney; and

(d) The policy shall contain a condition that it may not be canceled without 30 days written notice to the city of Duluth and directed to the attention of the city attorney; and

(e) The city of Duluth shall be named as an additional insured; and

(f) The certificate shall also reference this ordinance by its ordinance number.

Section 3. The permit granted by this ordinance may be terminated at any time by the city official exercising departmental authority of the public easement if the city of Duluth determines to use the area occupied by the permittee for any public purpose in accordance with the duly dedicated public easement or other lawful use.

Unless a shorter notice period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance, giving the permittee 30 days written notice delivered to the last known electronic address, facsimile number, or mailing address of the permittee shall be sufficient notice of termination.

Upon termination permittee shall cause all private improvements to be removed by the deadline provided in termination notice. Permittee shall be responsible for all costs incurred to remove the private improvements, including any costs associated with repairing damage caused to the public easement by the removal and without right to claim from the city of Duluth, or any of its officers, agents or servants, any compensation or reimbursement for damages of any kind whatsoever.

Section 4. By accepting the terms of this ordinance, the permittee agrees to hold harmless and defend and indemnify the city of Duluth against claims or demand which may arise against the city of Duluth by reason of the existence of private improvements, or any act or omission of the permittee, its employees, agents, and assigns. The permittee agrees that the city of Duluth shall not be liable for damage caused to the private improvements while the city engages in the repair and maintenance to, or replacement of, the public improvements or public utilities, including any snow removal operations. The permittee agrees to pay to the city of Duluth all extra costs of installation of any public improvements or public utilities made necessary by the presence of the private improvements.

Section 5. The permittee shall, at its expense, protect, support, temporarily disconnect, or remove from the public easement, the private improvements when required by city officials by reason of snow removal, traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines and tracks, the installation or repair of any type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

Section 6. Upon the sale or transfer of permittee's interest in the permit granted by this ordinance, the permittee shall provide written notice to the planning division within five days of such transfer. The permittee's successor in interest shall file with the planning division within ten days of such transfer a duly executed and acknowledged written acceptance of the terms of this ordinance and the certificate of insurance required in Section 2 above.

Section 7. The permit granted by this ordinance is subject to termination by the city of Duluth upon permittee's failure to comply with any of the terms and conditions of this permit. Ten days written notice, delivered as provided in Section 3 above shall be sufficient notice of termination. Upon termination, permittee shall remove the private improvements as provided in Section 3.

Section 8. The permittee shall observe the following conditions:

(a) Permittee's use of the public right of way or easement shall be limited to the designated area described in Section 1 above and further shown on the exhibits; and

(b) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as in no way interfere with or damage any portion of any public improvement, or other public utilities now or to hereinafter located in any part of said public easement.

(c) Maintenance of the duct banks, conduit, and sump drain, and all other utilities in this right of way owned by permittee, will be the responsibility of the permittee, including performing locates when needed.

(d) Permittee shall provide the City with as-built information once improvements are installed.

Section 9. The following events shall automatically cause the termination of the term of this ordinance:

(a) The failure by the permittee to file the required insurance certificate as specified in Section 2 30 days after this ordinance takes effect; or

(b) The failure of the permittee to commence the improvements authorized by this ordinance within 180 days after this ordinance takes effect.

Section 10. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective Date: August 26, 2015)

STATEMENT OF PURPOSE: This ordinance grants Essentia Health a concurrent use permit for right of way of 5th Avenue E, between the E 3rd Street alley and E 4th Street, for private underground utilities providing emergency power and communications.

On June 9, 2015, the planning commission held a public hearing on the proposal, and voted 8 yeas, 0 nays, and 0 abstentions to recommend that the city council approve the request for a concurrent use of streets.

Petition received: May 1, 2015

Action deadline: August 29, 2015

Applicant  
Essentia Health  
Attn: John Rice  
502 E 2nd Street  
Duluth, MN 55805

PL 15-076

Attachments: [Legal Description](#)  
[Exhibit](#)  
[Staff Report and Attachments](#)

A motion was made that this Ordinance be adopted. The motion carried unanimously.

### COMMITTEE 3

#### BY COUNCILOR FOSLE (PUBLIC SAFETY)

29. 15-057-O AN ORDINANCE AMENDING CHAPTER 33, SECTION 91, OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO UNATTENDED MOTOR VEHICLES.

#### CITY PROPOSAL:

The city of Duluth does ordain:

Section 1: That Chapter 33, Section 91, of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 33 91. Keys to be removed from unattended vehicles.

Except for police officers and other public safety employees engaged in the performance of their official duties, No person shall leave a motor vehicle, except a truck which is engaged in loading or unloading, unattended on any street, alley, used car lot or unattended parking lot without first stopping the engine, locking the ignition and removing all ignition keys from the vehicle; provided, however, that any violation of these provisions shall not mitigate the offense of stealing such motor vehicle, nor shall such violation be used to effect a recovery in any civil action for theft of such motor vehicle, or the insurance thereon, or have any other bearing in any civil action.

Whenever any police officer of the city shall find any such motor vehicle standing in violation of the foregoing provisions, such police officer is authorized and directed to remove therefrom the keys left therein and to deliver the same to the officer in charge at police headquarters.

Section 2: That this ordinance shall take effect 30 days after its passage and publication. (Effective Date: August 26, 2015)

STATEMENT OF PURPOSE: This ordinance amends Chapter 33, Section 91, of the Duluth City Code to exempt police officers and other public safety officials from the requirements of the section while engaged in their official duties. This amendment is in response to the decision of the Minnesota Court of Appeals in *Briggs v Rasicot*, (A14-2022, Minn. App. 6/29/2015). In *Briggs* an officer left his squad running and unlocked during an attempted arrest. The suspect stole the squad and caused an accident resulting in death to an occupant of a civilian vehicle. The court held that the officer and the city that employed the officer were liable because the city code, which is similar to Section 91, did not exempt the officer from the requirements of the code. Because it is not practicable for officers and other public safety employees to always lock their vehicles while engaged in their official duties, it is necessary to amend Section 91 in order to avoid liability for the theft of a public safety vehicle.

**A motion was made that this Ordinance be adopted. The motion carried unanimously.**

**The meeting was adjourned at 7:24 p.m.**





# City of Duluth

411 West First Street  
Duluth, Minnesota 55802

## Minutes - Draft

### City Council

**MISSION STATEMENT:** *The mission of the Duluth City Council is to develop effective public policy rooted in citizen involvement that results in excellent municipal services and creates a thriving community prepared for the challenges of the future.*

**TOOLS OF CIVILITY:** *The Duluth City Council promotes the use and adherence of the tools of civility in conducting the business of the council. The tools of civility will provide increased opportunities for civil discourse in order to find positive resolutions to the issues that face the city. These tools include: pay attention, listen, be inclusive, do not gossip, show respect, be agreeable, apologize, give constructive criticism and take responsibility. [Approved by the council on August 25, 2003]*

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Monday, August 10, 2015

7:00 PM

Council Chamber

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#### ROLL CALL

**Present:** 9 - Councilors Zach Filipovich, Jay Fosle, Sharla Gardner, Howie Hanson, Jennifer Julsrud, Linda Krug, Barb Russ, Joel Sipress and President Emily Larson

#### PUBLIC HEARINGS

7:02 P.M. - The public hearing on the Proposed Amendment to City Charter Section 5 Pertaining to the Establishment of a Procedure to Set City Council Salaries began. No one appeared who wished to be heard and the hearing was declared closed.

7:03 P.M. - The public hearing on the Proposed Amendments to the City Charter Section 4 Pertaining to the Establishment of a Procedure for Deadlocked Selection Votes to Fill a City Council Vacancy began. No one appeared who wished to be heard and the hearing was declared closed.

7:04 P.M. - The public hearing on the Proposed Amendment to City Charter Section 1 Pertaining to the Legal Description of the City of Duluth began. No one appeared who wished to be heard and the hearing was declared closed.

7:05 P.M. - The public hearing on the Proposed Designation of Certain Streets in the Vicinity of University of Minnesota Duluth as Resident Permit Parking began. Paul King expressed his concerns about this parking zone being created. Judith McKeever and Jody Lively voiced their support for this parking zone.

#### PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

1. **15-030** Rosemarie Mitchell communication regarding the proposed call for an

advisory referendum pertaining to the sale of intoxicating liquor in the Lakeside and Lester Park neighborhoods (15-0465R).

**Attachments:** [Communication](#)

**This Petition/Other Communication was received.**

2. **15-028** The following communications regarding the appeal of the planning commission decision to grant Green Capital, LLC, a special use permit for a townhome development (15-0518R and 15-0519R): (a) Helena Jackson and Doug Dunham; (b) Gerry Stephens and Tom Hoff; (c) Katie Krikorian; (d) David and Kathleen Anderson; (e) Greg Nisius; (f) Vi Adams; (g) Rhonda Krossner; (h) William Burns, attorney for appellants.

**Attachments:** [\(a\) Communication](#)  
[\(b\) Communication](#)  
[\(c\) Communication](#)  
[\(d\) Communication](#)  
[\(e\) Communication](#)  
[\(f\) Communication](#)  
[\(g\) Communication](#)  
[\(h\) Communication](#)

**This Petition/Other Communication was received.**

3. **15-029** The following communications regarding the proposed purchase of property from the Westminster Presbyterian Church of West Duluth (15-0513R): (a) Marina Udd; (b) Harry Welty.

**Attachments:** [\(a\) Communication](#)  
[\(b\) Communication](#)

**This Petition/Other Communication was received.**

4. **15-031** The following communications regarding the proposed grant to Spirit Mountain recreation area authority (15-0525R): (a) Allan Beaulier; (b) Richard Paulson; (c) Yvonne Prettner Solon.

**Attachments:** [\(a\) Communication](#)  
[\(b\) Communication](#)  
[\(c\) Communication](#)

This Petition/Other Communication was received.

5.     **15-033**     The following communications regarding the proposed City Code regulation pertaining to outdoor broadcasting of music during certain hours (15-068-O): (a) Cheryl Asperheim; (b) Marsha Erickson.

Attachments: [\(a\) Communication](#)

[\(b\) Communication](#)

This Petition/Other Communication was received.

## REPORTS FROM OTHER OFFICERS

6.     **15-026**     Clerk application for exempt permit to the Minnesota gambling control board from St. Luke's Volunteer Service Guild on November 6, 2015 (raffle).

Attachments: [Application StLukesVolunteerServiceGuild](#)

This Other Officers Report was received.

## REPORTS OF BOARDS AND COMMISSIONS

7.     **15-027**     Civil service board minutes of June 2, 2015, meeting.

Attachments: [CivilServiceBoardMinutes](#)

This Board or Commission Report was received.

8.     **15-032**     Duluth economic development authority minutes of June 24, 2015, meeting.

Attachments: [Minutes](#)

This Board or Commission Report was received.

## OPPORTUNITY FOR CITIZENS TO BE HEARD

Wendy Runke and Jasmin Teske explained the Duluth sister cities commission's project that lead to the display in the Council Chamber.

## MOTIONS AND RESOLUTIONS

## CONSENT AGENDA

## COMMITTEE 1

**BY COUNCILOR HANSON (PURCHASING & LICENSING)**

9.      **15-0489R**      RESOLUTION APPROVING RENEWAL AND ISSUANCE OF ON SALE INTOXICATING LIQUOR, ON SALE THEATER LICENSES, ON SALE SUNDAY INTOXICATING LIQUOR, ADDITIONAL BAR, ON SALE DANCING, 2:00 A.M. BEVERAGE LICENSE AND LATE HOUR ENTERTAINMENT LICENSES FOR THE PERIOD BEGINNING SEPTEMBER 1, 2015, AND ENDING AUGUST 31, 2016.

## CITY PROPOSAL:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the renewal and issuance of on sale intoxicating liquor, on sale theater licenses, on sale Sunday intoxicating liquor, additional bars, on sale dancing, and 2:00 a.m. beverage licenses, for the period beginning September 1, 2015, and ending August 31, 2016, subject to departmental approvals and the payment of sales and property taxes, as provided in the Duluth City Code, as listed on attachment A.

STATEMENT OF PURPOSE: At the August 5th Alcohol, Gambling and Tobacco commission meeting, the clerk stated that all licensees have submitted their renewal applications, but there are some licensees that have delinquent property and sales taxes that must be paid by September 1, 2015, in order for their license to be reissued. The police department also has approved the renewals. The commission unanimously approved the on sale liquor renewals...

Attachments: [Attachment A - On sale.pdf](#)

**This Resolution was adopted unanimously.**

10.      **15-0490R**      RESOLUTION APPROVING THE ISSUANCE OF ON SALE WINE LIQUOR RENEWAL LICENSES FOR THE PERIOD BEGINNING SEPTEMBER 1, 2015, AND ENDING AUGUST 31, 2016.

## CITY PROPOSAL:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of 17 on sale wine licenses and 2 on sale wine bed and breakfast licenses for the period beginning September 1, 2015, and ending August 31, 2016, for issuance by the liquor control commissioner and further subject to departmental approvals, the payment of sales and property taxes, as provided for in the Duluth City Code, as listed on attachment A.

STATEMENT OF PURPOSE: At the August 5th Alcohol, Gambling and Tobacco Commission meeting, the clerk stated that all licensees have renewed their on sale wine license and that any delinquent property or sales taxes must be paid in full for their renewal license to be issued. The police department has also approved the renewal applications. The commission unanimously approved the renewal applications.

Attachments: [Attachment A - Wine.pdf](#)

**This Resolution was adopted unanimously.**

11.     **15-0491R**     RESOLUTION APPROVING THE ISSUANCE OF ON SALE CLUB LIQUOR RENEWAL LICENSES FOR THE PERIOD BEGINNING SEPTEMBER 1, 2015, AND ENDING AUGUST 31, 2016.

CITY PROPOSAL:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of nine on sale club liquor licenses for the period beginning September 1, 2015, and ending August 31, 2016, for issuance by the liquor control commissioner and further subject to departmental approvals, the payment of sales and property taxes, as provided for in the Duluth City Code, as listed on attachment A.

STATEMENT OF PURPOSE: At the August 5th Alcohol, Gambling and Tobacco commission meeting, the clerk stated that all licensees have renewed their on sale club licenses and that any delinquent property or sales taxes must be paid in full for their renewal license to be issued. The police department has also approved the renewal applications. The commission unanimously approved the renewal applications.

Attachments: [Attachment A - Club.pdf](#)

**This Resolution was adopted unanimously.**

12.     **15-0492R**     RESOLUTION APPROVING THE ISSUANCE OF OFF SALE

INTOXICATING LIQUOR RENEWAL LICENSES FOR THE PERIOD  
BEGINNING SEPTEMBER 1, 2015, AND ENDING AUGUST 31, 2016.

CITY PROPOSAL:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of 16 off sale intoxicating liquor licenses for the period beginning September 1, 2015, and ending August 31, 2016, for issuance by the liquor control commissioner and further subject to departmental approvals, the payment of sales and property taxes, as provided for in the Duluth City Code, as listed on attachment A.

STATEMENT OF PURPOSE: At the August 5th Alcohol, Gambling and Tobacco commission meeting, the clerk stated that all licensees have renewed their off sale liquor licenses and that any delinquent property or sales taxes must be paid in full for their renewal license to be issued. The police department has also approved the renewal applications. The commission unanimously approved the renewal applications.

**Attachments:** [Attachment A - Off Sale.pdf](#)

**This Resolution was adopted unanimously.**

- 13. 15-0493R** RESOLUTION APPROVING THE ISSUANCE OF ON AND OFF SALE BREWERY MALT LIQUOR RENEWAL LICENSES FOR THE PERIOD BEGINNING SEPTEMBER 1, 2015, AND ENDING AUGUST 31, 2016.

CITY PROPOSAL:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of five off sale brewery malt liquor licenses and two on sale brewery malt liquor licenses for the period beginning September 1, 2015, and ending August 31, 2016, for issuance by the liquor control commissioner and further subject to departmental approvals, the payment of sales and property taxes, as provided for in the Duluth City Code, as listed on attachment A.

STATEMENT OF PURPOSE: At the August 5th Alcohol, Gambling and Tobacco commission meeting, the clerk stated that all licensees have

renewed their on and off sale brewery malt liquor licenses and that any delinquent property or sales taxes must be paid in full for their renewal license to be issued. The police department has also approved the renewal applications. The commission unanimously approved the renewal applications.

**Attachments:** [Attachment A - Brewery.pdf](#)

**This Resolution was adopted unanimously.**

- 14. 15-0494R** RESOLUTION APPROVING THE ISSUANCE OF ON AND OFF SALE MICRODISTILLERY RENEWAL LICENSES FOR THE PERIOD BEGINNING SEPTEMBER 1, 2015, AND ENDING AUGUST 31, 2016.

**CITY PROPOSAL:**

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of the following on and off sale microdistillery licenses for the period beginning September 1, 2015, and ending August 31, 2016, for issuance by the liquor control commissioner and further subject to departmental approvals, the payment of sales and property taxes, as provided for in the Duluth City Code:

Vikre Distillery, LLC, (Vikre Distillery), 525 Lake Avenue South, Suite 102.

**STATEMENT OF PURPOSE:** At the August 5th Alcohol, Gambling and Tobacco Commission meeting, the clerk stated that the renewal application of Vikre Distillery has been received and has been approved by the police department. The commission unanimously approved the renewal applications.

**Attachments:** [Attachment A - Distrillery.pdf](#)

**This Resolution was adopted unanimously.**

- 15. 15-0495R** RESOLUTION APPROVING ISSUANCE OF TEMPORARY ON SALE INTOXICATING LIQUOR LICENSE TO DULUTH SUPERIOR GLBTAQI PRIDE (DULUTH SUPERIOR PRIDE FESTIVAL), BAYFRONT PARK.

## CITY PROPOSAL:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor license, subject to departmental approvals with any further restrictions and further subject to approval of the liquor control commissioner:

Duluth Superior GLBTAQI Pride (Duluth Superior Pride Festival), Bayfront Park, for September 5, 2015, serving from 11:00 a.m. to 7:00 p.m., with Carolyn Reisberg, manager.

STATEMENT OF PURPOSE: The temporary on-sale intoxicating liquor license for Duluth Superior GLBTAQI Pride (Duluth Superior Pride Festival) was reviewed and recommended for approval by the Alcohol, Gambling and Tobacco Commission at their meeting on August 5, 2015.

**This Resolution was adopted unanimously.**

16.     **15-0517R**     RESOLUTION APPROVING THE EXEMPTION OF A RAFFLE LICENSE AND WAIVING THE 60 DAY WAITING PERIOD FOR THE ALS ASSOCIATION.

## CITY PROPOSAL:

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to The ALS Association and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemption.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a copy of this resolution to the Minnesota gambling control board immediately after its passage.

STATEMENT OF PURPOSE: The state requires a 60 day waiting period for all raffle licenses to allow the city to review the application. The police department and alcohol, gambling and tobacco commission have approved the application, and this resolution will waive the 60 day waiting period for The ALS Association.

**This Resolution was adopted unanimously.**

17.     **15-0521R**     RESOLUTION AUTHORIZING THE PURCHASE OF AN ADDITIONAL 6,270 TONS OF HOT MIX FROM NORTHLAND CONSTRUCTORS IN THE AMOUNT OF \$291,555.



## CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to purchase 6,270 tons of hot mix in addition to the previous purchase of 10,100 tons from Northland Constructors, Minnesota State Contract No. 55656, for additional street capital projects, in the amount of \$291,555, payable as follows:

Street System Maint Utility 290, Public Works and Utilities 500, Blacktop 5222

General Fund 110, Public Administration 121, Maintenance Operations 1217, Street Maintenance 2140, Blacktop 5222

STATEMENT OF PURPOSE: This resolution authorizes the purchase of an additional 6,270 tons of hot mix, in the amount of \$291,555 from Northland Constructors, for the following projects: 3,000 tons for capping; 2,800 tons for E Superior St, Project #1476; 470 tons for 85th Ave W Project #1073.

The initial purchase of 10,100 tons of hot mix was approved by City Council on May 11, 2015. Resolution 15-0261R is attached is Exhibit A.

Attachments: [Exhibit A](#)

**This Resolution was adopted unanimously.**

- 18. 15-0522R** RESOLUTION APPROVING THE TRANSFER OF THE ON SALE INTOXICATING LIQUOR LICENSE AND ON SALE SUNDAY LICENSE FROM LAKE AIRE SERVICE COMPANY DULUTH, (EDGEWATER RESORT & WATERPARK), 2330 & 2440 LONDON ROAD TO ZENITH ASSET COMPANY, LLC (EDGEWATER RESORT & WATERPARK), SAME ADDRESS.

## CITY PROPOSAL:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license and on sale Sunday license effective upon the agreed upon closing date for the period ending August 31, 2015, subject to departmental approvals, and the payment of sales and property taxes:

Zenith Asset Company, LLC (Edgewater Resort & Waterpark), 2330 & 2440 London Road, transferred from Lake Aire Service Company Duluth (Edgewater Resort & Waterpark), same address.

STATEMENT OF PURPOSE: The application of Zenith Asset Company for transfer of the liquor license of the Edgewater Resort & Waterpark has been reviewed by the police department, and the application was reviewed and approved by the alcohol, gambling and tobacco commission at the August 5, 2015, meeting.

**This Resolution was adopted unanimously.**

- 19. 15-0523R** RESOLUTION APPROVING THE TRANSFER OF THE ON SALE INTOXICATING LIQUOR LICENSE AND ON SALE SUNDAY LICENSE FROM ZENITH DULUTH, INC (INN ON LAKE SUPERIOR), 350 CANAL PARK DRIVE TO ZENITH ASSET COMPANY, LLC (INN ON LAKE SUPERIOR), SAME ADDRESS.

**CITY PROPOSAL:**

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license and on sale Sunday license effective upon the agreed upon closing date for the period ending August 31, 2015, subject to departmental approvals, and the payment of sales and property taxes:

Zenith Asset Company, LLC (Inn on Lake Superior), 350 Canal Park Drive, transferred from Zenith Duluth, Inc (Inn on Lake Superior), same address.

STATEMENT OF PURPOSE: The application of Zenith Asset Company for transfer of the liquor license of the Inn on Lake Superior has been reviewed by the police department, and the application was reviewed and approved by the Alcohol, Gambling and Tobacco Commission at the August 5th meeting.

**This Resolution was adopted unanimously.**

**BY COUNCILOR GARDNER (PERSONNEL)**

- 20. 15-0441R** RESOLUTION APPROVING PROPOSED SPECIFICATIONS FOR THE NEW CIVIL SERVICE CLASSIFICATION OF MEASUREMENT SERVICES SPECIALIST, AND SPECIFYING CONTRACT BENEFITS FOR SAME.

**CITY PROPOSAL:**

RESOLVED, that the proposed specifications for the new civil service classification of measurement services specialist, which were approved by the civil service board on November 4, 2014, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 29, \$3,826 to \$4,493 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

**STATEMENT OF PURPOSE:** The public works & utilities customer service division is responsible for appliance repair, billing, conservation and efficiency programs, meter reading and installation, establishing new accounts, and providing public awareness. Recently, the overall operations of the division were reviewed for opportunities to provide a higher level of customer service, create efficiencies, and streamline work processes. As a result, this newly created classification combines duties that were previously held by various classifications into one, and should result in an overall expedited and efficient service to customers. The pay range negotiated for the classification is Range 29, \$3,826 to \$4,493 per month.

**Attachments:** [Measurement Services Specialist Job Description](#)

**This Resolution was adopted unanimously.**

- 21. 15-0442R** RESOLUTION APPROVING PROPOSED AMENDMENTS TO THE SPECIFICATIONS FOR THE EXISTING CIVIL SERVICE CLASSIFICATION OF APPLIANCE MECHANIC APPRENTICE, INCLUDING A TITLE CHANGE TO UTILITY SERVICES SPECIALIST APPRENTICE, AND SPECIFYING CONTRACT BENEFITS FOR SAME.

**CITY PROPOSAL:**

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of appliance mechanic apprentice, including a title change to utility services specialist apprentice, which were approved by the civil service board on January 6, 2015, are approved. This classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 26 to Range 30, \$3,402 to \$4,704 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

STATEMENT OF PURPOSE: The public works & utilities customer service division is responsible for appliance repair, billing, conservation & efficiency programs, meter reading & installation, establishing new accounts, and providing public awareness.

The job classifications of appliance mechanic apprentice (proposed title change to utility services specialist apprentice) and appliance mechanic journeyman (proposed title change to utility services specialist journeyman) are primarily responsible for performing skilled diagnostic repair and service work on gas-fired equipment and appliances, and performing general water and gas service repair. The apprentice serves in an entry-level position while learning and becoming proficient in the job tasks.

Recently, the overall operations of the division specific to these positions were reviewed for opportunities to provide a higher level of customer service, create efficiencies and streamline work processes. As a result, the job classification titles have been revised to better reflect the nature of the work being performed and a new apprenticeship program is being proposed to support the overall training needs of the workforce and the division. The new apprenticeship program would allow for additional cross-training amongst employees, provide a greater number of employees to serve the customers with service repairs, and should result in an overall expedited and efficient service to customers.

There is no change in the rate of pay, which is Pay Range 26 to Range 30, pay rate of \$3,402 to \$4,704 per month.

**Attachments:** [Utility Services Specialist Apprentice Job Description](#)  
[Appliance Mechanic Apprentice Job Description redline](#)

**This Resolution was adopted unanimously.**

- 22. 15-0443R RESOLUTION APPROVING PROPOSED AMENDMENTS TO THE SPECIFICATIONS FOR THE EXISTING CIVIL SERVICE**

CLASSIFICATION OF APPLIANCE MECHANIC JOURNEYPERSON, INCLUDING A TITLE CHANGE TO UTILITY SERVICES SPECIALIST JOURNEYPERSON, AND SPECIFYING CONTRACT BENEFITS FOR SAME.

**CITY PROPOSAL:**

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of appliance mechanic journeyman, including a title change to utility services specialist journeyman, which were approved by the civil service board on January 6, 2015, are approved. This classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 30, \$3,976 to \$4,704 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

**STATEMENT OF PURPOSE:** The public works & utilities customer service division is responsible for appliance repair, billing, conservation and efficiency programs, meter reading and installation, establishing new accounts, and providing public awareness.

The job classifications of appliance mechanic apprentice (proposed title change to utility services specialist apprentice) and appliance mechanic journeyman (proposed title change to utility services specialist journeyman) are primarily responsible for performing skilled diagnostic repair and service work on gas-fired equipment and appliances, and performing general water and gas service repair.

Recently, the overall operations of the division specific to these positions were reviewed for opportunities to provide a higher level of customer service, create efficiencies and streamline work processes. As a result, the job classification titles have been revised to better reflect the nature of the work being performed and a new apprenticeship program is being proposed to support the overall training needs of the workforce and the division. The new apprenticeship program would allow for additional cross-training amongst employees, provide a greater number of employees to serve the customers with service repairs, and should result in an overall expedited and efficient service to customers.

There is no change in the rate of pay, which is Pay Range 30, pay rate of

\$3,976 to \$4,704 per month.

**Attachments:** [Utility Services Specialist Journeyperson Job Description](#)  
[Appliance Mechanic Journeyperson Job Description Redline.pdf](#)

This Resolution was adopted unanimously.

## COMMITTEE 2

### BY PRESIDENT LARSON (COMMITTEE OF THE WHOLE)

23. 15-0488R RESOLUTION APPOINTING ELECTION JUDGES FOR THE SEPTEMBER 15, 2015, MUNICIPAL AND SCHOOL BOARD PRIMARY ELECTION, AND THE NOVEMBER 3, 2015, MUNICIPAL AND SCHOOL BOARD GENERAL ELECTION.

#### CITY PROPOSAL:

RESOLVED, that pursuant to Minnesota Statutes 204B.21, the following persons are hereby appointed as election judges in the respective precincts for the September 15, 2015, municipal and school board primary election and the November 3, 2015, municipal and school board general election, as listed in attachment A.

RESOLVED FURTHER, that pursuant to Minnesota Statute, 204B.31(d), election judges shall be compensated at the rate of \$9 per hour, chairman election judges shall be also compensated \$15 for election day hours, and precinct support judges \$10 per hour. In addition, election judges carrying supply returns shall be compensated for mileage at the rate of \$.575 per mile; payable from General Fund 110, Department 121, Organization 1211, Object 5103.

RESOLVED FURTHER, if any person who is name on the list as a judge is un-able to serve, the clerk is empowered to substitute the name of a qualified legal voter for the one who is unable to serve.

STATEMENT OF PURPOSE: This resolution designates the election judges for the September 15, 2015, municipal and school board primary election and the November 3, 2015, municipal and school board general election

**Attachments:** [Attachment A.pdf](#)

This Resolution was adopted unanimously.

**COMMITTEE 3****BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)**

24.     **15-0460R**     RESOLUTION AUTHORIZING AN AGREEMENT WITH ST. LOUIS COUNTY FOR CONSTRUCTION OF NATURAL GAS, STORM SEWER, SANITARY SEWER, WATER SYSTEM IMPROVMENTS AND TREE PLANTING ASSOCIATED WITH THE RECONSTRUCTION OF CSAH 9 (FOURTH STREET) FROM SIXTH AVENUE EAST TO WALLACE AVENUE.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of the attached document, with St. Louis County to construct natural gas, storm sewer, sanitary sewer, water system improvements and tree planting in CSAH 9 (Fourth Street) from Sixth Avenue East to Wallace Avenue, city project no. 1360, to be paid from various utility funds as appropriate in an amount not to exceed \$4,400,000.

**STATEMENT OF PURPOSE:** This resolution will authorize an agreement with St. Louis County for construction of natural gas, storm sewer, sanitary sewer, water system utility improvements and tree planting in CSAH 9 (Fourth Street) from Sixth Ave East to Wallace Avenue, city project no. 1360. The city will pay St. Louis County for actual costs, estimated to be \$4,400,000 from the appropriate utility funds. This agreement also authorizes the city to be reimbursed for materials associated with planting the trees upon construction of the project. Installing the trees with city forces should provide for a higher quality installation.

**Attachments:**   [15-0460R Exhibit A](#)  
                          [15-0460R Exhibit B](#)  
                          [15-0460R Map](#)  
                          [15-0460R Agreement](#)

**This Resolution was adopted unanimously.**

- 25. 15-0461R** RESOLUTION AUTHORIZING AN AGREEMENT WITH ST. LOUIS COUNTY FOR TRAFFIC SIGNAL MODIFICATIONS, ROADWAY LIGHTING AND TRAFFIC CONTROL INTERCONNECTION IMPROVEMENTS TO CSAH 9 (EAST FOURTH STREET) BETWEEN SIXTH AVENUE EAST AND WALLACE AVENUE.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are authorized to enter into an agreement with St. Louis County, a copy of which is attached as Exhibit A, to make traffic signal, roadway lighting and traffic control interconnection improvements to CSAH 9 (East Fourth Street) as set forth in State Aid Project 69-609-040, in an amount not to exceed \$250,000, payable from Street Lighting Utility Fund 550, Department/Agency 120 (Public Administration), Object 5533 (Capital Improvements - Revenue), city project no. 1360.

**STATEMENT OF PURPOSE:** This resolution will authorize the city to enter into an agreement with St. Louis County to make traffic signal, roadway lighting and traffic signal interconnection improvements to Fourth Street between Sixth Avenue East and Wallace Avenue as shown by Exhibit A, in an amount not to exceed \$250,000. The county plans to make these improvements during the 2016-2017 construction seasons in conjunction with the Fourth Street reconstruction project. The county will pay for 100% of the traffic signal and roadway lighting improvements, including replacement of the existing decorative lighting between Sixth and 14th Avenues East. The city will pay 100% of the cost for the fiber optic interconnection on work. The city of Duluth's portion of the costs will be payable Street Lighting Utility Fund 550, Department/Agency 120 (Public Administration), Object 5533 (Capital Improvements - Revenue), city project no. 1360. This agreement also contains standard language between the city and the county for maintenance of the signal and lighting system.

**Attachments:** [15-0461R Map](#)  
[15-0461 Agreement](#)



This Resolution was adopted unanimously.

26. **15-0509R** RESOLUTION AWARDING A CONTRACT TO UTILITY SYSTEMS OF AMERICA, INC. FOR HAWTHORNE ROAD STORM SEWER IMPROVEMENTS AND STREET REPAIRS IN THE AMOUNT OF \$258,243.30.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Utility Systems of America, Inc. for storm sewer improvements and street repairs on Hawthorne Road from Lakeview Avenue to Vermilion Road in the amount of \$258,243.30, payable from Street Improvement Fund 440, Department 038 (Special Assessment Accounts), Object 5530 (Improvements Other than Buildings), city project no. 1456 as the working fund, with \$250,000 funded by Street System Maintenance Utility fund 290 and the remainder out of Stormwater Utility Fund 535.

**STATEMENT OF PURPOSE:** This resolution will authorize storm sewer improvements and street repairs on Hawthorne Road by Utility Systems of America, Inc. in the amount of \$258,243.30, payable from Street Improvement Fund 440, Department 038 (Special Assessment Accounts), Object 5530 (Improvements Other than Buildings), city project no. 1456, requisition no. 15-0466. Utility Systems of America, Inc. was the lowest bidder of the two companies that responded. The engineer's estimate was \$250,000. This work is necessary due to the recent failure of the existing storm sewer pipe joints. Although the Street Improvement fund is being used to pay for these repairs, the adjacent residents are not being assessed.

**TABULATION OF BIDS RECEIVED July 29, 2015**

Utility Systems of America, Inc.	Eveleth, MN	\$258,243.30
Lametti & Sons, Inc.	Hugo, MN	\$271,161.00

**Attachments:** [15-0509R Map](#)

This Resolution was adopted unanimously.

27. **15-0514R** RESOLUTION AWARDING A CONTRACT TO HANCO UTILITIES, INC. FOR THE 12" GAS MAIN REPLACEMENT AT KNOWLTON CREEK AND GRAND AVENUE IN THE AMOUNT OF \$74,621.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Hanco Utilities, Inc. for replacement of a 12" gas main at Knowlton Creek and Grand Avenue in the amount of \$74,621, payable out of Gas Fund 520, Department/Agency 500 (Public Works & Utilities), Division 1905 (Capital), Object 5533 (Capital Improvements - Revenue), city project no. 1472.

STATEMENT OF PURPOSE: This resolution will authorize replacement of a 12" gas main at Knowlton Creek and Grand Avenue by Hanco Utilities, Inc. in the amount of \$74,621, payable from Gas Fund 520, Department/Agency 500 (Public Works & Utilities), Division 1905 (Capital), Object 5533 (Capital Improvements - Revenue), city project no. 1472, requisition no. 15-0481. Hanco Utilities, Inc. was the lowest bidder of the three companies that responded. The engineer's estimate was \$200,000. This project is taking place in preparation for MnDOT's replacement of the existing box culvert in Knowlton Creek with a bridge.

**TABULATION OF BIDS RECEIVED JULY 29, 2015**

Hanco Utilities, Inc.	Lake Nebagamom, WI	\$ 74,621.00
EBI Drilling, Inc.	Duluth, MN	\$ 75,964.00
NPL Construction Co.	Lakeville, MN	\$153,550.00

**Attachments:** [15-0514R Map](#)

**This Resolution was adopted unanimously.**

- 28. 15-0515R** RESOLUTION AWARDING A CONTRACT TO UTILITY SYSTEMS OF AMERICA, INC. FOR WATER MAIN REPLACEMENT UNDER TISCHER CREEK AT FAIRMONT STREET IN THE AMOUNT OF \$90,150.

RESOLUTION AWARDING A CONTRACT TO UTILITY SYSTEMS OF AMERICA, INC. FOR WATER MAIN REPLACEMENT UNDER TISCHER CREEK AT FAIRMONT STREET IN THE AMOUNT OF \$90,150.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Utility Systems of America, Inc. for replacement of the water main under Tischer Creek at Fairmont Street in the amount of \$90,150, payable from Water Fund 510, Department 500 (Public Works & Utilities), Division 1905 (Capital), Object 5533 (Capital Improvements - Revenue), city project no. 1333.

STATEMENT OF PURPOSE: This resolution will authorize the

construction of a water main replacement under Tischer Creek at Fairmont Avenue by Utility Systems of America, Inc. in the amount of \$90,150, payable from Water Fund 510, Department 500 (Public Works & Utilities), Division 1905 (Capital), Object 5533 (Capital Improvements - Revenue), city project no. 1333, requisition no. 15-0480. Utility Systems of America, Inc. was the lowest bidder of the three companies that responded. The engineer's estimate was \$92,543. Replacement of the existing water main is necessary due to frequent freezing during winter months, requiring residents of Fairmont Street to utilize a temporary overland water line.

TABULATION OF BIDS RECEIVED JULY 29, 2015

Utility Systems of America, Inc.	Eveleth, MN	\$90,150.00
EBI Drilling, Inc.	Duluth, MN	\$99,484.00

Attachments: [15-0515 Map](#)

This Resolution was adopted unanimously.

**BY COUNCILOR FOSLE (PUBLIC SAFETY)**

- 29. 15-0497R** RESOLUTION AUTHORIZING CONSUMPTION OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES ON MICHIGAN STREET ON SEPTEMBER 3, 2015, IN CONJUNCTION WITH THE DULUTH SUPERIOR GLBT PRIDE FESTIVAL AND SUBJECT TO CERTAIN CONDITIONS.

CITY PROPOSAL:

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places on Michigan Street, between Fifth and Sixth Avenues West on September 3, 2015, in conjunction with the Mayor's Pride Reception at the Historic Union Depot, provided that all alcoholic beverages consumed outside of designated serving areas of licensed establishments be consumed only from paper or plastic cups.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the licensee and approved by the administration.

STATEMENT OF PURPOSE: This resolution waives the drinking in public prohibition for events in conjunction with the Duluth Superior GLBT Pride Festival. Such waiver for special events is authorized by Section 8-22(b) of the City Code and is requested by the police department after consultation with the St. Louis County Historic Depot to eliminate the law enforcement problem of having to take action against persons wandering beyond the designated service areas with drinks. For safety purposes, all alcoholic beverages consumed in these areas will have to be in paper cups.

**This Resolution was adopted unanimously.**

- 30. 15-0520R** RESOLUTION AUTHORIZING ACCEPTANCE OF A GRANT IN THE AMOUNT OF \$4,000 FROM THE NORTHEAST MINNESOTA REGIONAL RADIO BOARD FOR THE PURCHASE OF A DUAL BAND RADIO CONSOLE FOR CITY OF DULUTH EMERGENCY OPERATION CENTER.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are authorized to accept a grant from the Northeast Minnesota Regional Radio Board (State of Minnesota Homeland Security Grant Pass Through), in the amount of \$4,000, said funds to be deposited in Fund 210-030-3162-4210-02 (special projects, finance, 2014 state homeland security program grant, pass-through federal grant), for the purchase of a dual band radio console for the Emergency Operation Center, and committing \$4,000 as the city's local share cost of said grant, to be paid from the city's Fund 250-015-2015-5580 CE250-E1506(capital equipment fund - public administration - fiscal year 2015 - capital equipment - EOC technology upgrades).

STATEMENT OF PURPOSE: This resolution authorizes acceptance of a grant in the amount of \$4,000 from the Northeast Minnesota Regional Radio Board. A copy of the grant agreement between the Northeast Regional Emergency Communications Board and the Minnesota Department of Public Safety and the February 26, 2015 meeting minutes of the board approving the award to the city are attached. The City's local share of the project cost will be \$4,000.

**Attachments:** [2015 01-21 Duluth PD APX 7500 W MCD Consolette quote](#)  
[NERRB-00003 SHSP grant 2014](#)  
[RRB Minutes 02\\_26\\_2015](#)

**This Resolution was adopted unanimously.**

**BY COUNCILOR SIPRESS (RECREATION, LIBRARIES & AUTHORITIES)**

31. 15-0501R RESOLUTION AUTHORIZING LICENSE AGREEMENT WITH MNDNR FOR CONSTRUCTION WORK IN CHAMBERS GROVE.

## CITY PROPOSAL:

RESOLVED, that the proper city officials are authorized to enter into a license agreement, a copy of which is attached hereto as Exhibit A, with the State of Minnesota Department of Natural Resources authorizing them and their agents to perform stream bank improvements along the St. Louis River in Chambers Grove and to use park roads for access to the construction site.

STATEMENT OF PURPOSE: The purpose of this resolution is to grant a license to MnDNR to make stream bank improvements along that portion of the bank of the St. Louis River which lies within Chambers Grove Park and to use the park roads for access to the site.

Attachments: [Chambers Grove DNR Agreement 7-30-2015.pdf](#)

**This Resolution was adopted unanimously.**

32. 15-0507R RESOLUTION AUTHORIZING AN AGREEMENT WITH TKDA FOR PROFESSIONAL SERVICES FOR THE WESTERN WATERFRONT TRAIL CORRIDOR RESTORATION PROJECT FOR A TOTAL AMOUNT NOT TO EXCEED \$70,000.

## CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, attached as Exhibit A, with TKDA for the design and preparation of construction documents, bid assistance and observation services for the western waterfront trail corridor restoration project for a total amount not to exceed \$70,000, payable from Tourism & Recreational Projects 452; Finance 030; Improvements Other than Buildings 5530; Project: HANDHTAX-1501-01 - Half & Half Tax Projects, Western Waterfront Trail, Corridor Restoration.

STATEMENT OF PURPOSE: This resolution authorizes an agreement with TKDA for professional services including site assessment, pre-design, public engagement, restoration plan preparation, construction implementation support and observation, restoration implementation reporting and monitoring for the western waterfront trail corridor restoration project for an amount not to exceed \$70,000.

The City received a \$400,000 Conservation Partners Legacy Metro Grant for the actual restoration work. That grant was accepted via resolution 15-0054R and includes a City match of \$175,000 from the Half & Half Tourism Tax. This project will improve the Western Waterfront Trail experience for all users by removing exotic vegetation and restoring native vegetation in the areas surrounding the trail. The project will restore river views and river access along segments of the trail that are now separated from the river by dense thickets of exotic buckthorn.

TKDA's proposal and project estimation sheet are attached as Exhibit B and Exhibit C.

Requisition No. 15-0520

**Attachments:** [Exhibit A](#)  
[Exhibit B](#)  
[Exhibit C](#)

This Resolution was adopted unanimously.

## **END OF CONSENT AGENDA**

**The following entitled resolutions were also considered:**

### **COMMITTEE 3**

#### **BY COUNCILOR FOSLE (PUBLIC SAFETY)**

- 33. 15-0470R** RESOLUTION AMENDING RESOLUTION 89-0885 AND DESIGNATING PORTIONS OF LYONS STREET, EAST NIAGARA STREET AND MISSOURI AVENUE IN THE VICINITY OF THE UNIVERSITY OF MINNESOTA DULUTH AS RESIDENT PERMIT PARKING.

#### **CITY PROPOSAL:**

WHEREAS, Resolution 89-0885, adopted by the city council on October 30, 1989, designated portions of certain streets in the vicinity of the University of Minnesota Duluth as a resident permit parking zone pursuant to Section 33-125 of the Duluth City Code, 1959, as amended; and

WHEREAS, a public hearing was held on August 10, 2015, and after review of this matter, the city council has determined that the extension of the resident permit parking zone is appropriate.

THEREFORE, BE IT RESOLVED, that Resolution 89-0885 is hereby amended by designating as resident permit parking the parking areas on both sides of Lyons Street from Kenwood Avenue to Missouri Avenue, on both sides of East Niagara Street from Kenwood Avenue to a terminus one block to the east and on both sides of Missouri Avenue from East Buffalo Street to Lyons Street, as shown on the map attached hereto.

STATEMENT OF PURPOSE: This resolution amends the resident permit parking zone established by Resolution 89-0885, adopted on October 30, 1989, by adding portions of Lyons Street, East Niagara Street, and Missouri Avenue.

**Attachments:** [Attachment for 15-0470R](#)

Councilor Fosle moved to table the resolution, to work out the details of removing Missouri avenue, which motion was seconded and failed.

Mark Bauer, Duluth Parking Enforcement Division, reviewed the scope and results of the parking survey.

Councilor Fosle moved to amend the resolution to remove Missouri avenue, which motion was seconded and failed upon

**A motion was made that this Resolution be adopted. The motion carried by the following vote:**

**Yea:** 7 - Councilors Filipovich, Gardner, Julsrud, Krug, Russ, Sipress and President Larson

**Nay:** 2 - Councilors Fosle and Hanson

## **BY COUNCILOR SIPRESS (RECREATION, LIBRARIES & AUTHORITIES)**

**34      15-0487R      RESOLUTION AWARDDING A CONTRACT TO BIG BELLY SOLAR, INC., FOR THE PURCHASE AND DELIVERY OF TWELVE (12) TWO-UNIT SOLAR POWERED TRASH/RECYCLING KIOSKS AND TWENTY (20) BOXES OF LINERS IN THE AMOUNT OF \$73,065.**

### **CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to contract with Big Belly Solar, Inc., for the purchase and delivery of 12 two-unit solar powered trash/recycling kiosks in accordance with city-approved specifications and the vendor's quote of \$73,065.00, payable from General Fund 110, Public Administration 121, Facilities Management 1222, Capital Equipment 5580.

STATEMENT OF PURPOSE: This resolution authorizes the purchase of 12 two-unit solar powered trash/recycling kiosks, for a total of \$73,065.00, payable from the general fund.

The new units will be installed at Merritt Community Recreation Area, Washington Square Park, Fairmont Park, Franklin Park Tot Lot, Old Main Park, Duluth Heights Community Recreation Area and two along the new Cross City Trail (locations to yet be determined).

This is single source procurement. The city council authorized the purchase of ten of these units through passage of Resolution 11-0158 on March 28, 2011. The older units communicate through a software program that monitors the remaining capacity of the kiosk. The new units will use this same software program. The park maintenance division has standardized on this model of trash/recycling kiosk.

Requisition No. 15-0502

**A motion was made that this Resolution be adopted. The motion carried by the following vote:**

**Yea:** 7 - Councilors Filipovich, Gardner, Julsrud, Krug, Russ, Sipress and President Larson

**Nay:** 2 - Councilors Fosle and Hanson

## **COMMITTEE 2**

### **BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)**

- 35. 15-0506R** RESOLUTION AUTHORIZING PROPER CITY OFFICIALS TO ACCEPT MONEY FROM THE GREATER DOWNTOWN COUNCIL FOR THE MICHIGAN STREET BIKEWAY FEASIBILITY ANALYSIS IN THE AMOUNT OF \$10,000

#### **CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to accept a contribution from the Greater Downtown Council in the amount of \$10,000 for a feasibility analysis of a bikeway on Michigan Street, and to execute any documents required to be executed to accept such contribution;

STATEMENT OF PURPOSE: This resolution authorizes the proper city officials to accept a contribution from the Greater Downtown Council in the amount of \$10,000, to be used towards the City's feasibility analysis of placing a bikeway on Michigan Street. This is in conjunction with the Superior Street Reconstruction Project, examining how Michigan Street can be used as a bikeway connector through downtown Duluth.

Keith Hamre, director of the planning and construction services department,



responded to councilor questions.

**A motion was made that this Resolution be tabled. The motion carried by the following vote:**

**Yea:** 5 - Councilors Filipovich, Gardner, Krug, Russ, and President Larson

**Nay:** 4 - Councilors Fosle, Hanson, Julsrud, and Sipress

- 36. 15-0511R** RESOLUTION AFFIRMING THE PLANNING COMMISSION DECISION REGARDING A LAND USE SUPERVISOR INTERPRETATION OF SECTION 50-15.6.E.2 AS IT APPLIES TO A POTENTIAL EXPANSION OF EXISTING HOTEL AT 1003 MINNESOTA AVENUE (TERRY ANDERSON)

CITY PROPOSAL:

RESOLVED, that the city council finds as follows:

(a) On February 9, 2015, in response to an inquiry about a potential expansion to the subject property at 1003 Minnesota Avenue, the City of Duluth Land Use Supervisor determined that any development or expansion on the site must meet all Unified Development Chapter (UDC) requirements, including the MU-W zone district standards regarding maximum building width of 200' with a 50' separation between buildings; and

(b) At its April 14, 2015 regular meeting, the planning commission upheld this interpretation of the UDC; and

(c) The standards of the MU-W zone district serve to protect public views to the waterfront from the closest landward public street running approximately parallel to the water, which in this case is a view of the marina and harbor from Minnesota Avenue; and

(d) According to Section 50-7.1 of the City Code, no building or structure shall be erected, converted, enlarged, reconstructed, moved, structurally altered, or used ... except in accordance of all applicable provisions of the zoning regulations; and

(e) The fact that a previous garage existed on the site that partially obscured public views of the water is not germane to current desire to expand the hotel, as the garage was removed during the 2012 construction, and once a structure is removed, all subsequent development

must conform to the zoning regulations; and

(f) The existing hotel is approximately 184' from the obstruction of the existing marina maintenance building and thus would be allowed to expand an additional 16'; and

(g) The city council of the city of Duluth agrees that any expansion or reconstruction on this site shall allow for public views of the marina and harbor as indicated in the MU-W zone district regulations; and

(h) The city council of the city of Duluth affirms the planning commission decision upholding the Land Use Supervisor interpretation related to Section 50-15.6.E.2 as it pertains to future development at 1003 Minnesota Avenue, specifying that structures shall not be more than 200' in length and must provide a minimum of 50' between structures.

STATEMENT OF PURPOSE: The resolution affirms a planning commission decision upholding the Land Use Supervisor decision that the hotel at 1003 Minnesota Avenue cannot expand in a manner that extends its length along the water, beyond 200' from the maintenance building, or another 16' southeastward. Any additional buildings on the site must allow 50' between the buildings.

On April 14, 2015, the planning commission voted 6 yeas, 0 nays, and 1 abstention to uphold the Land Use Supervisor decision.

Petitioner:  
Terry Anderson  
EBI Drilling, Inc.  
5910 Fremont Street  
Duluth, MN

PL 15-030

**Attachments:** [Attachment 1 of 3](#)  
[Attachment 2 of 3](#)  
[Attachment 3 of 3](#)

Councilor Russ moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

Deb and Mike Medlin spoke in support of the resolution and presented pictures supporting their views. Gerald Hedlin also spoke in support of resolution.

**A motion was made that this Resolution be adopted. The motion carried by the following vote:**

**Yea:** 8 - Councilors Filipovich, Hanson, Gardner, Julsrud, Krug, Russ, Sipress and President Larson

**Nay:** 1 - Councilor Fosle

- 37. 15-0512R** RESOLUTION REVERSING THE PLANNING COMMISSION DECISION REGARDING A LAND USE SUPERVISOR INTERPRETATION OF SECTION 50-15.6.E.2 AS IT APPLIES TO A POTENTIAL EXPANSION OF EXISTING HOTEL AT 1003 MINNESOTA AVENUE (TERRY ANDERSON)

**CITY PROPOSAL:**

RESOLVED, that the city council finds as follows:

(a) On February 9, 2015, in response to an inquiry about a potential expansion to the subject property at 1003 Minnesota Avenue, the City of Duluth Land Use Supervisor determined that any development or expansion on the site must meet all Unified Development Chapter (UDC) requirements, including the MU-W zone district standards regarding maximum building width of 200' with a 50' separation between buildings; and

(b) At its April 14, 2015 regular meeting, the planning commission upheld this interpretation of the UDC; and

(c) The standards of the MU-W zone district serve to protect public views to the waterfront from the closest landward public street running approximately parallel to the water, which in this case is a view of the marina and harbor from Minnesota Avenue; and

(d) According to Section 50-7.1 of the City Code, no building or structure shall be erected, converted, enlarged, reconstructed, moved, structurally altered, or used ... except in accordance of all applicable provisions of the zoning regulations; and

(e) The fact that a previous garage partially obscured public views of the water constitutes "topography," and as the current hotel was built behind a portion of the site that once held this garage, it shall be granted the exemption allowed in Section 50-15-6.E.2 of the UDC; and

(f) The city council of the city of Duluth hereby decides that the existing hotel shall be allowed to expand 200' in length from a line where the southeast wall of the previous garage was located.

**STATEMENT OF PURPOSE:** The resolution reverses a planning commission decision upholding the Land Use Supervisor decision that the hotel at 1003 Minnesota Avenue cannot expand in a manner that extends its length along the water, and finds that a previous garage on the property

should be used to establish the starting point of the 200' width allowed along the water.

On April 14, 2015, the planning commission voted 6 yeas, 0 nays, and 1 abstention to uphold the Land Use Supervisor decision.

Petitioner:  
Terry Anderson  
EBI Drilling, Inc.  
5910 Fremont Street  
Duluth, MN  
PL 15-030

**Attachments:** [Attachment 1 of 3](#)

[Attachment 2 of 3](#)

[Attachment 3 of 3](#)

Williams Burns, legal counsel, spoke in support of the resolution.

**A motion was made that this Resolution be adopted. The motion failed by the following vote:**

**Yea:** 1 - Councilor Fosle

**Nay:** 8 - Councilors Filipovich, Hanson, Gardner, Julsrud, Krug, Russ, Sipress and President Larson

- 38. 15-0513R** RESOLUTION RATIFYING THE PURCHASE OF FLOOD DAMAGED PROPERTY FROM THE WESTMINSTER PRESBYTERIAN CHURCH OF WEST DULUTH FOR \$30,000.

**CITY PROPOSAL:**

RESOLVED, that the city council ratifies the purchase of the property described in the purchase agreement attached hereto as Exhibit A for \$30,000.00 funded by the 2015 City of Duluth Community Development Block Grant Program (Public Facility Improvement Projects - Fund 262, 020, 5434, CD15CD).

STATEMENT OF PURPOSE: The purpose of this resolution is to ratify and accept the conveyance of flood damaged property from the Westminster Presbyterian Church of West Duluth. The purchase agreement was entered into on June 2, 2015, and the city utilized HUD Federal Community Block Grant funds for the purchase.

**Attachments:** [Exhibit A](#)

Councilor Russ moved to suspend the rules to hear a speaker on the

resolutions, which motion was seconded and unanimously carried.

Angie Miller spoke in support of the resolution.

**A motion was made that this Resolution be adopted. The motion carried by the following vote:**

**Yea:** 8 - Councilors Filipovich, Hanson, Gardner, Julsrud, Krug, Russ, Sipress and President Larson

**Nay:** 1 - Councilor Fosle

**39. 15-0518R RESOLUTION AFFIRMING THE PLANNING COMMISSION'S DECISION TO GRANT GREEN CAPITAL, LLC, A SPECIAL USE PERMIT FOR AN EIGHT UNIT TOWNHOME DEVELOPMENT AT THE SOUTHEAST CORNER OF MISSISSIPPI AVENUE AND LYONS STREET**

**CITY PROPOSAL:**

RESOLVED, that the City Council finds as follows:

(a) On April 16, 2015, Jason Ross, on behalf of Green Capital, LLC, submitted an application for a special use permit for an eight unit townhome development at the southeast corner of Mississippi Avenue and Lyons Street;

(b) The project area is zoned R-1 (Residential-Traditional) and is comprised of five platted lots, each measuring 40 feet in width and 125 feet in depth, totaling 25,000 square feet in area. The development included 2 two-bedroom units, 5 three-bedroom units, and 1 four bedroom unit, for a total of 23 bedrooms. All townhomes between three and eight units require a special use permit in R-1 zone districts. The project area is also with the Higher Education Overlay District, which has additional requirements over and above the usual use-specific development standards;

(c) The planning commission considered the application at its May 12, 2015, regular meeting. The public hearing was opened and several public comments were received at the meeting, but the item was tabled in order to give city staff additional time to review the applicant's information.

(d) The planning commission continued the public hearing at its June 9, 2015, regular meeting. The Planning Commission's first vote resulted in a tie (4-4). After additional deliberation, the Planning Commission's second vote was to approve the special use permit with a 5-3 vote (one planning commission position was vacant). In reaching its decision, the planning commission reviewed comments from the public, information from city staff, and applicable regulations from the Unified Development Chapter. The application was approved with the following conditions:

1) The project area be amended to the limit shown in plans labeled May 27, 2015 Special Use Permit Application Site Plan,

- 2) Screening on top of the retaining wall be wood, or have the appearance of a wooden fence.
  - 3) Two visitor parking to be signed for visitors only. Site plan revised to show bike/scooter parking.
  - 4) Lighting plan and sustainability checklist required with building permit application.
  - 5) Landscaping plan be revised to show compliance with UDC, including one tree per 20 feet on rear property line per 50-20.1, and required trees must be at least 2 1/2 inch caliper.
  - 6) The number of parking spaces on the property equal the number of bedrooms, not including parking spaces required for visitors, or bikes/scooters.
  - 7) The driveway onto Lyons Street be increased to 16 feet wide; the developer may need to reduce the number of units from eight to seven to accommodate the development.
  - 8) Sidewalks shall be placed in front of each unit entrance to connect to the sidewalk that runs up to Mississippi Avenue.
  - 9) A wood screening fence, or a fence that appears to be made of wood or similar material, shall be placed on top of retaining wall to screen car headlights.
  - 10) Applicant's architect to modify design of the townhomes to better fit in visually with the surrounding neighborhood.
  - 11) Additional screening (vegetative material) of the retaining wall running along the alley, if allowed by City Engineering.
    - (e) On June 18, 2015, the city received an appeal from William Burns of Hanft Fride representing Al Makynen, Jim Starr, and Jay Stoffel, asking the city council to overturn the special use permit.
    - (f) The city council heard the appeal at its August 10, 2015 meeting.
- FURTHER RESOLVED, that the decision of the planning commission to grant the application for the special use permit is in conformance with standards in the Unified Development Chapter, and is affirmed.

STATEMENT OF PURPOSE: The resolution affirms the planning commission's decision to grant the special use permit for an eight unit townhome development to Green Capital, LLC.

City Council Appeal Received: June 18, 2015

Action Deadline for Special Use Permit Application: August 14, 2015

Appeal Petitioner:  
William Burns

Hanft Friede  
1000 US Bank Place  
140 West Superior Street  
Duluth, Minnesota 55802

Councilor Russ moved to suspend the rules to hear speakers on the resolutions, which motion was seconded and unanimously carried.

Kevin Hoene, Joe Martin, Lisa Martin, Kathleen Roufs, Timothy Roufs, Therese Campbell, William Campbell, Liz Makynen, Bruce Gildseth, Helen Gildseth, Scott Halenbeck, Anthony Roose, Viola Adams, Berle Breteson, John Breteson, John Foucault, John Lawien, Jodie Libby, Katie Krikorian, Jim Starr, Al Makynen, Jay Stoffel, David Anderson, Ann Myers, Kristine Jensen, Linda Swartz, Lisa Starr, Ruth Frederick, Renee Sheridan and Bill Burns spoke in opposition to the project.

Tyson Smith, Ben Mork, Paul King, and Jason Ross spoke in support of the project.

**A motion was made that this Resolution be adopted. The motion failed unanimously.**

**Yea:** 9 - Councilors Filipovich, Fosle, Hanson, Gardner, Julsrud, Krug, Russ, Sipress and President Larson

- 40. 15-0519R** RESOLUTION REVERSING THE PLANNING COMMISSION'S DECISION TO GRANT GREEN CAPITAL, LLC, A SPECIAL USE PERMIT FOR AN EIGHT UNIT TOWNHOME DEVELOPMENT AT THE SOUTHEAST CORNER OF MISSISSIPPI AVENUE AND LYONS STREET

**CITY PROPOSAL:**

RESOLVED, that the city council finds as follows:

(a) On April 16, 2015, Jason Ross, on behalf of Green Capital, LLC, submitted an application for a special use permit for an eight unit townhome development at the southeast corner of Mississippi Avenue and Lyons Street;

(b) The project area is zoned R-1 (Residential-Traditional) and is comprised of five platted lots, each measuring 40 feet in width and 125 feet in depth, totaling 25,000 square feet in area. The development included 2 two-bedroom units, 5 three-bedroom units, and 1 four bedroom unit, for a total of 23 bedrooms. All townhomes between three and eight units require a special use permit in R-1 zone districts. The project area is also with the Higher Education Overlay District, which has additional requirements over and above the usual use-specific development standards;

(c) The planning commission considered the application at its May 12,

2015, regular meeting. The public hearing was opened and several public comments were received at the meeting, but the item was tabled in order to give city staff additional time to review the applicant's information;

(d) The planning commission continued the public hearing at its June 9, 2015, regular meeting. The planning commission's first vote resulted in a tie (4-4). After additional deliberation, the planning commission's second vote was to approve the special use permit with a 5-3 vote (one planning commission position was vacant). In reaching its decision, the planning commission reviewed comments from the public, information from city staff, and applicable regulations from the Unified Development Chapter. The application was approved with the following conditions:

(1) The project area be amended to the limit shown in plans labeled May 27, 2015, Special Use Permit Application Site Plan;

(2) Screening on top of the retaining wall be wood, or have the appearance of a wooden fence;

(3) Two visitor parking to be signed for visitors only. Site plan revised to show bike/scooter parking;

(4) Lighting plan and sustainability checklist required with building permit application;

(5) Landscaping plan be revised to show compliance with UDC, including one tree per 20 feet on rear property line per 50-20.1, and required trees must be at least 2-1/2 inch caliper;

(6) The number of parking spaces on the property equal the number of bedrooms, not including parking spaces required for visitors, or bikes/scooters;

(7) The driveway onto Lyons Street be increased to 16 feet wide; the developer may need to reduce the number of units from eight to seven to accommodate the development;

(8) Sidewalks shall be placed in front of each unit entrance to connect to the sidewalk that runs up to Mississippi Avenue;

(9) A wood screening fence, or a fence that appears to be made of wood or similar material, shall be placed on top of retaining wall to screen car headlights;

(10) Applicant's architect to modify design of the townhomes to better fit in visually with the surrounding neighborhood;

(11) Additional screening (vegetative material) of the retaining wall running along the alley, if allowed by city engineering;

(e) On June 18, 2015, the city received an appeal from William Burns of Hanft Fride representing Al Makynen, Jim Starr and Jay Stoffel, asking that the city council to overturn the special use permit;

(f) The city council heard the appeal at its August 10, 2015, meeting;

FURTHER RESOLVED, that the decision of the planning commission to grant the application for the special use permit is reversed on the following grounds that demonstrates the permit was granted incorrectly due to not meeting the UDC approval process or a UDC development



standard.

STATEMENT OF PURPOSE: The resolution reverses the planning commission's decision to grant the special use permit for an eight unit townhome development to Green Capital, LLC.

City council appeal received: June 18, 2015

Action deadline for special use permit application: August 14, 2015

**Attachments:** [Attachment A](#)

[Attachment B](#)

[Attachment C](#)

At this time, 10:50pm, a motion was made to suspend the rules and extend the meeting until 11:45pm, which motion was seconded and unanimously carried.

**This Resolution was adopted unanimously.**

## BY COUNCILOR KRUG (INTERGOVERNMENTAL RELATIONS)

41. 15-0516R RESOLUTION FIXING THE BALLOT QUESTION TO BE SUBMITTED TO THE ELECTORATE AS TO RANKED CHOICE VOTING.

### CITY PROPOSAL:

WHEREAS, a petition for a proposed amendment to the Duluth City Charter changing the procedure for the election of the mayor and city councilors to a ranked choice voting system was presented to the Duluth charter commission and forwarded to the city council; and

WHEREAS, on July 20, 2015, the city clerk examined the petition and certified the petition to be sufficient.

NOW, THEREFORE, BE IT RESOLVED, that the proposed Charter amendment changing the city's election procedure for the city's mayor and city councilors be submitted to the voters at the general election to be held on November 3, 2015.

BE IT FURTHER RESOLVED that the question submitted on the ballot read as follows:

Shall the Duluth City Charter be amended to adopt Ranked Choice Voting, also known as Single Transferable Vote, as the method for electing the mayor and the city councilors without a separate primary election and with ballot format and rules for counting votes to be adopted by ordinance?

Yes. \_\_\_\_\_

No. \_\_\_\_\_

A "Yes" vote means the Duluth City Charter will be amended to adopt Ranked Choice Voting as the method for electing the mayor and city councilors with the ballot format and rules for counting votes to be adopted by ordinance.

A "No" vote means the Duluth City Charter will not be amended to adopt Ranked Choice Voting as the method for electing the mayor and city councilors.

STATEMENT OF PURPOSE: The purpose of this resolution is to fix the November 3, 2015, ballot question for voters to decide whether to adopt ranked choice voting for mayoral and city council elections.

**Attachments:** [FILIPOVICH AMENDMENT \(REPLACEMENT 2\)](#)  
[SIPRESS AMENDMENT](#)  
[JULSRUD/FILIPOVICH AMENDMENT](#)

Councilor Krug moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

Andrew Beeman, Henry Helgen and Bob Wahlman expressed support for the resolution.

Councilor Sipress moved to amend the resolution which motion was seconded and discussed.

Councilor Krug moved to suspend the rules to hear speakers on the amendment, which motion was seconded and carried unanimously.

Henry Helgen, Andrew Beeman, Bob Wahlman and Katie Humphrey spoke against the amendment.

**A motion was made that this Resolution be tabled. The motion carried by the following vote:**

**Yea:** 7 - Councilors Filipovich, Fosle, Hanson, Gardner, Russ, Sipress and President Larson

**Nay:** 2 - Councilors Julsrud and Krug

### COMMITTEE 3

#### BY COUNCILOR SIPRESS (RECREATION, LIBRARIES & AUTHORITIES)

43. 15-0525R RESOLUTION AUTHORIZING GRANT TO SPIRIT MOUNTAIN RECREATION AREA AUTHORITY FOR OPERATIONS.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to grant to the Spirit Mountain Recreation Area Authority, in one or more transactions and as each transaction is approved by the Chief Administrative Officer, a total amount of not to exceed \$300,000 to fund necessary operating expenses of the Authority, said amounts to be payable from Fund 258-030 (Tourism Taxes, Finance).

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize the CAO to approve one or more grants to Spirit Mountain on an as-needed basis to cover shortfalls in revenue needed for the continued operation of the facility on an interim basis. Funds granted pursuant to this authorization are intended to assist the Authority by carrying it over until revenues from this season's skiing operations become available.

This assistance is in furtherance of implementation of the City's and the Authority's long-term plan to bring stability to the Authority's operations and finances.

Councilor Sipress moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

Kelly Towns and Rene Sheridan expressed support for the resolution

**A motion was made that this Resolution be adopted. The motion carried by the following vote:**

**Yea:** 8 - Councilors Filipovich, Fosle, Hanson, Gardner, Krug, Russ, Sipress and President Larson

**Nay:** 1 - Councilor Julsrud

## **BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)**

**42. 15-0465R RESOLUTION CALLING FOR AN ADVISORY REFERENDUM PERTAINING TO THE SALE OF INTOXICATING LIQUOR IN THE LAKESIDE AND LESTER PARK NEIGHBORHOODS OF DULUTH.**

(a) Under Special Laws 1891, Chapter 57, Chapter XII, Section 5, the issuance of licenses for the sale of intoxicating liquor in what was formerly known as the city of Lakeside neighborhood of Duluth has been prohibited;

(b) The city of Lakeside is currently known as the area bordered by 40th Avenue East on the west, Skyline Parkway on the north, the city limits on the east and Lake Superior on the south (the "Lakeside and Lester Park neighborhoods")

(c) The Duluth city council wishes to determine the desire of voters in the city of Duluth with respect to allowing the sale of intoxicating liquor in the

Lakeside and Lester Park neighborhoods in order to determine what, if any, action on the matter the city will propose to the state legislature in its next session.

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby calls for an advisory referendum at a general municipal election to be held on November 3, 2015, on the question of allowing the sale of intoxicating liquor in the Lakeside and Lester Park neighborhoods.

FURTHER RESOLVED, that the city clerk shall place the following proposition on the ballot at such advisory referendum:

To vote for the proposition, completely fill in the oval next to the word "YES" for that question.

To vote against the proposition, completely fill in the oval next to the word "NO" for that question.

#### NON-BINDING PROPOSITION

Should the state statute which prohibits the issuance of licenses for the sale of intoxicating liquor in the Lakeside and Lester Park neighborhoods be repealed?

A "YES" vote means I support eliminating the state law which prohibits the sale of intoxicating liquor in the Lakeside and Lester Park neighborhoods.

A "NO" vote means I do not support eliminating the state law which prohibits the sale of intoxicating liquor in the Lakeside and Lester Park neighborhoods.

**STATEMENT OF PURPOSE:** This resolution calls for an advisory referendum to be included on the November 3, 2015, general election ballot pertaining to the sale of intoxicating liquor in the Lakeside and Lester park neighborhoods. Since voters declined to approve the sale of intoxicating liquor by one vote in a special election held on November 4, 2008, Duluth has become a hub for micro-breweries and micro-distilleries. Duluth is a destination city for tourists interested in locally crafted beers and spirits and the vibrant local craft beer and distillery community is gaining a national reputation.

In addition, the state legislature has acknowledged the important economic impact of allowing the sale of intoxicating liquor by authorizing the sale of alcohol at the Lester Park Golf Course. The referendum will allow Duluth citizens to voice their preference as to the sale of intoxicating liquor in the city.

**Sponsors:** Julsrud

**This Resolution was adopted unanimously.**

At this time, 10:50 p.m., a motion was made to suspend the rules to extend the meeting until 11:45 p.m., which motion was seconded and carried unanimously.

## **INTRODUCTION AND CONSIDERATION OF ORDINANCES**

**The following entitled ordinances were read for the first time:**

### **COMMITTEE 3**

#### **BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)**

44.     **15-054-O**     AN ORDINANCE PROSCRIBING ILLICIT DISCHARGES TO THE CITY STORM SEWER SYSTEM, ADDING CHAPTER 43A TO THE DULUTH CITY CODE, 1959, AS AMENDED.

#### **CITY PROPOSAL:**

The city of Duluth does ordain:

Section 1. That the Duluth City Code 1959, as amended, is hereby amended by adding a new Chapter 43A thereto, which reads as follows:

#### **CHAPTER 43A.**

#### **ILLICIT DISCHARGES TO THE CITY STORM SEWER SYSTEM.**

##### **Sec. 43A-1. Purpose.**

This Chapter is adopted in accordance with the city's national pollutant discharge elimination system (NPDES) municipal separate storm sewer (MS4) permit that authorizes the discharge of stormwater to surface water. Pursuant to permit regulations, the city is required to control the introduction of non-stormwater discharges to the city's municipal separate storm sewer system.

##### **Sec. 43A-2. Definitions.**

For the purposes of this Chapter, the terms used in this Chapter have the meanings defined as follows:

(a) City. The city of Duluth and its officials, employees, and duly authorized agents;

(b) Clean water act. The Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.) and subsequent amendments thereto;

(c) Director. The director of public works and utilities department or his designated employee or agent for purposes of administration of this Chapter;

- (d) Groundwater. Water contained below the surface of the earth;
  - (e) MPCA. The Minnesota pollution control agency;
  - (f) MS4 (municipal separate storm sewer system). The system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains, that is: owned and operated by the city, designed or used for collecting or conveying stormwater, and not used for collecting or conveying sewage;
  - (g) National pollutant discharge elimination system (NPDES) stormwater discharge permit. A permit issued under the Clean water act and United States Code of Federal Regulations Title 33, Section 1342, and subsequent amendments thereto, authorizing the discharge of pollutants into waters of the United States;
  - (h) Non-stormwater discharge. Any substance not composed entirely of stormwater;
  - (i) Prohibited discharge. Any introduction of non-stormwater discharge to the MS4 or to surface waters within the city, unless specifically exempted under Section 43A-3(b) of this Chapter;
  - (j) Person. Any individual, association, organization, partnership, firm, corporation, limited liability company or other entity recognized by law;
  - (k) Pollutant. Any substance which, when introduced as non-stormwater, has potential to or does any of the following:
    - (1) Interferes with state designated water uses;
    - (2) Obstructs or causes damage to waters of the state;
    - (3) Changes water color, odor, or usability;
    - (4) Adds an unnatural surface film on the water;
    - (5) Adversely changes other chemical, biological, thermal, or physical condition in any surface water or stream channel; or
    - (6) Harms human life, aquatic life, or terrestrial life.
  - (l) Stormwater. Precipitation runoff, stormwater runoff, snow melt runoff, and any other surface runoff or drainage;
  - (m) Surface water. Ponds, lakes, rivers, streams, and wetlands.
- Sec. 43A-3. Non-stormwater discharges.
- (a) No person shall cause any non-stormwater discharges to enter the MS4, or to any surface waters within the city, unless specifically exempted under paragraph (b) of this Section;
  - (b) Discharges from the following sources are exempted

from this Section:

- (1) Non-stormwater that is authorized by an NPDES point source permit obtained from the MPCA;
- (2) Firefighting activities and fire suppression systems;
- (3) Dye testing for which the city has received written notification prior to the time of the test;
- (4) Water line flushing or other potable water sources;
- (5) Landscape irrigation or lawn watering;
- (6) Diverted stream flows;
- (7) Rising groundwater;
- (8) Groundwater infiltration to storm drains;
- (9) Uncontaminated pumped groundwater;
- (10) Foundation or footing drains;
- (11) Air conditioning condensation;
- (12) Springs;
- (13) Natural riparian habitat and wetland flows;
- (14) Street wash water discharges;
- (15) Activities undertaken by the city, or by written authority of the city, deemed necessary to protect public health, welfare or safety; and
- (16) Any other water source not containing a pollutant;

(c) No person shall intentionally dispose of any non-storm water discharges (including, without limitation, grass, leaves, dirt, or other landscape material) into the MS4 or to any surface waters within the city.

Sec. 43A-4. Prohibited MS4 connections.

No person shall construct, use, maintain or permit to exist any pipe or other structure that conveys non-stormwater to the MS4.

Sec. 43A-5. Suspension of storm sewer system access, emergencies.

The city may, without prior notice, suspend the right to discharge any substance into the MS4 or surface waters of the city upon the determination by the director that suspension is necessary to stop an actual or threatened discharge of a pollutant to the MS4 or public waters. If the person discharging such pollutant fails to suspend such discharge, the city may take any step deemed necessary to prevent or minimize damage to the MS4 or public waters or to protect the health, safety, and welfare of its residents.

Sec. 43A-6. Entry for inspections.

No person shall fail or refuse to allow the director to inspect any building or property to determine compliance with the requirements of this Chapter after having been given

reasonable advance notice of the director's intent to do so; such notice may be given by mail as provided for in Section 43-33 or in person or by posting notice thereof on the premises to be inspected. In the event that the owner or person in control of any building or property shall deny or refuse to allow the director to inspect any such building or property after such notice has been given, the director may use such other means as are authorized by law, including but not limited to securing a search warrant for such building or property or a court order requiring that access be granted in order to gain access to conduct such inspection.

Sec. 43A-7. Enforcement.

(a) Any person violating any section of this Chapter, shall be guilty of a misdemeanor and may be fined as provided in Section 1-7 or Section 12-6 of this Code. All city approvals and permits shall be suspended until the violation(s) of this chapter are corrected. Nothing in this Section shall preclude the city from concurrently seeking the enforcement of the provisions of this Chapter in a court of competent jurisdiction by civil action to enjoin any continuing violation(s) in accordance with subsection (b) below;

(b) A violation of this Chapter is deemed a per se public nuisance authorizing the city to seek abatement through injunctive relief or any other appropriate remedy from a court of competent jurisdiction. All city approvals and permits shall be suspended until abatement of the nuisance condition(s). Nothing in this Section shall preclude the city from concurrently seeking the enforcement of the provisions of this Chapter by criminal prosecution or administrative fine.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

**STATEMENT OF PURPOSE:** The purpose of this ordinance is to create a new chapter to the Duluth City Code, 1959, as amended, to proscribe illicit discharges to the stormwater sewer system.

This chapter is adopted in accordance with the city's national pollutant discharge elimination system (NPDES) municipal separate storm sewer (MS4) permit that authorizes the discharge of stormwater to surface water. Pursuant to permit regulations, the city is required to control the introduction of non-stormwater discharges to the city's municipal separate storm sewer system.

**This Ordinance was read for the first time.**

Enactment No: 10401



- 45. 15-068-O** AN ORDINANCE AMENDING THE DULUTH CITY CODE, 1959, AS AMENDED, AMENDING CHAPTER 25 ADDING A NEW SECTION 12 REGARDING OUTDOOR BROADCASTING OF MUSIC DURING CERTAIN HOURS.

BY COUNCILOR JULSRUD:

Section 1. That Chapter 25 of the Duluth City Code, 1959, as amended, is hereby amended by adding a new Section 12 as follows:

Sec. 25-12. Outdoor Broadcast of Music

No licensee or other person in charge of or operating any gasoline filling station in the city shall allow music to be broadcast outdoors between the hours of 5:00 p.m. and 8 a.m.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

STATEMENT OF PURPOSE: This ordinance prohibits gas stations from broadcasting music outside between the hours of 5:00 p.m. and 8 a.m.

Sponsors: Julsrud

This Ordinance was read for the first time.

The following entitled ordinances were read for the second time:

#### COMMITTEE 1

#### BY COUNCILOR FILIPOVICH (FINANCE)

- 46. 15-063-O** AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF TAXABLE GENERAL OBLIGATION STEAM UTILITY REVENUE BONDS OF THE CITY OF DULUTH IN AN AMOUNT NOT TO EXCEED \$4,150,000 UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. Bond Purpose and Authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Minnesota Laws, 1979, Chapter 113 and Chapter 475 of Minnesota Statutes and other pertinent provisions of said Charter and statutes, the city is authorized to issue its general obligation revenue bonds to provide funds for the improvement of the municipal steam plant, which bonds shall be a specific lien upon such plant and may be payable primarily from net revenues to be derived from service charges pledged for their payment.

1.02 The city council determines that it is necessary and desirable to make capital improvements to the municipal steam utility located in the downtown area of Duluth (the "Municipal Steam Utility"), including the (i) capital maintenance improvements; (ii) emergency generator upgrades; (iii) boiler natural gas system upgrades; (iv) DECC piping system repairs and hot water extension to the Great Lakes Aquarium; and (v) biomass cofiring facilities; and determines that it is necessary to issue taxable general obligation steam utility revenue bonds in an amount not exceeding \$4,150,000 for the purpose of paying for the improvements and paying for a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56.

1.03 The city heretofore issued and sold Taxable General Obligation Steam Utility Revenue Refunding Bonds, Series 2012G, dated November 27, 2012 (the "2012G Bonds"), now outstanding in the amount of \$4,250,000. Under the provisions of the resolution authorizing said bonds, the city reserved the privilege of issuing additional bonds payable from said net revenues on a parity with the 2012G Bonds.

1.04 Pursuant to the authority herein recited, the City Council authorizes and directs the sale of taxable general obligation steam utility revenue bonds of the city of Duluth in an amount not exceeding \$4,150,000 for the purposes stated in Section 1.02 hereof and pledges the full faith and credit and taxing powers of the city irrevocably to the extent required, for the payment of the principal and interest when due on such bonds, and also pledges and appropriates irrevocably for such payments the income and revenues to be derived from time to time from the operation of the Municipal Steam Utility in excess of the normal reasonable and current costs of the operating and maintenance thereof.

1.05 The city reserves the right and privilege of issuing additional bonds and of pledging and appropriating the income and revenues of the Municipal Steam Utility for the payment thereof, when authorized in

accordance with the law and the City Charter and determined by the city council to be necessary for the improvement of the utility or for the refunding of indebtedness payable from said income and revenues, provided that no such pledge shall constitute a lien upon the income and revenues superior to the pledge thereof for the payment of the bonds issued hereunder.

## Section 2. Terms of Bonds.

2.01 The city council shall, by resolution or resolutions, provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions and other terms and conditions of such bonds, and covenants securing their payment, and prescribe the form thereof, and offer to sell such bonds in such a manner and at such time or times as shall be deemed in the public interest, all in accordance with the authority recited in Section 1.01 of the ordinance.

## Section 3. Revenues and Accounts.

3.01 The city council shall, by resolution or resolutions, provide for the method of imposing and collecting just and equitable charges for all use and for the availability of facilities of the Municipal Steam Utility at the times and amounts required to pay the normal, reasonable and current operating expenses and to maintain the Municipal Steam Utility and also to produce net revenues at least adequate at all times to pay the principal and interest due on the bonds issued hereunder and on all other bonds heretofore or hereafter issued and made payable from said net revenues.

3.02 The city council shall, by further resolution or resolutions, establish appropriate accounts and credit monies from the proceeds of the bonds herein authorized to accounts, all in accordance with Section 54 of the City Charter and Chapter 475 of Minnesota Statutes.

## Section 4. Certificates of Proceedings.

4.01 The city clerk is directed to file with the county auditor of St. Louis County, Minnesota, a certified copy of this ordinance, and such other information as the county auditor may require, and to obtain from the county auditor a certificate stating that the bonds herein authorized have been duly entered on his register.

4.02 The officers of the city and the county auditor are authorized and directed to prepare and furnish to the purchasers of the bonds and to bond counsel, certified copies of all proceedings and records of the city relating to the authorization and issuance of the bonds and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the bonds, as such facts appear

from the official books and records in the officers' custody or are otherwise known to them. All such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the city as to the correctness of the facts recited therein and the actions stated therein to have been taken.

Section 5. Effective Date.

5.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. This ordinance shall be published one time on the city's official website and remain on such website for a period of at least 30 days. (Effective Date: September 9, 2015)

STATEMENT OF PURPOSE: This ordinance authorizes the issuance of taxable general obligation steam utility revenue bonds in an amount not exceeding \$4,150,000 for improvements to the municipal steam utility located in the downtown area and are payable primarily from net revenues of such steam utility. The improvements to such steam plant include (i) capital maintenance improvements; (ii) emergency generator upgrades; (iii) boiler natural gas system upgrades; (iv) DECC piping system repairs and hot water extension to the Great Lakes Aquarium; and (v) biomass co-firing facilities.

**A motion was made that this Ordinance be adopted. The motion carried unanimously.**

**BY COUNCILOR GARDNER (PERSONNEL)**

- 47. 15-060-O** AN ORDINANCE AMENDING CHAPTER II, SECTION 4, OF THE CITY CHARTER TO ALLOW AN ELIGIBLE PERSON TO FILL A VACANCY UNTIL THE FIRST MONDAY IN JANUARY AFTER THE NEXT MUNICIPAL ELECTION.

CITY PROPOSAL/BY COUNCILOR GARDNER:

The city of Duluth does ordain:

Section 1. That Chapter II, Section 4, of the 1912 Home Rule Charter of the city of Duluth, as amended, is hereby amended, to read as follows:

Section 4. The office of mayor or councilor shall be deemed vacant in case of failure to qualify within ten (10) days after election, or by reason of death, resignation, removal from the city or the district except as in Section 2 provided, conviction of a felony, violation of any of the duties of

office, which, by provisions of this Charter, render the office vacant, or continuous absence from the city for more than thirty days, but if additional time is needed, leave may be granted by the council for a longer absence.

If any such vacancy occurs (other than by recall or resignation after recall petition is filed) the Council shall without delay appoint an eligible person to fill the same until the first Monday in January after the next municipal election, when the office shall be filled by election for the unexpired term.

In the case of an absence of shorter duration than renders the office of mayor vacant, or in the event of disability of the mayor, the mayor's duties shall be filled by an acting mayor who shall be appointed by the mayor from the councilors-at-large after each general municipal election. Should the mayor become disabled or be absent for more than ten (10) days without having appointed an acting mayor, the district councilors, by majority vote, shall appoint one of the councilors-at-large as acting mayor. The mayor shall not be considered disabled within the meaning of this Charter unless such disability shall be determined by the council at a hearing held upon notice to the mayor for the purpose of making such determination. The appointment of a councilor as acting mayor shall not be deemed to create a vacancy in the office of councilor-at-large, but while serving as acting mayor such councilor shall not perform city council duties.

The compensation of the acting mayor during the absence or disability of the mayor shall be set by the city council in an amount commensurate with the duties required of the acting mayor from time to time.

Section 2. That this ordinance shall take effect 90 days after its passage and publication. (Effective Date: November 8, 2015)

STATEMENT OF PURPOSE: This ordinance amends Section 4 of the City Charter to allow an eligible person chosen to fill a vacancy to serve until the first Monday in January after an election for that position has been held. The proposed charter change was reviewed and recommended by the Charter commission at its meeting of July 8, 2015.

This ordinance requires a unanimous vote for approval.

**Sponsors:** Gardner

At this time, 11:55 p.m., Councilor Fosle moved to suspend the rules to extend the meeting until 12:15 a.m., which motion was seconded and unanimously carried.

**A motion was made that this Ordinance be adopted. The motion carried unanimously.**

**Yea:** 9 - Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson

Enactment No: 10398

- 48. 15-061-O** AN ORDINANCE AMENDING CHAPTER II, SECTION 5, OF THE CITY CHARTER TO ESTABLISH A PROCEDURE TO SET THE FEE PAID TO CITY COUNCIL MEMBERS FOR SERVING AS MEMBERS OF THE CITY COUNCIL.

**CITY PROPOSAL/BY COUNCILOR GARDNER:**

Section 1. That Chapter II, Section 5, of the 1912 Home Rule Charter of the city of Duluth, as amended, is hereby amended, to read as follows:

Section 5. The salary of the mayor shall be set by the council.

The council shall provide in the annual operating budget a contingent fund of five thousand dollars (\$5,000) unless and until increased by the council. This fund may be expended by the mayor for such public purposes as the mayor may deem proper.

The appointed chief administrative officer shall be paid a salary set by the mayor with the approval of the council.

The council shall not decrease the salary of any mayor or incumbent chief administrative officer, except prior to the general municipal election, and to take effect at the beginning of the next term of office for mayor.

The councilors shall be paid a fee of ~~eight hundred thirty-three dollars (\$833) per month~~ for service as a member of the council. The Charter commission shall determine a suitable fee for service and recommend said fee to the council. The council must approve the recommended fee by at least a two-thirds vote. The new fee amount may not take effect until the month of January after the next municipal election. Service as a member of the council, to be eligible for this fee, shall require that the councilor shall be present and in attendance for at least one full formal meeting of the council during the month for which this fee is paid.

Section 2. That this ordinance shall take effect 90 days after its passage and publication. (Effective Date: November 8, 2015)

**STATEMENT OF PURPOSE:** This ordinance amends Section 5 of the City Charter to allow the charter commission to set the fee paid to council members. The council must approve the fee by a two-thirds vote. The new fee amount will take effect the month of January after the next succeeding municipal election.

The proposed Charter change was reviewed and recommended by the

Charter commission at its meeting of July 8, 2015.

This ordinance requires a unanimous vote for approval.

**Sponsors:** Gardner

Editor's Note: Needed a 9-0 vote to pass.

**A motion was made that this Ordinance be adopted. The motion failed by the following vote:**

**Yea:** 7 - Councilors Filipovich, Gardner, Julsrud, Krug, Russ, Sipress and President Larson

**Nay:** 2 - Councilors Fosle and Hanson

- 49. 15-062-O** AN ORDINANCE AMENDING CHAPTER II, SECTION 4, OF THE CITY CHARTER TO ALLOW THE CITY COUNCIL TO CHOOSE AN ELIGIBLE PERSON BY COIN TOSS TO FILL A VACANCY IF THE COUNCIL IS DEADLOCKED.

CITY PROPOSAL/BY COUNCILOR GARDNER:

The city of Duluth does ordain:

Section 1. That Chapter II, Section 4, of the 1912 Home Rule Charter of the city of Duluth, as amended, is hereby amended to read as follows:

Section 4. The office of mayor or councilor shall be deemed vacant in case of failure to qualify within ten (10) days after election, or by reason of death, resignation, removal from the city or the district except as in Section 2 provided, conviction of a felony, violation of any of the duties of office, which, by provisions of this Charter, render the office vacant, or continuous absence from the city for more than thirty days, but if additional time is needed, leave may be granted by the council for a longer absence.

If any such vacancy occurs (other than by recall or resignation after recall petition is filed) the Council shall without delay appoint an eligible person to fill the same until the next municipal election, when the office shall be filled by election for the unexpired term. If the council vote to appoint an eligible person to fill a vacancy results in a deadlock, an eligible person will be chosen by coin toss.

In the case of an absence of shorter duration than renders the office of mayor vacant, or in the event of disability of the mayor, the mayor's duties shall be filled by an acting mayor who shall be appointed by the mayor from the councilors-at-large after each general municipal election. Should the mayor become disabled or be absent for more than ten (10) days without having appointed an acting mayor, the district councilors, by majority vote, shall appoint one of the councilors-at-large as acting mayor. The mayor shall not be considered disabled within the meaning of this

Charter unless such disability shall be determined by the council at a hearing held upon notice to the mayor for the purpose of making such determination. The appointment of a councilor as acting mayor shall not be deemed to create a vacancy in the office of councilor-at-large, but while serving as acting mayor such councilor shall not perform city council duties.

The compensation of the acting mayor during the absence or disability of the mayor shall be set by the city council in an amount commensurate with the duties required of the acting mayor from time to time.

Section 2. That this ordinance shall take effect 90 days after its passage and publication. (Effective Date: November 8, 2015)

**STATEMENT OF PURPOSE:** This ordinance amends Section 4 of the City Charter to specify that if the city council should deadlock when choosing an eligible person to fill a vacancy, the person will be chosen by coin toss. Minnesota Statute, Sec. 204C.34, allows for usage of a coin toss to break an election deadlock.

The proposed charter change was reviewed and recommended by the Charter commission at its meeting of July 8, 2015.

This ordinance requires a unanimous vote for approval.

**Sponsors:** Gardner

**A motion was made that this Ordinance be adopted. The motion carried unanimously.**

## **COMMITTEE 2**

### **BY PRESIDENT LARSON (COMMITTEE OF THE WHOLE)**

- 50. 15-064-O** AN ORDINANCE AMENDING CHAPTER I, SECTION 1, OF THE CITY CHARTER AMENDING THE LEGAL DESCRIPTION FOR THE CITY OF DULUTH.

#### **CITY PROPOSAL:**

The city of Duluth does ordain:

Section 1. That Chapter I, Section 1 of the 1912 Home Rule Charter of the city of Duluth, as amended, is hereby amended, to read as follows:

Section 1. The city of Duluth in the County of St. Louis and State of



Minnesota shall continue to be, upon the adoption of this Charter, a municipal corporation of the same name, and with the same boundaries as it now has, to-wit: Commencing at a point where the north line of section twenty-five (25) township fifty-one (51) north of range thirteen (13) west, in St. Louis County, Minnesota, intersects the shore line of Lake Superior; thence west to the northwest corner of section twenty-six (26), in said township fifty-one (51) north of range thirteen (13) west; thence south to the quarter corner post on the west line of said section twenty-six (26); thence west to the center of section twenty-seven (27) in said township fifty-one (51) north of range thirteen (13) west; thence south to the quarter corner post on the south line of said section twenty-seven (27); thence west to the northwest corner of section thirty-five (35) in township fifty-one (51) north of range fourteen (14) west; thence south to the southwest corner of said section thirty-five (35); thence west to the northwest corner of township fifty (50) north of range fourteen (14) west (A.); thence south to the southwest corner of said township fifty (50) north of range fourteen (14) west; thence west to the northwest corner of section two (2) in township forty-nine (49) north of range fifteen (15) west (B.); thence south to the southwest corner of section fourteen (14) in said township forty-nine (49) north of range fifteen (15) west, thence west to the northwest corner of section twenty-two (22) in said township forty-nine (49) north of range fifteen (15) west; thence south to the southwest corner of section thirty-four (34) in said township forty-nine (49) north of range fifteen (15) west; thence west on the town line between township forty-eight (48) north of range fifteen (15) west and township forty-nine (49) north of range fifteen (15) west, to the southwest corner of said township forty-nine (49) north of range fifteen (15) west; thence south on the range line between township forty-eight (48) north of range fifteen (15) west and township forty-eight (48) north of range sixteen (16) west, to the center line of the channel of the St. Louis River; thence easterly along the center line of the channel of said river to the state boundary line between the States of Minnesota and Wisconsin; thence along said state boundary line to the mouth of the St. Louis River at the entry of the Bay of Superior between Minnesota and Wisconsin points; thence in a straight line to the place of beginning.

By and in its corporate name, it shall have perpetual succession; save as herein otherwise provided and save as prohibited by the Constitution or Statutes of the State of Minnesota, it shall have and exercise all powers, functions, rights and privileges possessed by the city of Duluth prior to the adoption of this Charter; also all powers, functions, rights and privileges now or hereafter given or granted to municipal corporations of the first class having "home rule charters" by the Constitution and laws of the State of Minnesota; also all powers, functions, rights and privileges usually exercised by, or which are incidental to, or inhere in, municipal corporations of like power and degree; also all municipal power, functions, rights, privileges and immunities of every name and nature whatsoever; and in addition, it shall have all the powers, and be

subject to the restrictions contained in this Charter. In its corporate name, it may take and hold, by purchase, condemnation, gift or devise, and lease and convey any and all such real, personal or mixed property, within or without its boundaries as its purposes may require, or as may be useful or beneficial to its inhabitants.

Section 1(A). Certain lands upon which the Duluth International Airport is located were annexed to the corporate limits of the city of Duluth by Ord. No. 7564, passed February 13, 1967, under authority of M.S.A. 414.03, Subd. 2.

Section 1(B). Certain lands upon which the South St. Louis County fairgrounds is located were detached from the corporate limits of the city of Duluth by Resolution No. 11-0052 and subsequent order by the state of Minnesota chief administrative law judge, under authority of M.S.A. 414.061, Subd. 1.

Section 1(C). Certain lands formerly in Midway Township were annexed to the corporate limits of the city of Duluth by Ord. No. 10321, passed July 21, 2014, under authority of M.S.A. 414.0325.

Section 2. That this ordinance shall take effect 90 days after its passage and publication. (Effective Date: November 8, 2015)

STATEMENT OF PURPOSE: This ordinance amends Section 1 of the City Charter amending the municipal boundaries of the city of Duluth.

The proposed charter change was reviewed and recommended by the Charter commission at its meeting of April 10, 2013.

This ordinance requires a unanimous vote for approval.

**A motion was made that this Ordinance be adopted. The motion carried unanimously.**

**The meeting was adjourned at 12:15 a.m.**



# City of Duluth

411 West First Street  
Duluth, Minnesota 55802

## Minutes - Draft

### City Council

**MISSION STATEMENT:** *The mission of the Duluth City Council is to develop effective public policy rooted in citizen involvement that results in excellent municipal services and creates a thriving community prepared for the challenges of the future.*

**TOOLS OF CIVILITY:** *The Duluth City Council promotes the use and adherence of the tools of civility in conducting the business of the council. The tools of civility will provide increased opportunities for civil discourse in order to find positive resolutions to the issues that face the city. These tools include: pay attention, listen, be inclusive, do not gossip, show respect, be agreeable, apologize, give constructive criticism and take responsibility. [Approved by the council on August 25, 2003]*

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Friday, August 14, 2015

12:00 PM

Council Chamber

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### Special Council Meeting

#### ROLL CALL

**Present:** 8 - Councilors Zach Filipovich, Sharla Gardner, Howie Hanson, Jennifer Julsrud, Linda Krug, Joel Sipress and President Emily Larson

**Absent:** 1 - Councilor Jay Fosle

#### PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

1. **15-034** Donn Larson communication regarding the proposed ranked choice voting ballot question (15-0516R).

**Attachments:** [Communication](#)

This Petition/Other Communication was received.

#### RESOLUTION TABLED

#### COMMITTEE 2

#### BY COUNCILOR KRUG (INTERGOVERNMENTAL RELATIONS)

2. **15-0516R** RESOLUTION FIXING THE BALLOT QUESTION TO BE SUBMITTED TO THE ELECTORATE AS TO RANKED CHOICE VOTING.

CITY PROPOSAL:

WHEREAS, a petition for a proposed amendment to the Duluth City Charter changing the procedure for the election of the mayor and city councilors to a ranked choice voting system was presented to the Duluth charter commission and forwarded to the city council; and

WHEREAS, on July 20, 2015, the city clerk examined the petition and certified the petition to be sufficient.

NOW, THEREFORE, BE IT RESOLVED, that the proposed Charter amendment changing the city's election procedure for the city's mayor and city councilors be submitted to the voters at the general election to be held on November 3, 2015.

BE IT FURTHER RESOLVED that the question submitted on the ballot read as follows:

Shall the Duluth City Charter be amended to adopt Ranked Choice Voting, also known as Single Transferable Vote, as the method for electing the mayor and the city councilors without a separate primary election and with ballot format and rules for counting votes to be adopted by ordinance?

Yes. \_\_\_\_\_

No. \_\_\_\_\_

A "Yes" vote means the Duluth City Charter will be amended to adopt Ranked Choice Voting as the method for electing the mayor and city councilors with the ballot format and rules for counting votes to be adopted by ordinance.

A "No" vote means the Duluth City Charter will not be amended to adopt Ranked Choice Voting as the method for electing the mayor and city councilors.

STATEMENT OF PURPOSE: The purpose of this resolution is to fix the November 3, 2015, ballot question for voters to decide whether to adopt ranked choice voting for mayoral and city council elections.

**Attachments:** [FILIPOVICH AMENDMENT \(REPLACEMENT 2\)](#)

[SIPRESS AMENDMENT](#)

[JULSRUD/FILIPOVICH AMENDMENT](#)

Councilor Krug moved to remove the resolution from the table, which motion was seconded and unanimously carried.

Councilor Krug moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

Katie Humphrey, Andrew Beeman , Cory Cusick, Manilan Houle, Gary Anderson, Bob Wahlman, Katherine Hansberry , Stefan Heikel, Jordan Bissell and Henry Helgen expressed support for the resolution.

Councilor Sipress stated that will be withdrawing his amendment.

Councilor Filipovich moved to amend the resolution, which motion was seconded, discussed and passed unanimously.

Councilor Julsrud moved to amend the resolution, which motion was seconded, discussed and passed as follows:

Yea: 7 – Councilors Filipovich, Gardner, Hanson, Julsrud, Russ, Sipress and President Larson

Nay: 1 – Councilor Krug

**A motion was made that this Resolution be adopted as amended. The motion carried unanimously.**

## MOTIONS AND RESOLUTIONS

### COMMITTEE 2

#### BY PRESIDENT LARSON (COMMITTEE OF THE WHOLE)

3.      **15-0555R**      RESOLUTION SUBMITTING A PROPOSED AMENDMENT TO CHAPTER II, SECTION 5, OF THE CITY CHARTER TO THE VOTERS AT THE NOVEMBER 3, 2015, GENERAL ELECTION.

#### CITY PROPOSAL:

WHEREAS, the city council has determined that a proposed amendment to Chapter II, Section 5, of the Duluth City Charter allowing the charter commission to determine the fee paid to council members, as set forth in Ordinance No. 15-061 on file in the office of the city clerk, be submitted to the electors of the city of Duluth for their ratification or rejection in the manner provided for by law.

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby submits such proposal to the voters of the city of Duluth at the general municipal election to be held on Tuesday, November 3, 2015.

RESOLVED FURTHER, that the question submitted on the ballot read as follows:

Shall the Duluth City Charter be amended to have the fee paid to city

council members determined by the charter commission, approved by a two-thirds vote of the city council and the new fee taking effect the January after the next municipal election?

Yes \_\_\_\_\_

No \_\_\_\_\_

STATEMENT OF PURPOSE: This resolution is to place on the general election ballot a proposed amendment to Chapter II, section 5, of the City Charter allowing the charter commission to determine the fee paid to city council members and to have the fee approved by a two-thirds vote of the city council. New fees will take effect the January after the municipal election held subsequent to the city council vote.

At this time, 1:15 p.m., Councilor Julsrud left the meeting.

**A motion was made that this Resolution be adopted. The motion carried by the following vote:**

**Yea:** 6 - Councilors Filipovich, Gardner, Krug, Russ, Sipress and President Larson

**Nay:** 1 - Councilor Hanson

**Absent:** 2 - Councilors Fosle and Julsrud

**The meeting was adjourned at 1:23 p.m.**



# City of Duluth

411 West First Street  
Duluth, Minnesota 55802

## Minutes - Draft

### City Council

**MISSION STATEMENT:** *The mission of the Duluth City Council is to develop effective public policy rooted in citizen involvement that results in excellent municipal services and creates a thriving community prepared for the challenges of the future.*

**TOOLS OF CIVILITY:** *The Duluth City Council promotes the use and adherence of the tools of civility in conducting the business of the council. The tools of civility will provide increased opportunities for civil discourse in order to find positive resolutions to the issues that face the city. These tools include: pay attention, listen, be inclusive, do not gossip, show respect, be agreeable, apologize, give constructive criticism and take responsibility. [Approved by the council on August 25, 2003]*

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Monday, August 31, 2015

7:00 PM

Council Chamber

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#### ROLL CALL

**Present:** 9 - Councilors Zach Filipovich, Jay Fosle, Sharla Gardner, Howie Hanson, Jennifer Julsrud, Linda Krug, Barb Russ, Joel Sipress and President Emily Larson

#### PLEDGE OF ALLEGIANCE

#### APPROVAL OF MINUTES

1. 15-040 April 27, 2015.

Attachments: [Minutes](#)

A motion was made that this Minutes be approved. The motion carried by a unanimous vote.

#### PUBLIC HEARING - TIF Plan Amendment for TIF District No. 7 (Redevelopment District in West Duluth).

The public hearing was continued to the September 14, 2015, council meeting.

#### PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

2. 15-037 Communications regarding the proposed East Duluth dog park site (15-0579R).

**Attachments:** [Shannon Borgeson](#)  
[Vicky Carper](#)  
[Nicholas Cleary](#)  
[Michelle and Reuben Fischer](#)  
[Artyce Fredlund](#)  
[Ian Fritz](#)  
[Heidi Harrison](#)  
[Lindsay Helwig](#)  
[Don Jackson](#)  
[Jennifer Jackson](#)  
[Judy Jambois](#)  
[Ginger Johnson](#)  
[Suzan Johnson](#)  
[Kristen Kelly](#)  
[Rachel Kuntz](#)  
[Jackie LaGesse](#)  
[Katie Lassi](#)  
[Denette Lynch](#)  
[Denette Lynch \(petition supported by 499 signatures\)](#)  
[William Lynch](#)  
[Mary Millard](#)  
[Danielle Norkunas](#)  
[Tammy Olsen](#)  
[Lynette Olson](#)  
[Jamie Parent](#)  
[Rachel Rahn](#)  
[Anne M. Seppo](#)  
[Carrie Skoglund](#)  
[Jana Studelska](#)

**This Petition/Other Communication was received.**

3.      **15-038**      Communications regarding the proposed City Code regulation pertaining to outdoor broadcasting of music during certain hours (15-068-O).

**Attachments:** [Marsha Erickson](#)  
[Dean Korach](#)  
[Bernadine Martin](#)



**This Petition/Other Communication was received.**

4. **15-041** Communications regarding the proposed Michigan Street bikeway feasibility analysis (15-0506R).

**Attachments:** [Jacky Block](#)  
[Business Owners and Managers Association](#)  
[Penny Clark](#)  
[Duluth Bike Coalition](#)  
[Mark Emmel](#)  
[Greater Downtown Council](#)  
[Rick Heimbach](#)  
[Steven LaFlamme](#)  
[Rob Link](#)  
[Brad Little](#)  
[Mike Maxim](#)  
[Rosemarie and Dennis Mitchell](#)  
[Linda Olson](#)  
[Jim Rogers](#)

**This Petition/Other Communication was received.**

5. **15-042** Duluth Climbers Coalition communication regarding the proposed Children's Outdoor Charter (15-0471R).

**Attachments:** [Duluth Climbers Coalition](#)

**This Petition/Other Communication was received.**

6. **15-043** Ruth Kivisto communication regarding the proposed rezoning of property at 2421 London Road (15-073-O).

**Attachments:** [Ruth Kivisto](#)

**This Petition/Other Communication was received.**

7. **15-044** Communications regarding the proposed adoption of the vegetation management strategies in the Skylkine Parkway corridor management plan as framework for city policies and actions (15-0590R).

**Attachments:** [Nancy Nelson](#)  
[Doug Stevens](#)

**This Petition/Other Communication was received.**

8. **15-045** Jim Rogers communication regarding interim use permits for vacation dwellings (15-0572R, 15-0574R, 15-0575R).

Attachments: [Jim Rogers](#)

This Petition/Other Communication was received.

## REPORTS OF BOARDS AND COMMISSIONS

9. 15-035 Spirit Mountain recreation area authority minutes of June 18, 2015, meeting.

Attachments: [Minutes](#)

This Board or Commission Report was received.

10. 15-036 Duluth airport authority minutes of July 21, 2015, meeting.

Attachments: [Minutes](#)

This Board or Commission Report was received.

11. 15-039 Duluth transit authority minutes of May 27, 2015, meeting.

Attachments: [Minutes](#)

This Board or Commission Report was received.

## REPORTS OF COUNCIL COMMITTEES

## REPORTS OF COUNCIL OPEN ISSUES

## OPPORTUNITY FOR CITIZENS TO BE HEARD

Kristi Stokes, Executive Director -Greater Downtown Council. Carrie Brown, Rondi Watson, Tami Larole Edmund, Ruud Schoolderman, Bill Olson, Matt Martriana, Bill Roberts and Brad Nelson spoke about a Superior Street Bike Trail.

Dave Johnson and Dulce Proud spoke on support for the Pontiana wooded area on Park Point.

Karen Lewis spoke on her concern of trucks hauling large wind generators using Mesaba Avenue.

## RESOLUTION TABLED

## COMMITTEE 2

## BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)

12. 15-0506R RESOLUTION AUTHORIZING PROPER CITY OFFICIALS TO ACCEPT MONEY FROM THE GREATER DOWNTOWN COUNCIL FOR THE MICHIGAN STREET BIKEWAY FEASIBILITY ANALYSIS IN THE AMOUNT

OF \$10,000

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to accept a contribution from the Greater Downtown Council in the amount of \$10,000 for a feasibility analysis of a bikeway on Michigan Street, and to execute any documents required to be executed to accept such contribution;

STATEMENT OF PURPOSE: This resolution authorizes the proper city officials to accept a contribution from the Greater Downtown Council in the amount of \$10,000, to be used towards the City's feasibility analysis of placing a bikeway on Michigan Street. This is in conjunction with the Superior Street Reconstruction Project, examining how Michigan Street can be used as a bikeway connector through downtown Duluth.

Councilor Russ moved to remove resolution 15-0506 from the table, motion was seconded and unanimously carried.

Councilor Russ moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

Kristi Stokes, Executive Director - Greater Downtown Council, spoke in support of resolution.

Councilor Hanson noted that he would abstain from voting due to a business conflict.

**A motion was made that this Resolution be adopted. The motion carried by the following vote:**

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

**Abstain:** 1 - Councilor Hanson

## **MOTIONS AND RESOLUTIONS**

### **CONSENT AGENDA**

### **COMMITTEE 1**

### **BY COUNCILOR HANSON (PURCHASING & LICENSING)**

**13      15-0553R      RESOLUTION AUTHORIZING A PURCHASE FROM NORTH AMERICAN SALT COMPANY FOR 5,100 TONS OF ROAD SALT FOR FALL 2015 IN THE AMOUNT OF \$316,914.**

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to purchase 5,100 tons of road salt from North American Salt Company, Minnesota State Contract 77776, for the 2015 fall season for a total amount of \$316,914, payable from General Fund 110, Public Administration 121, Maintenance Operations 1217, Street Maintenance 2140, Salt & Sand Salt 5223-01.

**STATEMENT OF PURPOSE:** This resolution authorizes a purchase from North American Salt Company of 5,100 tons of road salt for the 2015 fall season (October to December) for \$316,914. This purchase is based on Minnesota State Contract 77776, Release S-987(5), the price per ton is \$62.14.

The city uses salt during the winter season to de-ice roads for the prevention of accidents.

North American Salt Company is headquartered in Overland Park, Kansas.

Requisition No. 15-0534

**This Resolution was adopted unanimously.**

**14 15-0558R**

RESOLUTION APPROVING THE TEMPORARY EXPANSION OF THE ON SALE WINE AND 3.2 PERCENT MALT LIQUOR LICENSE TO KENRITE, INC. (BULLDOG PIZZA & GRILL), 101 MT ROYAL CENTER.

RESOLUTION APPROVING THE TEMPORARY EXPANSION OF THE ON SALE WINE AND 3.2 PERCENT MALT LIQUOR LICENSE TO KENRITE, INC. (BULLDOG PIZZA & GRILL), 101 MT ROYAL CENTER.

**CITY PROPOSAL:**

BE IT RESOLVED, that the Duluth City Council approves the following temporary expansion of the designated serving area of the on sale wine liquor license and on sale 3.2 percent malt liquor license, subject to departmental approvals and any specific restrictions:

Kenrite, Inc. (Bulldog Pizza & Grill), 101 Mt Royal Center, for October 9, 2015, from 7:00 p.m. to 10:00 p.m. and on October 10, 2015, from 4:00 p.m. to 9:00 p.m.

**STATEMENT OF PURPOSE:** The application of Bulldog Pizza for a temporary expansion of their beer and wine license was reviewed and unanimously approved by the Alcohol, Gambling and Tobacco Commission meeting on August 5th.

**This Resolution was adopted unanimously.**

- 15 15-0565R** RESOLUTION AUTHORIZING AN AGREEMENT WITH SHORT ELLIOT HENDRICKSON, INC. (SEH) FOR PROFESSIONAL DESIGN SERVICES FOR BAYFRONT PARK IMPROVEMENTS FOR A TOTAL NOT TO EXCEED \$44,200.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with SEH Inc. substantially in the form of that attached as Exhibit A for professional design services for Bayfront Park improvements for a total not to exceed \$44,200, payable from Bayfront Festival Park 237, Public Administration 015, Other Services & Charges 5441.

STATEMENT OF PURPOSE: This resolution authorizes an agreement with SEH Inc, for professional design services for improvements to Bayfront Park for a total not to exceed \$44,200. SEH's proposal is attached as Exhibit B.

Bayfront Park requires improvements to better accommodate existing use and to support anticipated additional use from the new Pier B hotel complex which will be connected to Bayfront Park via a developer-funded footbridge and walkway. The scope of design work includes redesign and construction of an asphalt/curbed parking lot for more efficient access and controlled parking, new trails and fencing adjacent to the parking lot, redesign of the turn-lanes at Railroad Street to address traffic flow congestion during events, and decorative fencing and gates to allow for the redirection of foot traffic around the perimeter of Bayfront Park during ticketed events. This contract covers the full design of the City-funded Bayfront Improvements negotiated with Pier B developers for implementation in 2016 and 2017. The previous work done by SEH on this project was for preliminary design concepts and cost estimation to determine the funding required for the project.

Requisition No. 15-0459

**Attachments:** [Exhibit A](#)  
[Exhibit B](#)

**This Resolution was adopted unanimously.**

- 16. 15-0594R** RESOLUTION APPROVING RENEWAL AND ISSUANCE OF THE ON SALE INTOXICATING LIQUOR LICENSES OF THE DUKE PARTNERS, LLC (SPURS ON FIRST), 109 WEST FIRST STREET AND HOSPITALITY

ASSOCIATES OF DULUTH, LLC, (ACES ON FIRST), 113 WEST FIRST STREET.

**CITY PROPOSAL:**

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the renewal and issuance of the following on sale intoxicating liquor licenses for the period beginning September 1, 2015, and ending August 31, 2016, subject to departmental approvals and the payment of sales and property taxes as provided in the Duluth City Code, and further subject to approval of the Liquor Control Commissioner:

The Duke Partners, LLC (Spurs on First), 109 West First Street, on sale intoxicating liquor, on sale Sunday license, dancing license and 2:00 a.m. beverage license;

Hospitality Associates of Duluth, LLC (Aces on First),m 113 West First Street, on sale intoxicating liquor, on sale Sunday license, and 2:00 a.m. beverage license.

**STATEMENT OF PURPOSE:** This resolution renews the on sale liquor licenses for Spurs on First and Aces on First. All sales and property taxes have been paid and approval by all departments. The Alcohol, Gambling and Tobacco Commission reviewed and approved these applications at their August 5th meeting.

**This Resolution was adopted unanimously.**

**COMMITTEE 2**

**BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)**

17.     **15-0524R**     RESOLUTION ADOPTING THE LINCOLN PARK SMALL AREA PLAN AND HEALTH IMPACT ASSESSMENT (LINCOLN PARK SMALL AREA PLAN AND HEALTH IMPACT ASSESSMENT)

**CITY PROPOSAL:**

RESOLVED, that:

- (a) The city council adopted the Comprehensive Land Use Plan on June 26, 2006, via Resolution 06-0491, which outlined the desired arrangement of land uses for the next 20 years and identified sub-areas of the city to be studied

in more detail; and

(b) The city planning division has prepared and recommends approval of the Lincoln Park Small Area Plan (SAP), a land use plan for one of the sub-areas identified in the Comprehensive Land Use Plan; and

(c) The purpose of the Lincoln Park Small Area Plan is to conduct a more detailed study of the neighborhood and business district area along West Superior Street than was provided for in the Comprehensive Land Use plan through an assessment of current demographics, land use, zoning, transportation, development opportunities, and environmental characteristics that will form the basis for the plan recommendations and implementation strategy; and

(d) The city planning division in conjunction with the Minnesota Department of Health has prepared and recommends approval of the Health Impact Assessment (HIA) conducted on the SAP. The purpose of the HIA was to explore how the SAP might impact the community's health, positively and negatively, and make recommendations to the SAP to promote positive impacts and reduce negative impacts ; and

(e) The city planning commission has reviewed the SAP and the HIA, and conducted public hearing on May 12, 2015, at their planning commission meeting, and recommends adoption of the Lincoln Park Small Area Plan and the Health Impact Assessment recommendations.

**STATEMENT OF PURPOSE:** This resolution adopts the Lincoln Park Small Area Plan (SAP) and Health Impact Assessment (HIA). The recommendations in the small area plan and the health impact assessment are the result of an 11 month planning process which enlisted the assistance of a 30 person advisory committee including neighborhood residents, business owners, as well as public agencies and Non-profit service organizations to work with the city planning staff. In addition there were three public meetings that involved more the fifty residents in the process and solicited input regarding

neighborhood needs and improvement.

The purpose of the planning process was to identify and develop recommendations that will allow for development opportunities both commercial and residential, transportation (motorized and non-motorized) options, while retaining but also enhancing the character of the Lincoln Park business district and surrounding neighborhood. Each goal has specific recommendations. Many require ongoing partnerships between the City, non-profit organizations, businesses, and neighbors. The recommendations continue the City's policy of strengthening neighborhoods through land use changes, neighborhood stabilization, and economic development.

The SAP recommendations support the establishment of land use and zoning to better reflect existing land use, redevelop and revitalize the core commercial area, promote business development policies and loan/grant programs to meet the needs of existing as well as new businesses, and to acquire and clean up blighted and underutilized sites for business development.

As the area continues to grow commercially, the plan recommends providing a variety of residential housing types to meet the needs of the current population and for the future workforce. These include the promotion of housing assistance products and programs for housing rehabilitation to homeowners, encourage housing development near and within the business district and work with building and zoning officials for enforcement of existing regulations but also to encourage the revising codes to accommodate new housing options.

The plan recommends promoting safe and comfortable travel both motorized and non-motorized within the study area. This can be achieved by monitoring traffic operations, reviewing parking needs, and repairing and replacing road pavements, and road reconstruction of high volume pedestrian and vehicle traffic areas. Non-motorized recommendations include development of an access management policy along Superior Street to mitigate driveway placement over the cross city trail, improving sidewalk conditions within the neighborhood, providing recreational trail opportunities and developing greenways in designated areas.

The Minnesota Department of Health, in collaboration with City planning and economic development staff, conducted an HIA on the SAP to explore how the plan will impact the neighborhood's health. HIA is a tool used to identify and address the potential health benefits and health risks of a decision made in a field outside the health sector; in this case, the adoption of a new long-range plan for the business district and surrounding neighborhood of Lincoln Park. Through the HIA process, the advisory committee tailored recommendations to help promote health in the small area plan.

The HIA findings and recommendations are based on extensive literature review, conducting analysis of local data using geographic information systems (GIS), summaries of data and analysis from existing local studies, and input from community members and topic area experts from local agencies and organizations. In order to promote the positive impacts of the SAP and reduce



the negative effects, the HIA proposes a number of recommendations which have been grouped as follows: quality housing, safety and social cohesion, access to healthy food and living wage job opportunities. Each group was then subdivided by the sections of the SAP (land use, economic development, housing and transportation). The HIA analyzed each recommendation using these criteria to determine how they may affect health outcomes of residents. These HIA recommendations have been included in the SAP immediately following the recommendations for the major areas of study Land Use, Economic development, Transportation and Housing.

On May 12, 2015, the Duluth city planning commission held a public hearing on the plan and voted unanimously (8-0) to recommend that the city council approve it.

The motion to approve requires affirmative votes of at least two-thirds of those members constituting a quorum.

**Attachments:** [Attachment 1](#)

**This Resolution was adopted unanimously.**

- 18. 15-0559R** RESOLUTION VACATING A PORTION OF STREET RIGHT OF WAY AND ACCEPTING STREET AND UTILITY EASEMENTS FOR WEST SECOND STREET EAST OF 40TH AVENUE WEST (RMN LLLP).

CITY PROPOSAL:

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described on Exhibit A attached hereto and made a part hereof; 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 this portion of the street easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, May 12, 2015 regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the platted easement, described below, maintaining a public utility easement and subject to the provisions of paragraph (e) below:

LEGAL DESCRIPTION OF RIGHT OF WAY VACATION

See attached Exhibit A;

(e) That the vacation authorized pursuant to paragraph (d) above is conditioned on the conveyance and dedication by RMN LLLP to the city in

trust for the general public of that property legally described on Exhibit B attached hereto and made a part hereof for street and utility purposes and that easement for utility purposes legally described on Exhibit C attached hereto and made a part hereof, the acceptance of which is hereby authorized; and

(f) 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 showing the platted easement to be vacated and the above-referenced deeds of conveyance and dedication.

**STATEMENT OF PURPOSE:** The purpose of this resolution is to vacate a portion of West Second Street (originally platted as Traverse Street) and accepting other street and utility easements adjacent thereto, resulting in narrowing the right-of-way to reflect actual use of it and in straightening the easement to parallel other streets in the area.

The subject easements lie south of the building presently occupied by St. Germain's Glass Company and east of 40th Avenue West. The existing street and utility easements were originally dictated by the location of railroad tracks which traversed the property at an angle to 40th (see attached drawings). The track has been abandoned and removed and the property owner would like to "straighten out" the easements to improve traffic flow from the property and increase their ability to use the property behind their building.

West 2nd Street in this area is only a local service and access facility and does not serve any through traffic purpose and so the reduction of the easement with the reservation for utilities is adequate to serve the needs of the public. In addition, the conveyance by the property owner of street and utility easements adjacent to 40th will provide for a safer intersection of traffic on 2nd entering 40th.

On May 12, 2015, the Duluth city planning commission held a public hearing on the proposal and voted 8 yeas, 0 nays, and 0 abstentions to recommend the city council approve the vacation.

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

Petition Received: March 3, 2015

Petitioner:  
RMM LLLP  
2300 North Second Street  
Minneapolis, MN 55411

**Attachments:** [Utility Easement Agreement](#)  
[Quit Claim Deed](#)  
[Exhibits](#)

This Resolution was adopted unanimously.

## BY COUNCILOR KRUG (INTERGOVERNMENTAL RELATIONS)

19.     **15-0508R**     RESOLUTION ENTERING INTO AN AGREEMENT ACCEPTING A GRANT OF \$186,590 FROM THE STATE OF MINNESOTA - MINNESOTA STATE COLLEGES AND UNIVERSITIES (MNSCU) ON BEHALF OF LAKE SUPERIOR COLLEGE TO PROVIDE CAREER SERVICES FOR THE MINNESOTA ADVANCED MANUFACTURING PARTNERSHIP (MNAMP) LEARN, WORK, EARN GRANT. THE GRANT PERIOD IS SEPTEMBER 1, 2015 THROUGH SEPTEMBER 30, 2018.

### CITY PROPOSAL:

RESOLVED, that proper city officials are hereby authorized to enter into an agreement with MNSCU on behalf of Lake Superior College to provide Career Pathways Navigation, Apprenticeship Recruitment/Support and Navigation Services for Veterans. For all services performed and good or materials supplied pursuant to the contract, Duluth Workforce Development will be paid \$186,590 for the period September 1, 2015 through September 30, 2018. Monies received shall be deposited into Workforce Development Fund 268, Grants Division Agency 031, Dislocated Worker MNAMP 6212.

STATEMENT OF PURPOSE: This resolution is to authorize city officials to accept a grant of \$186,590 from MNSCU on behalf of LSC to help prepare participants, narrow the skills gap, and put Trade Adjustment Assistance (TAA) eligible and other adult learners back to work in high-wage, high growth advanced manufacturing careers. TAA is a federal program that provides financial assistance to manufacturers affected by import competition.

Duluth Workforce Development (DWD) has a long and successful history of serving job seekers and employers in the Duluth area. This grant provides new resources to support comprehensive and focused services that will enable participants to overcome barriers, succeed in training programs, and ultimately, obtain a credential and employment. The focus of this

project is to help individuals secure and maintain employment in fields of mechatronics, machining and welding.

These funds are allocated under the Trade Adjustment Assistance Community College and Career Training (TAACCCT) Grant Program and were awarded to South Central College. South Central College is leading a consortium of 13 MN colleges, including Lake Superior College, to promote its Minnesota Advanced Manufacturing Partnership. MNAMP's Learn, Work, Earn program targets TAA-eligible workers, veterans and other adult learners seeking training to secure or maintain employment. The project focuses on providing career pathways in advanced manufacturing in the field of mechatronics, machining and welding. Participants will be able to earn stackable, portable industry-recognized credentials while simultaneously working in the industry. Participants will be able to enter academic programs at multiple points based on assessment results that match individual skills.

Our goal is to serve 61 participants and place 21 apprentices. The grant period is September 1, 2015 through September 30, 2018.

**Attachments:** [MNAMP professional technical contract 8-2015](#)

**This Resolution was adopted unanimously.**

**BY PRESIDENT LARSON (COMMITTEE OF THE WHOLE)**

- 20. 15-0573R** RESOLUTION APPROVING FUNDING AGREEMENT WITH MONACO AIR FOUNDATION, INC., ALLOCATING \$30,000 TOWARDS THE COST OF INTERIOR AND EXTERIOR SIGNAGE RELATED TO NAMING THE NEW AIRPORT PASSENGER TERMINAL IN HONOR OF LATE U.S. REPRESENTATIVE JAMES L. OBERSTAR.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to enter into a funding agreement with Monaco Air Foundation, Inc., substantially in the form attached hereto as Exhibit A, allocating \$30,000 towards the cost of purchasing and installing interior and exterior signage related to the naming of the new airport passenger terminal at the Duluth International Airport in honor of the late U.S. Representative James L. Oberstar, payable from fund 258-030-5436-11 (tourism taxes fund, finance department, tourism tax allocation, advertising and promotion).

STATEMENT OF PURPOSE: This resolution approves the allocation of \$30,000 towards the cost of purchasing and installing interior and exterior signage related to naming the new passenger airport terminal in honor of the late U.S. Representative James L. Oberstar. Mr. Oberstar was a national leader in public transportation and the driving force responsible for the construction of the new airport passenger terminal at the Duluth International Airport.

Attachments: [Exhibit A - Monaco Foundation Agreement](#)

This Resolution was adopted unanimously.

### COMMITTEE 3

#### BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)

21. 15-0563R RESOLUTION AWARDING A CONTRACT TO A PLUS LANDSCAPING, LLC FOR THE 2015 TRAIL AND CULVERT FLOOD REPAIRS ON CLYDE CONNECTOR, DWP, KINGSBURY AND WESTERN TRAILS IN THE AMOUNT OF \$516,150.

#### CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with A Plus Landscaping, LLC for the 2015 Trail and Culvert Flood Repairs in the amount of \$516,150, payable out of Disaster Recovery Fund 225, Department 125 (Finance), Division 1803 (Roads and Bridges), Object 5403 (Street Repair and Maintenance), city project no. 1317, flood site nos. 315, 316, 319 and 598.

STATEMENT OF PURPOSE: This resolution will authorize the 2015 Trail and Culvert Flood Repairs by A Plus Landscaping, LLC in the amount of \$516,150. A Plus Landscaping, LLC was the low bidder of the three companies that responded. The engineer's estimate was \$1,028,785. Payable out of Disaster Recovery Fund 225, Department 125 (Finance), Division 1803 (Roads and Bridges), Object 5403 (Street Repair and Maintenance), city project no. 1317, requisition no. 15-0340, flood site nos. 315, 316, 319 and 598.

#### TABULATION OF BIDS RECEIVED MAY 13, 2015

A Plus Landscaping, LLC	Saginaw, MN	\$	516,150.00
KTM Paving, Inc.	Hermantown, MN	\$	589,774.09
RJS Construction Group, LLC	Superior, WI		\$1,155,000.00

Attachments: [15-0563 Maps](#)

This Resolution was adopted unanimously.

**BY COUNCILOR SIPRESS (RECREATION, LIBRARIES & AUTHORITIES)**

22.     **15-0472R**     RESOLUTION TO ACCEPT STATE TAX FORFEIT LAND FROM ST. LOUIS COUNTY FOR THE PURPOSE OF WESTERN WATERFRONT TRAIL EXTENSION, QUARRY PARK ESTABLISHMENT, AND CROSS CITY TRAIL EXTENSION

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to accept requested tax forfeit property from St. Louis County and pay required administrative fees and taxes associated with the conveyance totaling \$1717.95; (payable from Fund 205, Department 130, Division 1220, Object 5530, Project CM 205 miscellaneous).

STATEMENT OF PURPOSE: This resolution authorizes the acceptance of tax forfeit property from St. Louis County to support extension of the Western Waterfront Trail from the Riverside neighborhood to the Smithville neighborhood, establishment of Quarry Park on the hillside above Denfeld High School, and extension of the Cross City Trail above the Fairmount neighborhood.

The City made application for free conveyance of certain tax forfeit property from St. Louis County for the purpose of creating trail and parkland. On July, 14, 2015, the Board of County Commissioners of St. Louis County adopted resolution numbers 15-435, 15-436, and 15-437 authorizing the conveyance of state tax forfeited land for taxes and fees totaling \$1717.95.

**Attachments:** [County Resolutions 15-435, 15-436, 15-437.pdf](#)

[QuarryPark\\_Convey.pdf](#)

[CCTParcelConveyance](#)

[WWFTTrailParcelConveyance\\_Map1 \(2\)](#)

[WWFTTrailParcelConveyance\\_Map2 \(2\)](#)

[WWFTTrailParcelConveyance\\_Map3 \(2\)](#)

This Resolution was adopted unanimously.

23.     **15-0584R**     RESOLUTION RATIFYING EXECUTION OF VARIOUS AGREEMENTS WITH BNSF RAILWAY COMPANY PERTAINING TO THE WESTERN WATERFRONT TRAIL.

## CITY PROPOSAL:

RESOLVED, that the execution of the agreements listed below with the BNSF Railway Company making a temporary easement for the Western Waterfront Trail permanent and formally approving a trail crossing of the tracks, copies of which are attached hereto as Exhibits A, B, and C, at a total cost to the city of not to exceed \$29,000, payable from Fund 437-030-5530 (Spirit Mountain Capital Improvement Fund, Finance Department, Improvements Other than Buildings) are hereby ratified:

<u>Exhibit</u>	<u>Document Title</u>
A	First Amendment to Easement
B	Agreement for Private Crossing
C	Crossing Surface Installation Agreement

STATEMENT OF PURPOSE: The purpose of this resolution is to ratify agreements that amended an existing, temporary easement for the Western Waterfront Trail to make it permanent and to approve a permanent trail crossing of the BNSF Railroad tracks northeast of Spring Street. These agreements are necessary to straighten out some old property issues related to the Western Waterfront Trail (the "Trail") northeast of Spring Street in Riverside which were brought to the fore by the construction of the Spirit Mountain Water Line Project.

In 1982, the City had acquired from the BN (predecessor to BNSF) a permanent easement for recreational trail purposes over railroad property northeast of the Spring Street area. This easement did not include property adjacent to the Tate and Lyle malic acid plant, which is located just northeast of Spring Street and southeast of the railroad. The original plan was to have the Trail cross over to Tallies Island and follow the river to the Riverside Marina before coming back to City-owned easements adjacent to Duluth, Superior, and Mississippi Railroad line.

Unfortunately, this plan could not be implemented, and in order to get the Trail built through the area, the City acquired a five year temporary easement from the railroad adjacent to the BN tracks through the area with the idea of replacing it with a more permanent location at a later date. Both the permanent easement and the temporary easement were limited to walking and bicycling purposes.

Some 30 years later, in the course of building the Spirit Mountain water line project, it was discovered that the temporary character of this segment of the Trail had "slipped off the radar" of both the City and the Railroad. The water line project now needed to use the Trail for construction access to the

new pump house. When the railroad reviewed the project, they realized that there was not a currently valid easement for part of the Trail. Nor did the validly permitted crossing of the rail line accommodate the Trail. Additionally, the Trail was needed for vehicular access to the pump house to construct and maintain it, and the language of the current easement limited its use to walking and bicycling. Therefore, the railroad needed to have these issues adequately addressed as part of the overall construction of the water line project.

All of these issues arose in the context of water line project and, in order to have the water line available to Spirit Mountain for this winter's snow making season, construction of the pump house needs to start immediately. This meant that all of these issues needed to be addressed immediately.

Normally, getting all of the agreements and easements needed would have taken some three months, obviously much too late to meet the needs of Spirit Mountain. However, by dint of a herculean effort on the part of BNSF corporate staff as well as their property consultant, Jones, Lang LaSalle Brokerage, Inc., along with a similar effort on the part of City staff, Spirit Mountain staff and Spirit Mountain's consultants, FJJ and SEH, the time frame for the needed documentation and approvals was reduced to a matter of weeks.

This resolution ratifies the execution of the necessary documents and formalizes the City's approval of them.

**Attachments:** [DOC082115-08212015152853](#)

**This Resolution was adopted unanimously.**

- 24. 15-0586R** RESOLUTION ACCEPTING CONVEYANCE OF PROPERTY FROM THE DWP RAILWAY COMPANY.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to accept the conveyance of that property described on Exhibit A attached hereto and made a part hereof from the Duluth, Winnipeg and Pacific Railway Company conveying the property described thereon along with rail, ties, track material, trestles, bridges, culverts and other structures and facilities located thereon, subject to the terms and conditions set forth in said Exhibit A.

**STATEMENT OF PURPOSE:** The purpose of this resolution is to formally accept the conveyance of railroad right-of-way from the DWP Railway Company originally conveyed to the City in 1984.



The right-of-way in question starts in the Spirit Valley neighborhood and runs through much of West Duluth and extends out into Midway Township terminating just south of I-35. The deed does not include the property commonly referred to as the DWP roundhouse recently acquired from MnDOT.

The City originally accepted only that portion of the property described on the Deed which lay within the 1984 City of Duluth boundary. At the time, the City did not formally accept the portion of the property in Midway Township. However, the City has exercised some control, maintenance, and use of the property (most recently a contract for the demolition of a dilapidated railroad bridge).

The property to be accepted is now a popular unimproved trail for walkers, bicyclists, and rock climbers. The City's 2011 Trails and Bikeways Plan recommends improvement and maintenance of the former DWP rail right-of-way as an official part of the City trail system. The right-of-way is envisioned as the western end of the multi-use Cross City Trail. The City recently commenced a public mini master planning process for the Cross City Trail system, including the rail right-of-way. FEMA-funded repairs to flood-damaged portions of the right-of-way are expected to commence this fall.

The deed remains a valid conveyance despite the passage of time. It just needs to be formally accepted and recorded in the County Recorder's Office. This resolution would accept all of the property to allow for its future use and development by the City.

Attachments: [DWP attachment](#)  
[DWPCartoon](#)

This Resolution was adopted unanimously.

## END OF CONSENT AGENDA

The following entitled resolutions were also considered:

### COMMITTEE 3

#### BY COUNCILOR SIPRESS (RECREATION, LIBRARIES & AUTHORITIES)

25. 15-0471R RESOLUTION AUTHORIZING ACCEPTANCE OF THE DULUTH CHILDREN'S OUTDOOR CHARTER AS A DOCUMENT TO FOSTER ACCESS TO OUTDOOR EXPERIENCES.

**CITY PROPOSAL:**

WHEREAS, the City of Duluth has established itself as a national leader for outdoor recreation infrastructure by leveraging private and public investments in our parks and trails.

WHEREAS, the City of Duluth, through its Parks and Recreation Division, believes that every child should have access and opportunities to discover, play, and learn through outdoor experiences, within our community parks, trails, and nature areas.

WHEREAS, the City of Duluth believes that the availability of varied youth experiences in nature can develop character, enhance learning, strengthen connection to community, and create a sense of wonder and curiosity for the world around them.

WHEREAS, partnerships between the City of Duluth, schools, non-profit organizations, private businesses and citizen groups can support broad access to outdoor experiences for our City's youth.

THEREFORE, BE IT RESOLVED, the Duluth City Council supports the Children's Outdoor Charter in order to foster access to rich and varied outdoor experiences within our community.

**STATEMENT OF PURPOSE:** This resolution authorizes the proper city officials to adopt the Duluth Children's Outdoor Charter as a guideline to foster access to rich and varied outdoor experiences within our community.

The City of Duluth has established itself as a national leader for outdoor recreation infrastructure by leveraging private and public investments in our parks, trails, and nature areas. The Duluth Children's Outdoor Charter aims to encourage children, families, and the organizations that support them, to explore the outdoors, master skills, and discover the wonders of the natural world.

Children who spend time outdoors develop lifelong qualities as critical thinkers, effective communicators, successful students, and healthy adults. Research consistently indicates the importance of providing meaningful, worthwhile opportunities for children and families to connect and grow together in nature.

Scott Pilate (ISD 709), Tracie Clough (YMCA) and Jessica Fisch (NYS) presented a draft version of the Charter to the Parks and Recreation Commission at their July 8, 2015 meeting. After fine-tuning the draft, Tim Bates (UMD Outdoor Recreation Program) and Jessica Fisch (NYS) presented the final version of the Duluth Children's Outdoor Charter to the Parks and Recreation Commission at their August 12, 2015 meeting. The

Park and Recreation Commission unanimously voted to support the Charter and recommend to the Duluth City Council consideration and acceptance of the Charter. The Charter is attached as Exhibit A.

**Attachments:** [Exhibit A](#)

Councilor Sipress moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

Scott Pilate, Tim Bates, Jessica Schiff and David Pagel spoke in support of the resolution.

**This Resolution was adopted unanimously.**

## COMMITTEE 1

### BY COUNCILOR FILIPOVICH (FINANCE)

26. 15-0580R RESOLUTION PROPOSING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, HOUSING AND REDEVELOPMENT AUTHORITY, FOR THE YEAR 2016.

#### CITY PROPOSAL:

RESOLVED, that pursuant to Minnesota Statutes, Section 469.033, subdivision 6, the city council adopts the following proposed property tax levy:

Section 1. The sum to be raised by taxation for the year 2016 for the housing and redevelopment authority taxing district's operation is hereby determined to be the sum of \$974,879 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following sections, see Exhibit A.

Section 2. That pursuant to Minnesota Statute 469.033, subdivision 6, there will be levied for the purpose of providing for the housing and redevelopment authority special taxing district the sum of \$974,879.

STATEMENT OF PURPOSE: This resolution sets the proposed tax levy for the year 2016 for the Duluth housing and redevelopment authority - HRA. HRA is proposing a \$141,918 increase from the 2015

**Attachments:** [Exhibit A](#)

[AMENDMENT \(SIPRESS\)](#)

[AMENDMENT \(FOSLE\) - WITHDRAWN](#)

Councilor Sipress moved to amend resolution, which motion was seconded

and unanimously carried

**This Resolution was adopted unanimously as amended.**

- 26. 15-0581R** RESOLUTION PROPOSING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2016.

CITY PROPOSAL:

RESOLVED, that pursuant to Minnesota Statutes, Sec. 275.065, the city council adopts the following proposed tax levy:

Section 1. The sum to be raised by taxation for the year 2016 for Duluth Transit Authority special taxing district's operations is hereby determined to be the sum of \$1,491,900 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following section, see Exhibit A.

Section 2. That pursuant to Minnesota Statutes, Sec. 485A.31, Subd. 1, there will be levied for transit operations the sum of \$1,491,900.

STATEMENT OF PURPOSE: This resolution sets the proposed property tax levy for the year 2016 for the special taxing district, Duluth transit authority (DTA). Although the transit authority is a special taxing district per Minnesota Statute 275.066, the city is obligated through council resolution to levy on their behalf.

The full levy allowable by law in Minnesota State Statute 458A.31 of .07253 percent of market value for 2016 is in excess of \$3.7 Million. The DTA, in reviewing their needs for 2015 however, is opting not to request the full levy available. Instead, the DTA is requesting \$1,491,900; \$100,000 more than the previous year.

**Attachments:** [Exhibit A](#)

Councilor Hanson stated that he would abstain from voting on this resolution, as he has a business relationship with the transit authority.

**This Resolution was amended and adopted as follows.**

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

**Abstain:** 1 - Councilor Hanson

**BY COUNCILOR HANSON (PURCHASING & LICENSING)**

27.     **15-0582R**     RESOLUTION AUTHORIZING AN AMENDMENT TO C22275 WITH ROCK SOLID TRAIL CONTRACTING FOR THE TRAVERSE TRAIL PHASE II CONSTRUCTION FOR THE ADDITION OF \$132,737.50.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to amend C22275 with Rock Solid Trail Contracting for additional work in the Duluth traverse trail phase II construction, the resolution will approve an increase of 132,737.50 for all additional work totaling \$132,737.50; detailed in Exhibit A, payable as follows:

\$17,000.75     Disaster Recovery Fund 225; Finance 125; Parks, Recreation, & Other 1807; Contract Services 5310; Project: FLOOD-323 - Flood - June 2012, Mission Creek Trail

\$115,736.75 Parks Fund 205; Community Resources 130; Parks Capital 1220; Improvements Other than Buildings 5530; Project: CM205-Travrs - Cap Mtce Fund 205, Traverse Trail

STATEMENT OF PURPOSE: This resolution authorizes an amendment to C22275 with Rock Solid Trail Contracting for additional work related to the construction of the Duluth Traverse Trail Phase II. There was a previous addition to this contract: \$29,711.11 was approved via the change order process on December 19, 2014. The additional work being added now totals \$103,026.39; this increase initiated the need for council approval due to increasing the total contract amount by more than 25%. This resolution authorizes both additions, which will bring the total contract amount to \$353,879.25.

The overruns in cost are due to conditions present in the field that were not known at the time of the bid. These include: 1) more than anticipated wet area crossings and groundwater seeps that resulted in additional boardwalk construction to span these areas; 2) landslide areas that had become more extensive after the bid was awarded resulting in additional erosion control units; 3) changes in the trail alignment for poor soils and steep slopes discovered in the field at the time of construction that resulted in a different type and more expensive construction method; 4) construction during wet weather resulting in delays and an alternative and more expensive construction technique; 5) installing more erosion control blanket and seed than was estimated in the contract.

Requisition No. 14-0217

Attachments: [Exhibit A](#)

This Resolution was adopted unanimously.

28.     **15-0583R**     RESOLUTION AUTHORIZING AN AGREEMENT WITH MCGOUGH CONSTRUCTION FOR PRE-CONSTRUCTION SERVICES RELATED TO THE CIRRUS BUILDING PROJECT FOR AN AMOUNT NOT TO EXCEED \$45,000.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with McGough Construction, substantially in the form of that attached as Exhibit A, to provide pre-construction services pertaining to the development, design and construction of the Cirrus building project for an amount not to exceed \$45,000, payable from Cirrus Building 412, Finance 030, Buildings & Structures 5520.

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize an agreement with McGough Construction to assist the city as the owner's construction manager at-risk in the development and construction of the Cirrus building project ("project").

The project consists of the development of an approximately 60,000 square foot manufacturing facility on city-owned property that will be constructed in 2015 & 2016. The occupant of the facility is anticipated to be Cirrus Aircraft. The city's costs of the project will be paid in part by an up to \$4 million grant of state of Minnesota investment funds to be equally matched by proceeds of tax increment and TIF revenue bonds issued by the city.

The city requested proposals for a construction management firm to provide pre-construction and construction management at risk services for the design and construction of a building which will be suitable for Cirrus' need for a facility which will allow them to manufacture their new line of jet aircraft and expand their research and development capacity in Duluth. In addition, if needs should change, the facility will be suitable for other potential uses and users. McGough Construction was selected as the entity best able to assist the city. McGough Construction has extensive experience providing construction management at risk services and overseeing construction of a number of major projects. The evaluation

team's scoring sheet is attached as Exhibit B.

This contract represents one of two contracts with McGough Construction that will be in front of the City Council for approval. This first contract is for pre-construction services related to providing detailed project cost estimation, planning, value engineering and development of a guaranteed maximum price for this project (GMP). The second contract will be for all of the publically let and awarded project bids along with the construction manager at risk fees representing the total construction cost of the Cirrus Building project as the GMP. With a GMP project, any savings or unused contingency in this project goes back to the owner and DOES NOT become part of the Construction Manager's profit.

The cost for this first pre-construction services contract (not to exceed \$45,000) will be subtracted from the sum total of all fees collected by McGough Construction on this project, and said fees are as represented in Exhibit B. Construction Management fees and reimbursable expenses replace the overhead and profit which are typically incurred in sealed bid form in the general contracting model (using the traditional design, bid, build project approach), and are determined on a negotiated percentage of the total cost of construction for the project plus negotiated reimbursable expenses directly related to managing the project. In this case, McGough Construction is providing construction management at risk services for 2.5%. MCGOUGH's proposal is attached as Exhibit C.

**Attachments:** [Exhibit A](#)

[Exhibit B](#)

[Exhibit C](#)

**A motion was made that this Resolution be adopted. The motion carried by the following vote:**

**Yea:** 7 - Councilors Filipovich, Fosle, Hanson, Julsrud, Krug, Russ and President Larson

**Nay:** 2 - Councilors Gardner and Sipress

- 29. 15-0593R** RESOLUTION AUTHORIZING A CONTRACT WITH VEIT & COMPANY FOR THE GARY NEW DULUTH RECREATION CENTER PROJECT IN THE AMOUNT OF \$455,750.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to contract with Veit & Company, substantially in the format attached as

Exhibit A, for construction of the Gary New Duluth Recreation Center Area improvements in the amount of \$455,750, payable from Tourism & Recreational Projects 452; Finance 030; Improvements Other than Buildings 5530; Project: HANDHTAX-1512 - Half & Half Tax Projects, Gary New Duluth Rec Area.

STATEMENT OF PURPOSE: This resolution authorizes a contract with Veit & Company in the amount of \$455,750 for the Gary New Duluth Recreation Center project.

This project comprises phase 1 of a larger project addressing storm water management and developing the following site amenity improvements: two soccer fields, picnic pavilion, parking lot, park lighting, sidewalks, and landscaping as approved in the Gary New Duluth Recreation Center mini-master plan. The work that is being contracted out by the City for this project includes the installation of storm water pipe & drain tile, grading the site to manage storm water, and the creation of the two soccer fields.

Veit & Company bid on and was awarded the construction contract for this project by City Purchasing. Veit's initial winning bid (lowest of those submitted to Purchasing) was \$586,000, but this amount was reduced to \$455,750 by eliminating certain elements of the project scope to keep the project within budget. The bid recommendation detail and construction contract are included in Exhibit A.

Overall, this project will be paid for with \$500,000 from ½ and ½ tax funds and up to \$50,000 of donated funds currently held in contingency from GNDDA. The total defined project cost is \$505,600, which includes construction management and administrative services. GNDDA will also make available up to \$44,400 for a project contingency.  
Requisition No. 15-0425

Attachments: [Exhibit A](#)

This Resolution was adopted unanimously.

**BY COUNCILOR GARDNER (PERSONNEL)**

30. 15-0577R RESOLUTION CONFIRMING THE APPOINTMENT OF CRAIG CHILCOTE TO THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY, REPLACING DON MONACO.

CITY PROPOSAL:

RESOLVED, that the appointment by Mayor Ness of Craig Chilcote to



the Duluth economic development authority for a term expiring on May 26, 2021, replacing Don Monaco, is confirmed.

STATEMENT OF PURPOSE: This resolution confirms the mayor's appointment of Craig Chilcote to the Duluth economic development authority, replacing Don Monaco, who declined reappointment. At large terms for this authority are six years long.

**Attachments:** [Application](#)

Councilor Gardner moved to table the resolution, to allow for an interview, which motion was seconded and unanimously carried.

**This Resolution was tabled.**

- 31. 15-0590R** RESOLUTION ADOPTING THE VEGETATION MANAGEMENT STRATEGIES IN THE SKYLINE PARKWAY CORRIDOR MANAGEMENT PLAN AS THE FRAMEWORK FOR CITY POLICIES AND ACTIONS.

BY COUNCILOR GARDNER:

WHEREAS, in 1891 the Board of Park Commissioners, in its first annual report, described Skyline Parkway as “[a] drive that is the pride of our city, and one that for its picturesque and varied scenery is second to none in the world...”; and

WHEREAS, Skyline Parkway stretches the length of the city of Duluth and generations of Duluth citizens and tourists have enjoyed unparalleled views of the St. Louis River, the Duluth Harbor and Lake Superior; and

WHEREAS, in August of 2003 the city's department of planning and development, in conjunction with other state and regional stakeholders, issued the Skyline Parkway Corridor Management Plan (“SPCMP”), which was to serve as a foundation for the implementation of an official framework for city policies and actions relating to Skyline Parkway and was updated in June of 2015, a copy of which is attached hereto; and

WHEREAS, the SPCMP provides a three-tiered strategy for managing vegetation along Skyline Parkway. First, existing “formal” overviews are to be kept clear of vegetation interfering with views. Second, overlooks that have been closed are to be opened and cleared. Finally, the city is to assume responsibility for periodic clearing and trimming on city owned property consistent with Sec. 35-29.1 of the Duluth City Code concerning removal and pruning of trees on city property to preserve and restore views. With regards to private property, the city will, when necessary and appropriate, facilitate a process for negotiations with property owners to replace trees that interfere with views with lower growing vegetation; and

WHEREAS, the SPCMP has not been adopted by the city council, but is currently considered an unofficial guide for city officials; and

WHEREAS, many of the beautiful overviews and outlooks along Skyline

Parkway are overgrown and have not been cleared in accordance with the vegetation management plan provided for in the SPCMP.

THEREFORE, BE IT RESOLVED, that the Duluth city council adopts the vegetation management guidelines provided for in the SPCMP to prioritize the maintenance of views on Skyline Parkway to the maximum degree that resources permit.

STATEMENT OF PURPOSE: The resolution adopts the vegetation management guidelines set for in the Skyline Parkway Corridor Management Plan to provide the city with a framework to adequately clear and maintain scenic overlooks and views along Skyline Parkway to the maximum degree that resources permit. Maps on page 45 and 46 of the SPCMP depict view protection overlay areas where vegetation management is particularly important.

Sponsors: Gardner

Attachments: [SkylineCMP2015](#)

Doug Stevens, Jeremy Rubin, Gene Barber, Anthony Hacker, Larry Bromme and Nancy Nelson spoke of their concerns.

**This Resolution was adopted unanimously.**

## COMMITTEE 2

### BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)

32. 15-0572R RESOLUTION GRANTING AN INTERIM USE PERMIT FOR A VACATION DWELLING UNIT AT 728 LAKE AVENUE SOUTH (DOUGLAS AND KATHLEEN BAKER)

#### CITY PROPOSAL:

RESOLVED, that:

(a) The city council hereby grants Douglas and Kathleen Baker an interim use permit to operate a vacation dwelling unit located at 728 Lake Avenue South and as described by the following: PID 010-4380-01150; and

(b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and

(c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the

requested use at this location; and

(d) The interim use permit shall remain in effect for up to two years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and

(e) Pursuant to Section 50-20.3.U and Section 50-37.10.D of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly referred to the city planning commission (PL 15-102); the commission gave due notice of public hearing and considered the application during a public hearing occurring on August 11, 2015; and

(f) The city planning commission, at their regular meeting on August 11, 2015, considered the application's consistency with the use specific standards for vacation dwelling units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for a vacation dwelling unit subject to the conditions listed below.

FURTHER RESOLVED, that an interim use permit for the subject property, is approved subject to the following conditions:

(a) The interim use permit shall not be effective until the applicant has provided evidence that the required notice has been sent to property owners within 100 feet. The required notice shall note the name, address, and phone number of the managing agent or local contact who resides within 25 miles of the city and who has the authority to respond to complaints 24 hours a day;

(b) The interim use permit shall not be effective until the applicant has received all required licenses and permits for operation, including Minnesota department of revenue Tax ID number, Minnesota department of health hotel/motel license, city of Duluth hotel/motel/B&B license, city of Duluth tourism tax permit, and city of Duluth Fire department operational permit;

(c) Interim use permit holder must keep a guest record including the name, address, phone number, and vehicle license plat information for all guests;

(d) Interim use permit holder must disclose in writing to their guests the following: name and contact information for managing agent or local contact, maximum number of guests allowed at the property, maximum number of vehicles allowed at the property and where they are to be parked, applicable rules for the City Code governing noise, parks, parking and pets, and "quiet hours" between 10 pm and 8 am.;

(e) Interim use permit holder must post their permit number on all, print, poster, web, or other advertisements;

(f) The applicant shall adhere to the terms and conditions listed in the interim use permit document;

(g) The permit holder shall ensure that no fire pits or similar out-door recreational fires are allowed or located on the property;

(h) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the land use supervisor without further planning commission; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

STATEMENT OF PURPOSE: This resolution grants to Douglas and Kathleen Baker an interim use permit for a 3-bedroom vacation dwelling unit at 728 Lake Avenue South. The interim use permit remains in effect for six years, or until the property changes hands, whichever occurs first. This application was submitted prior to July 17, 2015, the effective date of the 1 year moratorium on Vacation Dwelling Units per Ordinance 10390.

The applicant has submitted the required materials and agency approvals, including all the licenses in subsection b above. The applicant will be able to provide the required two off street parking spots in the driveway next to the home.

The standard length of an interim use permit for this type of use is six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first. The planning commission has recommended a shorter term, two year, for this vacation dwelling.

On August 11, 2015, the city planning commission held a public hearing on the proposal and heard testimony from citizens. The planning commission voted 6 yeas, 1 nays, and 0 abstentions, with 2 commissioners absent, to recommend that the city council approve the interim use permit with conditions.

Request filed: July 2, 2015

Action deadline: October 31, 2015

**Attachments:** [Attachment 1](#)

Councilor Sipress moved to amend the resolution by changing the length of time for permit from "6 years to 2 years", which motion was seconded and unanimously carried.

**This Resolution was adopted unanimously as amended**

**33. 15-0574R RESOLUTION GRANTING AN INTERIM USE PERMIT FOR A VACATION DWELLING UNIT AT 416 88TH AVENUE WEST (LAWRENCE TELEGA)**

## CITY PROPOSAL:

RESOLVED, that:

- (a) The city council hereby grants Lawrence Telega an interim use permit to operate a vacation dwelling unit located at 416 88th Avenue West and as described by the following: PID 010-2550-05162; and
- (b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and
- (c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use at this location; and
- (d) The interim use permit shall remain in effect for up to two years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and
- (e) Pursuant to Section 50-20.3.U and Section 50-37.10.D of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly referred to the city planning commission (PL 15-103); the commission gave due notice of public hearing and considered the application during a public hearing occurring on August 11, 2015; and
- (f) The city planning commission, at their regular meeting on August 11, 2015, considered the application's consistency with the use specific standards for vacation dwelling units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for a vacation dwelling unit subject to the conditions listed below.

FURTHER RESOLVED, that an interim use permit for the subject property, is approved subject to the following conditions:

- (a) The Interim use permit shall not be effective until the applicant has provided evidence that the required notice has been sent to property owners within 100 feet. The required notice shall note the name, address, and phone number of the managing agent or local contact who resides within 25 miles of the city and who has the authority to respond to complaints 24 hours a day;
- (b) The interim use permit shall not be effective until the applicant has received all required licenses and permits for operation, including Minnesota department of revenue tax ID number, Minnesota department of health hotel/motel license, city of Duluth hotel/motel/B&B license, city of

Duluth tourism tax permit, and city of Duluth fire department operational permit;

(c) Interim use permit holder must keep a guest record including the name, address, phone number, and vehicle license plat information for all guests;

(d) Interim use permit holder must disclose in writing to their guests the following: name and contact information for managing agent or local contact, maximum number of guests allowed at the property, maximum number of vehicles allowed at the property and where they are to be parked, applicable rules for the City Code governing noise, parks, parking and pets, and "quiet hours" between 10 pm and 8 am.;

(e) Interim use permit holder must post their permit number on all, print, poster, web, or other advertisements;

(f) The applicant shall adhere to the terms and conditions listed in the interim use permit document;

(g) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the land use supervisor without further planning commission; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

**STATEMENT OF PURPOSE:** This resolution grants to Lawrence Telega an interim use permit for a 3-bedroom vacation dwelling unit at 416 88th Avenue West. The interim use permit remains in effect for six years, or until the property changes hands, whichever occurs first. This application was submitted prior to July 17, 2015, the effective date of the 1 year moratorium on Vacation Dwelling Units per Ordinance 10390.

The applicant has submitted the required materials and agency approvals, including all the licenses in subsection b above. The applicant will be able to provide the required two off street parking spots in the driveway in front of the home.

The standard length of an interim use permit for this type of use is six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first. The planning commission has recommended a shorter term, two year, for this vacation dwelling.

On August 11, 2015, the city planning commission held a public hearing on the proposal and heard testimony from citizens. The planning commission voted 6 yeas, 1 nays, and 0 abstentions, with 2 commissioners absent, to

recommend that the city council approve the interim use permit with conditions.

Request filed: July 6, 2015

Action deadline: November 4, 2015

Councilor Russ moved to suspend the rules to hear the speakers on the resolution, which motion was seconded and unanimously carried

Larry Telega, applicant, and Mike Casey spoke in support of the resolution, without changing it to a two year permit.

Councilor Gardner moved to amend the resolution by changing the length of time for permit from "6 years to 2 years", which motion was seconded and unanimously carried.

**A motion was made that this Resolution be adopted as amended. The motion carried by the following vote:**

**Yeas:** 6 – Councilors Filipovich, Gardner, Julsrud, Russ, Sipress and President Larson

**Nays:** 3 – Councilors Fosle, Hanson and Krug.

- 34. 15-0575R** RESOLUTION GRANTING AN INTERIM USE PERMIT FOR TWO VACATION DWELLING UNITS AT 718 NORTH 7TH AVENUE EAST (TERESA MCNELLY AND ROB MCCLEARY)

CITY PROPOSAL:

RESOLVED, that:

(a) The city council hereby grants Teresa McNelly and Rob McCleary an interim use permit to operate two vacation dwelling units located at 718 North Seventh Avenue East and as described by the following: PID 010-3940-1750; and

(b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and

(c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use at this location; and

(d) The interim use permit shall remain in effect for up to two years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and

(e) Pursuant to Section 50-20.3.U and Section 50-37.10.D of the Duluth City Code, 1959, as amended, the applicant applied for an interim use

permit and the application was duly referred to the city planning commission (PL 15-1111); the commission gave due notice of public hearing and considered the application during a public hearing occurring on August 11, 2015; and

(f) The city planning commission, at their regular meeting on August 11, 2015, considered the application's consistency with the use specific standards for vacation dwelling units and the criteria for granting interim use permits. Staff from the Planning Division had recommended approval subject to the conditions listed below.

FURTHER RESOLVED, that an interim use permit for the subject property, is approved subject to the following conditions:

(a) The interim use permit shall not be effective until the applicant has provided evidence that the required notice has been sent to property owners within 100 feet. The required notice shall note the name, address, and phone number of the managing agent or local contact who resides within 25 miles of the city and who has the authority to respond to complaints 24 hours a day;

(b) The interim use permit shall not be effective until the applicant has received all required licenses and permits for operation, including Minnesota department of revenue tax ID number, Minnesota department of health hotel/motel license, city of Duluth hotel/motel/B&B license, city of Duluth tourism tax permit, and city of Duluth fire department operational permit;

(c) Interim use permit holder must keep a guest record including the name, address, phone number, and vehicle license plat information for all guests;

(d) Interim use permit holder must disclose in writing to their guests the following: name and contact information for managing agent or local contact, maximum number of guests allowed at the property, maximum number of vehicles allowed at the property and where they are to be parked, applicable rules for the City Code governing noise, parks, parking and pets, and "quiet hours" between 10 pm and 8 am.;

(e) Interim use permit holder must post their permit number on all, print, poster, web, or other advertisements;

(f) The applicant shall adhere to the terms and conditions listed in the interim use permit document;

(g) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the land use supervisor without further planning commission; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.



STATEMENT OF PURPOSE: This resolution grants to Teresa McNelly and Rob McCleary an interim use permit for two 2-bedroom vacation dwelling units at 718 North 7th Avenue West. The interim use permit remains in effect for six years, or until the property changes hands, whichever occurs first. This application was submitted prior to July 17, 2015, the effective date of the 1 year moratorium on Vacation Dwelling Units per Ordinance 10390.

The applicant has submitted the required materials and agency approvals, including all the licenses in subsection b above. The applicant will be able to provide the required two off street parking spots in the existing parking lot behind the structure.

The standard length of an interim use permit for this type of use is six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first.

On August 11, 2015, the city planning commission held a public hearing on the proposal and heard testimony from citizens. The planning commission voted 3 yeas, 4 nays, and 0 abstentions, with 2 commissioners absent, to recommend that the city council approve the interim use permit with conditions; the motion to approve failed.

Request filed: July 16, 2015

Action deadline: November 14, 2015

**AS AMENDED**

Councilor Sipress moved to amend the resolution by changing the length of time for permit from "6 years to 2 years", which motion was seconded and unanimously carried

Councilor Gardner moved to table the resolution to have the attorney's review the legalities of the planning commission desire to keep this unit as regular rental, versus a vacation dwelling, which motion was seconded and carried as follows:

**Yeas:** 8 – Councilors Filipovich, Fosle, Gardner, Hanson, Krug, Russ, Sipress and President Larson

**Nays:** 1 – Councilor Julsrud.

## COMMITTEE 3

### BY COUNCILOR SIPRESS (RECREATION, LIBRARIES & AUTHORITIES)

- 35. 15-0592R** RESOLUTION AUTHORIZING PROPER CITY OFFICIALS TO ACCEPT A CONTINGENCY DONATION FROM GARY NEW DULUTH DEVELOPMENT ALLIANCE IF NECESSARY TO COMPLETE THE GARY NEW DULUTH REC. CENTER PROJECT, FOR AN AMOUNT NOT TO EXCEED \$50,000.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to accept a contingency donation from the Gary New Duluth Development Alliance (GNDDA) as needed for the Gary New Duluth Recreation Center Project to pay any project costs over the \$500,000 ½ & ½ Tax city contribution to this project up to an amount not to exceed \$50,000 with funds to be deposited as follows: Tourism & Recreational Projects 452, Finance 030, Improvements Other than Buildings 5530, Gifts & Donations 4660.

**STATEMENT OF PURPOSE:** This resolution authorizes proper city officials to accept a contingency donation from the GNDDA in an amount not to exceed \$50,000 for the Gary New Duluth Recreation Center Project. This project largely provides the civil and site work infrastructure to support the installation of planned soccer fields, a parking lot and other amenities defined and approved in the Gary New Duluth mini-master plan. The City of Duluth had committed \$500,000 of ½ and ½ tax funds to support the development of the Gary New Duluth Recreation Center plan, and the GNDDA has raised \$500,000 of cash and in-kind contributions to complete projects at the Center.

This contingency donation provides needed funds to complete complex civil/site work that was awarded to Veit & Company (Resolution No. 15-0593R) through a competitive City Purchasing bid process. The initial Veit bid came in at \$586,000, but through a value engineering process with City Staff, GNDDA, Kraus-Anderson Construction Company (Resolution No. 15-0596R), and SAS Architects the total cost of the bid has been reduced to \$455,750. This bid amount along with the total cost for construction management/administration (Kraus-Anderson and SAS) and project contingency requires a total project budget of \$550,000 to complete this work. The City is contributing \$500,000 to this project and GNDDA is donating up to the remaining \$50,000 required to meet the project budget - which includes a 7% project contingency that may or may not be needed to

complete the project.

GNDDA will hold funds in one of their accounts (as noted in donation letter attached as Exhibit A) throughout the duration of the project, and will contribute funds to the city as requested to meet project budget.

The project budget is as follows:

Kraus-Andersons construction management fee \$47,000

SAS construction administration fee \$2,850

**Total Soft Costs** **\$49,850**

Veit Bid Total \$455,750

Project Contingency \$44,400

**Total Project cost** **\$550,000**

Requisition No. 15-0425

Attachments: [Exhibit A](#)

This Resolution was adopted unanimously.

## BY COUNCILORS SIPRESS AND JULSRUD

36. 15-0579R RESOLUTION IDENTIFYING RILEY ROAD PROPERTY AS A SITE FOR THE DEVELOPMENT OF AN EAST DULUTH DOG PARK.

BY COUNCILORS SIPRESS AND JULSRUD:

WHEREAS, in response to a need for off-leash dog exercise areas, the city council approved Keene Creek and Riley Road in 2005 as acceptable sites for dog parks based on recommendations from the parks and recreation commission and city staff (05-689R); and

WHEREAS, the city established a dog park on the Keene Creek site, but was unable to utilize the Riley Road site because the city's permit application was denied; and

WHEREAS, in 2013, the city council requested the parks and recreation commission review possible locations for additional dog parks in central and eastern Duluth (13-0101R); and

WHEREAS, the commission recommended Russell Square and Observation Park be considered as possible dog park sites. The city established a dog park at the Observation Park site, but not at Russell Square; and

WHEREAS, on June 3, 2015, the state of Minnesota office of administrative hearings approved annexation by the city of Duluth of a portion of Rice Lake township, including the Riley Road site; and

WHEREAS, on August 12, 2015, after receiving a petition with over 500 signatures and public comments, the parks and recreation commission unanimously recommended locating a dog park at the Riley Road site; and

WHEREAS, the proposed Riley Road site allows for a 4 acre dog park with a walking trail and two fenced-in areas for unleashed small and large dogs. It is anticipated that private donors will finance the cost of creating and maintaining the dog park with the city creating a gravel parking area.

THEREFORE, BE IT RESOLVED, that the city council hereby identifies the Riley Road site, as shown in attachment A, as a location for a city dog park and requests that the city administration take the necessary steps to begin developing the dog park.

STATEMENT OF PURPOSE: This resolution identifies the Riley Road site as suitable area for an east Duluth dog park.

**Sponsors:** Sipress and Julsrud

**Attachments:** [Attachment A Proposed Riley Rd Dog Park](#)

Councilor Sipress moved to suspend the rules to hear a speaker on the resolution, which motion was seconded and unanimously carried.

Denette Lynch spoke in support of resolution and presented a petition of 509 residents who also supported the resolution.

**This Resolution was adopted unanimously.**

## INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

### COMMITTEE 1

#### BY COUNCILOR FILIPOVICH (FINANCE)

37. 15-072-O AN ORDINANCE AMENDING CHAPTER 34, SECTION 23, OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW SECTION PROHIBITING EXCESSIVE ENGINE DISCHARGE OR BRAKING NOISE.

BY COUNCILOR FILIPOVICH:

Section 1. That Chapter 34, Section 23, of the Duluth City Code, 1959, as amended, is hereby amended as follows:

**Sec. 34-23. Vehicle noise limits. ~~for electronically amplified sound.~~**

(a) Electronically Amplified Sound.

No motor vehicle, as defined in Section 33-1 of this Code, shall emit any electronically amplified sounds that are plainly audible at a distance of 50 feet from the vehicle, provided that this Section shall not apply to:

(1) Sirens, horns or other signaling devices used by an authorized emergency vehicle as defined in Minnesota Statutes Section

169.01;

(2) Vehicles in parades or other civic celebrations duly authorized by the city;

(3) Motor vehicle horns when actually used as a warning of danger;

(4) Anti-theft devices installed on motor vehicles;

(b) Engine Braking.

(1) Definitions. The following phrases are defined as follows:

(A) "Engine retarding brake" shall mean a Dynamic Brake, Jake Brake, Jacobs Brake, C Brake, Paccar Brake, transmission brake or other similar engine retarding brake system which alters the normal compression of the engine and subsequently releases that compression.

(B) "Abnormal or excessive noise" shall mean (1) distinct and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort and repose of any person or precludes their enjoyment of property or affects their property's value, (2) noise in excess of that permitted by Minnesota Statutes Section 169.69, as it may be amended from time to time, which requires every motor vehicle to be equipped with a muffler in good working order, or (3) noise in excess of that permitted by Minnesota Statutes Section 169.693 and Minnesota Rules parts 7030.1000 through 7030.1050, as this Statute and these rules may be amended from time to time, which establish motor vehicle noise standards.

(2) It shall be unlawful for any person to discharge the exhaust or permit the discharge of the exhaust from any motor vehicle except through a muffler that effectively prevents abnormal or excessive noise and complies with all applicable state laws and regulations.

(3) It shall be unlawful for the operator of any truck to intentionally use an engine retarding brake on any public highway, street, parking lot or alley within the City which causes abnormal or excessive noise from the engine because of an illegally modified or defective exhaust system, except in an emergency.

(4) Signs stating "VEHICLE NOISE LAWS ENFORCED" may be installed at locations deemed appropriate by the City's Traffic Engineer to advise motorists of the prohibitions contained in this Section. The provisions of this ordinance are in full force and effect even if no signs are installed.

(b) Violations of this Section are punishable by fines of not to exceed those set in accordance with Section 31-8 of this Code for the first and second offenses and a fine as provided in Section 1-7 of this Code for all subsequent offenses.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

STATEMENT OF PURPOSE: This ordinance prohibits excessive vehicle noise caused by engine braking and improper discharge of exhaust.

Sponsors: Filipovich

This Ordinance was read for the first time.

## COMMITTEE 2

### BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)

38. 15-073-O AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO MU-N, PROPERTY AT 2421 LONDON ROAD (MICHAEL TEGETHOFF)

#### CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That approximately 0.22 acres of land located at 2421 London Road and as more particularly described as follows:  
Lot 11 Block 46 Harrison's Division and Lot 11 Block 30 Endion Division of Duluth including all streets and alleys appurtenant thereto.  
be reclassified from Residential-Traditional (R-1) to Mixed Use-Neighborhood (MU-N), and that the official zoning map of the City of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as shown in the attached document.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

STATEMENT OF PURPOSE: This amendment provides a zoning change from R-1 to MU-N at 2421 London Road.

On August 11, 2015, the Duluth city planning commission held a public hearing on the proposal and voted 5 yeas, 2 nays, and 0 abstentions to recommend that the city council approve the rezoning requested for the following reasons:

- 1.) This proposal is consistent with the Comprehensive Land Use Plan.
  - 2.) The proposed MU-N zone district is consistent with the future land use category of Neighborhood Mixed Use.
  - 3.) Material adverse impacts on nearby properties are not anticipated.
- The applicant did not submit written consent of 2/3 of property owners within 100 feet of the property to be rezoned. The motion to approve the rezoning from R-1 to MU-N must prevail with an affirmative vote of 2/3 by the city council.

Petition Received: July 7, 2015

Action Deadline: November 4, 2015

Petitioner:  
Michael Tegethoff  
10 Village Drive #201  
Proctor, MN 55810  
miketegethoff@gmail.com

PL 15-105

**Attachments:** [Attachment 1](#)  
[Attachment 2](#)

Councilor Russ moved to suspend the rules to hear speakers on this ordinance, which motion was seconded and unanimously carried. Ruth Kivisto and Angel Sarkela Saur spoke in opposition to the ordinance. Michael Tegethoff spoke in support of the ordinance.

**This Ordinance was read for the first time.**

- 39. 15-074-O** AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1, R-2 AND F-6 TO P-1, FOR BASKETBALL COURT, CHESTER BOWL, CHESTER PARK, LOWER CHESTER COMMUNITY RECREATION CENTER, ENDION COMMUNITY RECREATION CENTER, HILLSIDE SPORT COURT COMMUNITY RECREATION CENTER, LAKEVIEW PARK, MUNGER PARK, AND PORTLAND SQUARE (CITY OF DULUTH)

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the subject properties located in the central portion of the city and as more particularly described as follows:

Portland Square:

That area located between the Centerline of East Fourth Street, the Centerline of East Fifth Street and the Centerline of Tenth Avenue East and the Centerline of Eleventh Avenue East;

be reclassified from Residential-Traditional (R-1), Residential-Urban (R-2) and Form District 6 (F-6) Mid-Rise Neighborhood Shopping to Park and Open Space (P-1), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as per the attached map.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.



STATEMENT OF PURPOSE: This zoning map amendment provides a zoning change for the park properties located in the central portion of the City including Basketball Court, Chester Bowl, Chester Park, Lower Chester Community Recreation Center, Endion Community Recreation Center, Hillside Sport Court Community Recreation Center, Lakeview Park, Munger Park, and Portland Square from the current zoning districts of Residential-Traditional (R-1), Residential-Urban (R-2) and Form District 6 (F-6) Mid-Rise Neighborhood Shopping to Park and Open Space (P-1).

On February 11, 2015 the Duluth parks and recreation commission unanimously passed a resolution in support of the rezoning of city park property.

On July 14, 2015, the Duluth city planning commission held a public hearing on the proposal and voted 7 yeas, 0 nays, and 0 abstentions, to

recommend that the city council approve the rezoning requested for the following reasons:

- 1) Rezoning to Park and Open Space (P-1) is the zone most reasonably able to implement the objectives of the Comprehensive Plan related to the proposed land use for this area.
- 2) The rezoning is consistent with the Comprehensive-Plan Future Land Use Map.
- 3) While providing protection for this area, the P-1 zone will also provide flexibility to permitted uses the ability to improve their facilities, via the Special Use Permit process as required by Section 50-37.10, in order to increase their public benefit.
- 4) Material adverse impacts on nearby properties are not anticipated.

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Petitioner:  
City of Duluth  
Planning Division  
Room 208  
City Hall  
Duluth, Minnesota

PL 15-098

Attachments: [Map](#)  
[Staff Report](#)

This Ordinance was read for the first time.

### COMMITTEE 3

#### BY COUNCILOR FOSLE (PUBLIC SAFETY)

40.     **15-070-O**     ORDINANCE AMENDING CHAPTER 26 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO AERIAL LIFT BRIDGE OPERATIONS, ADDING PROHIBITION ON INTERFERENCE WITH SAFE BRIDGE OPERATIONS.

**CITY PROPOSAL:**

The city of Duluth does ordain:

Section 1. That Chapter 26 of the Duluth City Code, 1959, as amended, is hereby amended by adding Section 26-58 thereto which reads as follows: Sec. 26-58. Interference with safe bridge operations prohibited.

No person shall cause or permit to interfere, obstruct, disrupt, or delay the safe operation, use, or enjoyment of the Aerial Lift Bridge and its appurtenances.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

**STATEMENT OF PURPOSE:** This Ordinance provides a local enforcement mechanism to stop and deter any actions which would interfere with our employees' safe operation of the Aerial Lift Bridge. This ordinance also protects Aerial Lift Bridge area user and bystander safety.

**This Ordinance was read for the first time.**

- 41      15-075-O      AN ORDINANCE AMENDING SECTION 10-3 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO THE PROCEDURE FOR VACANT BUILDING REGISTRATION.**

**CITY PROPOSAL:**

Section 1. That Section 10-3 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 10-3. Demolition procedure.

(a) General. Whenever it comes to the notice of the building official that any building or structure is in a damaged, dilapidated or dangerous condition, it shall be his or her duty to make an inspection of such building or structure. It shall be unlawful to repair or alter any building or structure located in the city if, in the opinion of the building official based upon information documented in the official file and records, such building or structure has been damaged or deteriorated from any cause to the extent that the building official's good faith, reasonable estimate of the cost of repairing and restoring the building is more than 60 percent of the current fair market value of the building, as shown in the records of the city assessor or as adjusted by the

assessor for accuracy, and all such buildings or structures so damaged or deteriorated shall be torn down and removed when so ordered by the building official; provided, however, that the building official, or the building appeal board in cases appealed to it, may allow such a damaged or deteriorated building to be repaired, for good cause shown related to the use, location or unique characteristics of the building, when the owner shows that he or she has dedicated sufficient funds to pay for the repair, have entered into a valid contract to have the repair completed, and will complete all the repair and restoration work within a reasonable time, not to exceed 18 months;

(b) Orders for demolition and assessment of costs. All orders for the demolition of a dangerous, defective or deteriorated building, or for repairs to the same, shall be in writing, signed by the building official, and shall allow not less than 30 days in which to comply with said order. Each order shall identify the structure, state the legal basis of the order, the date of the order, the fair market value of the building, the building official's good faith, reasonable estimate of the cost of repairs, the calculation that forms the basis for the opinion that the damage requires that the building be demolished, the time and procedure for appeal, and other information deemed relevant by the building official. Should any such order not be complied with within the time allowed therefor or, should the structure constitute an immediate threat of bodily harm to the public, or the appeal provided for in Section 10-5 of this Chapter not be taken, the building official shall, in writing, communicate such information to the city council. The city council may direct the building official to proceed with the work ordered, or to contract to have the work done. In case of the demolition of a building, should the sale of the salvage from such building exceed the cost of the demolition, the balance in excess of the cost shall be paid to the owner of said building or to such other persons as may by law be entitled thereto. A statement of the cost of such work shall be transmitted to the city council which may cause the same to be charged against the land on which the building existed as a municipal lien, which lien shall be recorded with the register of deeds or registrar of titles as a lien against such land, or to be recovered in a suit at law against the owner, or to cause any or all of such costs to be assessed against the property from which such removal takes place. If the city council decides to assess the cost of demolition against the affected property, such assessment shall be made by resolution of the council, and such resolution shall

state a time by which such assessment shall be payable, which time shall be not less than 30 days after publication of such resolution and service of notice of the assessment upon the property owner. Notice of such assessment and the time within which it shall be paid, shall be served on the owner of such property in the manner provided in Subsection (c) of this Section below, except that it shall not be necessary to post such notice on the affected property or to publish such notice other than to publish in the regular manner the resolution by which such assessment is made. Delinquent assessments shall be certified to the county auditor of St. Louis County for collection in the same manner as other assessments, pursuant to Section 70 of the Duluth City Charter;

(c) Notice to owner. Except as otherwise provided for in Subsection (b) above, service of all orders provided for in this Section shall be made as follows:

(1) Upon an individual owner, residing within the city of Duluth, by delivering a copy to him or her personally or by leaving a copy at his or her usual place of abode with some person of suitable age and discretion then residing therein. If the owner does not reside within the city of Duluth, by sending a copy of such order by certified mail to his or her last known address, and in addition a copy of such order shall be posted in a conspicuous place in the building to which it relates. Such mailing and posting shall be deemed adequate service. If it should come to the attention of the building official that the owner, as shown by the land records of the register of deeds or the registrar of titles of the county of St. Louis, Minnesota, is deceased, such order shall be sent by certified mail to the known heirs of the deceased owner if the building official is reasonably able to ascertain such heirs. In addition, a copy of the said order shall be posted in a conspicuous place on the building to which it relates, and said order shall be published in the official newspaper of the city of Duluth for one day in each of two consecutive weeks during the period to which the order relates. Such mailing, posting and publication shall be deemed adequate service;

(2) If the owner is confined to a state institution, by serving also the chief executive officer of the institution;

(3) If the owner be an infant under the age of 14 years, by serving a resident guardian, and if he or she has none, then by serving the person having control of such infant or with whom he or she resides;

(4) If the owner be a partnership or association, by delivering the order to a member or the managing agent of

the partnership or association;

(5) If the owner be a domestic or foreign corporation, by delivering the order to an officer or managing agent. If such corporation be a foreign corporation and has no such agent in the city of Duluth, then service may be made upon any such agent of the corporation within the state;

(d) In addition to other provisions of the Code, this Section 10-3(d) is enacted;

(1) Policy. Pursuant to authority provided in Minnesota Statutes, Section 463.26, permitting cities to enact and enforce ordinances on hazardous buildings, and in order to enhance the livability and preserve the tax base and property values of buildings within the city, and based upon the findings contained in Section (2); and because of the need to assure that buildings which are capable of rehabilitation are promptly rehabilitated and buildings which are not capable of rehabilitation be promptly demolished, the city hereby declared that it is the policy of the city to promote rehabilitation of vacant and unoccupied buildings, and to assure a prompt process for demolition of hazardous buildings through a procedure fixing appropriate responsibility in accordance with due process requirements;

(2) Findings. The city council finds, determines and declares that buildings which remain vacant and unoccupied for any appreciable period of time become an attractive nuisance to children, a harborage for rodents, and invitation to derelicts, vagrants and criminals as a temporary abode, and an increased fire hazard, and that the unkempt grounds surrounding such property invite the dumping of garbage and rubbish thereon; that such buildings are permitted to become dilapidated since such buildings are often economically obsolete and the owners of such buildings are unwilling to expend the necessary funds to repair or raze the buildings; that such buildings contribute to the growth of blight within the city, depress market values of surrounding properties to the detriment of the various taxing districts and require additional governmental services; that the use and maintenance of property in such condition and manner endangers the public safety and health, constitutes an unreasonable use and condition to the annoyance, discomfort and repose of a considerable number of the public, is detrimental to the public good and to the common welfare; and renders a considerable number of the public insecure in the use and enjoyment of their property, and thus may constitute a nuisance condition. Adequate protection of public health, safety and welfare, therefore, requires the establishment and

enforcement of the means by which such nuisance conditions may be abated;

(3) Securing vacant buildings;

(A) In general, if any building becomes vacant or unoccupied and is deemed hazardous due to the fact that the building is open to trespass and has not been secured and the building could be made safe by securing the building, the building official may order the building secured and shall cause notice of the order to be served upon the owner of the premises. Such notice may be served personally or by mail. Service by mail is complete upon mailing a copy of the order to the owner at the last known address. If the owner fails to comply with the order within six days after the order is served, the building official shall cause the building to be boarded up or otherwise properly secured;

(B) Emergency. When it is determined by the building official or the chief of police, or the fire chief that an emergency exists with respect to the health or safety of persons in the community, and immediate boarding and securing of a building is required, and where danger will exist to children, transients or others in the absence of an immediate boarding or securing of the building, the building official or the chief of police, or the fire chief may waive all requirements herein and immediately board or otherwise secure the building, provided that:

1. The conditions showing the existence of an exigency are documented in writing by the building official or the chief of police or the fire chief or their designees;

2. Notice be mailed immediately by the department invoking this Section to the address of the owner and taxpayer, and, if recorded on the assessor's rolls, the address of the mortgage holder, of the date of boarding or otherwise securing and the reasons therefore;

(C) After a vacant or unoccupied building has been boarded or otherwise secured under this section, should the owner fail to maintain the building in a secured condition until such time as it has been repaired and reoccupied, the building official shall resecure any openings into the building whenever it again becomes open to trespass, without further notice to the owner. An administrative fee shall be set in accordance with Section 31-6(a) of this Code and all other costs incurred by the city for boarding or otherwise securing a building under this Chapter, including, but not limited to the actual costs for boarding, posting and monitoring the building, building and housing code compliance inspections, police or fire department inspection, response, or protection;

public health and safety investigation; control of people or property wrongfully on the premises shall be assessed as provided in Duluth City Code Section 10-3. The above fees, when collected, shall be dedicated to the use of the department(s) that administer(s) the enforcement actions. Owner, for the purposes of this Section, shall mean the person who is listed as the contact person on the current rental licensing application on file with the city, if any; or, if none, the person listed as owner by the city assessor on the homestead record; or, if none, the taxpayer as shown by the records of the city assessor;

(4) Vacant building registration;

(A) The owner of a residential building or building located in a residentially zoned area shall register the building with the building official within 30 days after it becomes a vacant building. In this Section, a vacant building is at least one of the following:

1. Condemned;
2. Unoccupied and unsecured for 30 days or more;
3. Unoccupied and secured by means other than those normally used in the design of the building for 30 days or more;
4. Unoccupied and has multiple housing maintenance, fire or building code violations existing for 30 days or more;
5. Unoccupied and an existing owner or lienholder requests registration in accordance with the provisions of this Section.

(B) The registration shall be submitted on forms provided by the building official and shall include the following information supplied by the owner:

1. A description of the premises;
2. The names and addresses of the owner or owners;
3. The names and addresses of all known lien holders and all other parties with an ownership interest in the building;
4. The period of time the building is expected to remain vacant; and a plan and timetable for returning the building to appropriate occupancy or for demolition of the building;

(C) The owner shall submit a plan and timetable that must comply with the guidelines adopted by the building official. The guidelines are adopted for purposes of preventing nuisance conditions and maintaining compliance



with this Code. These guidelines shall be made available to building owners. The plan shall be submitted at the time of registration, or within a reasonable period of time thereafter to be determined by the building official;

(D) The owner shall comply with all applicable laws and codes. The owner shall notify the building official of any changes in information supplied as part of the vacant building registration within 30 days of the change. If the plan or timetable for the vacant building is revised in any way, the revisions must meet the approval of the building official;

(E) The owner and the subsequent owners shall keep the building secured and safe and the building and grounds properly maintained until the rehabilitation or demolition has been completed;

(F) Failure of the owner or any subsequent owner to maintain the building and premises that result in abatement completed by the city shall be grounds for revocation of the approved plan and shall be subject to any applicable penalties provided by law;

(G) The new owner(s) shall register or re-register the vacant building with the building official within 30 days of any transfer of an ownership interest in a vacant building. The new owner(s) shall comply with the approved plan and timetable submitted by the previous owner until any proposed changes are submitted and meet the approval of the building official;

(H) The building official shall include in the file any property-specific written statements from community organizations, other interested parties or citizens regarding the history, problems, status or blighting influence of a vacant building;

(I) Vacant building fees:

1. The owner of a vacant building shall pay an annual fee, which shall be set in accordance with Section 31-6(a) of this Code. The fee is imposed to defray the administrative costs for registering and processing the vacant building registration form and for the costs of the city in monitoring the vacant building site;

2. The first annual fee shall be paid no later than 30 days after the building becomes vacant. Subsequent annual fees shall be due on the anniversary date of initial vacancy. The fees shall be paid in full prior to the issuance of any building permits, with the exception of a demolition permit;

3. Unpaid fees shall be levied and collected as a special assessment against the property as provided

for under Section 10-3, with interest at the rate set in accordance with Section 31-8 of this Code per annum on the unpaid balance thereof. Upon transfer of ownership, the new owner(s) shall be responsible for all unpaid and subsequent annual fees;

(J) A building owner shall provide access to all interior portions of an unoccupied building in order to permit a complete inspection for the purpose of enforcing and assuring compliance with the provisions of this Chapter.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

STATEMENT OF PURPOSE: This ordinance amends Section 10-3 of the Duluth City Code, 1959, as amended, to clarify the authority of appropriate code officials to register vacant buildings at an owner or lienholder's request.

**This Ordinance was read for the first time.**

**The following entitled ordinances were read for the second time:**

**COMMITTEE 3**

**BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)**

42.     **15-054-O**     AN ORDINANCE PROSCRIBING ILLICIT DISCHARGES TO THE CITY STORM SEWER SYSTEM, ADDING CHAPTER 43A TO THE DULUTH CITY CODE, 1959, AS AMENDED.

**CITY PROPOSAL:**

The city of Duluth does ordain:

Section 1. That the Duluth City Code 1959, as amended, is hereby amended by adding a new Chapter 43A thereto, which reads as follows:

**CHAPTER 43A.**

**ILLICIT DISCHARGES TO THE CITY STORM SEWER SYSTEM.**

Sec. 43A-1. Purpose.

This Chapter is adopted in accordance with the city's national pollutant discharge elimination system (NPDES) municipal separate storm sewer (MS4) permit that authorizes the discharge of stormwater to surface water. Pursuant to permit regulations, the city is required to control the introduction of non-stormwater discharges to the city's municipal separate storm sewer system.

Sec. 43A-2. Definitions.

For the purposes of this Chapter, the terms used in this Chapter have the meanings defined as follows:

- (a) City. The city of Duluth and its officials, employees, and duly authorized agents;
- (b) Clean water act. The Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.) and subsequent amendments thereto;
- (c) Director. The director of public works and utilities department or his designated employee or agent for purposes of administration of this Chapter;
- (d) Groundwater. Water contained below the surface of the earth;
- (e) MPCA. The Minnesota pollution control agency;
- (f) MS4 (municipal separate storm sewer system). The system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains, that is: owned and operated by the city, designed or used for collecting or conveying stormwater, and not used for collecting or conveying sewage;
- (g) National pollutant discharge elimination system (NPDES) stormwater discharge permit. A permit issued under the Clean water act and United States Code of Federal Regulations Title 33, Section 1342, and subsequent amendments thereto, authorizing the discharge of pollutants into waters of the United States;
- (h) Non-stormwater discharge. Any substance not composed entirely of stormwater;
- (i) Prohibited discharge. Any introduction of non-stormwater discharge to the MS4 or to surface waters within the city, unless specifically exempted under Section 43A-3(b) of this Chapter;
- (j) Person. Any individual, association, organization, partnership, firm, corporation, limited liability company or other entity recognized by law;
- (k) Pollutant. Any substance which, when introduced as non-stormwater, has potential to or does any of the following:
  - (1) Interferes with state designated water uses;
  - (2) Obstructs or causes damage to waters of the state;
  - (3) Changes water color, odor, or usability;
  - (4) Adds an unnatural surface film on the water;
  - (5) Adversely changes other chemical, biological, thermal, or physical condition in any surface water or stream channel; or

(6) Harms human life, aquatic life, or terrestrial life.

(l) Stormwater. Precipitation runoff, stormwater runoff, snow melt runoff, and any other surface runoff or drainage;

(m) Surface water. Ponds, lakes, rivers, streams, and wetlands.

Sec. 43A-3. Non-stormwater discharges.

(a) No person shall cause any non-stormwater discharges to enter the MS4, or to any surface waters within the city, unless specifically exempted under paragraph (b) of this Section;

(b) Discharges from the following sources are exempted from this Section:

(1) Non-stormwater that is authorized by an NPDES point source permit obtained from the MPCA;

(2) Firefighting activities and fire suppression systems;

(3) Dye testing for which the city has received written notification prior to the time of the test;

(4) Water line flushing or other potable water sources;

(5) Landscape irrigation or lawn watering;

(6) Diverted stream flows;

(7) Rising groundwater;

(8) Groundwater infiltration to storm drains;

(9) Uncontaminated pumped groundwater;

(10) Foundation or footing drains;

(11) Air conditioning condensation;

(12) Springs;

(13) Natural riparian habitat and wetland flows;

(14) Street wash water discharges;

(15) Activities undertaken by the city, or by written authority of the city, deemed necessary to protect public health, welfare or safety; and

(16) Any other water source not containing a pollutant;

(c) No person shall intentionally dispose of any non-storm water discharges (including, without limitation, grass, leaves, dirt, or other landscape material) into the MS4 or to any surface waters within the city.

Sec. 43A-4. Prohibited MS4 connections.

No person shall construct, use, maintain or permit to exist any pipe or other structure that conveys non-stormwater to the MS4.

Sec. 43A-5. Suspension of storm sewer system access, emergencies.

The city may, without prior notice, suspend the right to discharge any substance into the MS4 or surface waters of

the city upon the determination by the director that suspension is necessary to stop an actual or threatened discharge of a pollutant to the MS4 or public waters. If the person discharging such pollutant fails to suspend such discharge, the city may take any step deemed necessary to prevent or minimize damage to the MS4 or public waters or to protect the health, safety, and welfare of its residents.

Sec. 43A-6. Entry for inspections.

No person shall fail or refuse to allow the director to inspect any building or property to determine compliance with the requirements of this Chapter after having been given reasonable advance notice of the director's intent to do so; such notice may be given by mail as provided for in Section 43-33 or in person or by posting notice thereof on the premises to be inspected. In the event that the owner or person in control of any building or property shall deny or refuse to allow the director to inspect any such building or property after such notice has been given, the director may use such other means as are authorized by law, including but not limited to securing a search warrant for such building or property or a court order requiring that access be granted in order to gain access to conduct such inspection.

Sec. 43A-7. Enforcement.

(a) Any person violating any section of this Chapter, shall be guilty of a misdemeanor and may be fined as provided in Section 1-7 or Section 12-6 of this Code. All city approvals and permits shall be suspended until the violation(s) of this chapter are corrected. Nothing in this Section shall preclude the city from concurrently seeking the enforcement of the provisions of this Chapter in a court of competent jurisdiction by civil action to enjoin any continuing violation(s) in accordance with subsection (b) below;

(b) A violation of this Chapter is deemed a per se public nuisance authorizing the city to seek abatement through injunctive relief or any other appropriate remedy from a court of competent jurisdiction. All city approvals and permits shall be suspended until abatement of the nuisance condition(s). Nothing in this Section shall preclude the city from concurrently seeking the enforcement of the provisions of this Chapter by criminal prosecution or administrative fine.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective Date: September 30, 2015)

STATEMENT OF PURPOSE: The purpose of this ordinance is to create a new chapter to the Duluth City Code, 1959, as amended, to proscribe illicit discharges to the stormwater sewer system.

This chapter is adopted in accordance with the city's national pollutant discharge elimination system (NPDES) municipal separate storm sewer (MS4) permit that authorizes the discharge of stormwater to surface water. Pursuant to permit regulations, the city is required to control the introduction of non-stormwater discharges to the city's municipal separate storm sewer system.

**A motion was made that this Ordinance be adopted. The motion carried unanimously.**

- 43. 15-068-O** AN ORDINANCE AMENDING THE DULUTH CITY CODE, 1959, AS AMENDED, AMENDING CHAPTER 25 ADDING A NEW SECTION 12 REGARDING OUTDOOR BROADCASTING OF MUSIC DURING CERTAIN HOURS.

BY COUNCILOR JULSRUD:

Section 1. That Chapter 25 of the Duluth City Code, 1959, as amended, is hereby amended by adding a new Section 12 as follows:

Sec. 25-12. Outdoor Broadcast of Music

No licensee or other person in charge of or operating any gasoline filling station in the city shall allow music to be broadcast outdoors between the hours of 5:00 p.m. and 8 a.m.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

STATEMENT OF PURPOSE: This ordinance prohibits gas stations from broadcasting music outside between the hours of 5:00 p.m. and 8 a.m.

Sponsors: Julsrud

Councilor Julsrud, as sponsor of the ordinance, stated that she wished to have this ordinance be pulled from the agenda.

**This Ordinance was withdrawn.**

## **COUNCILOR QUESTIONS AND COMMENTS**

## **COUNCILOR PREVIEW OF UPCOMING BUSINESS**

The meeting adjourned at 10:17 p.m.



# City of Duluth

411 West First Street  
Duluth, Minnesota 55802

## Minutes - Draft

### City Council

**MISSION STATEMENT:** *The mission of the Duluth City Council is to develop effective public policy rooted in citizen involvement that results in excellent municipal services and creates a thriving community prepared for the challenges of the future.*

**TOOLS OF CIVILITY:** *The Duluth City Council promotes the use and adherence of the tools of civility in conducting the business of the council. The tools of civility will provide increased opportunities for civil discourse in order to find positive resolutions to the issues that face the city. These tools include: pay attention, listen, be inclusive, do not gossip, show respect, be agreeable, apologize, give constructive criticism and take responsibility. [Approved by the council on August 25, 2003]*

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Monday, September 14, 2015

7:00 PM

Council Chamber

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#### ROLL CALL

**Present:** 9 - Councilors Zach Filipovich, Jay Fosle, Sharla Gardner, Howie Hanson, Jennifer Julsrud, Linda Krug, Barb Russ, Joel Sipress and President Emily Larson

#### APPROVAL OF MINUTES

1. **15-046** May 11, 15 and 26, 2015.

Attachments: [May 11, 2015](#)

[May 15, 2015](#)

[May 26, 2015](#)

This Minutes was approved.

#### **PUBLIC HEARING - TIF Plan Amendment for TIF District No. 7 (Redevelopment District in West Duluth).**

Continuation of the public hearing on August 31, 2015

Linda Ross Sellner and Karen Lewis spoke of their concerns

#### **PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

2. **15-053** Communications regarding the proposed rezoning at 2421 London Road

(15-073-O).

**Attachments:** [Thomas Haas](#)  
[Ruth Kivisto](#)

This Petition/Other Communication was received.

3. **15-054** Communications regarding Pontliana Woods (15-0640R).

**Attachments:** [Steve Johnson and Carol Kondrath](#)  
[John Ramos](#)  
[Ellen Dunlap](#)

This Petition/Other Communication was received.

## REPORTS FROM THE ADMINISTRATION

4. **15-052** Mayor 2016 proposed levy and general fund budget.

**Attachments:** [Proposed 2016 Levy/Budget](#)

This Other Officers Report was received.

## REPORTS FROM OTHER OFFICERS

5. **15-050** Parks and recreation division manager notice of intent to designate new closing times for Endion Park and Gary New Duluth Recreation Area, pursuant to Section 35-9.3 of the Duluth City Code.

**Attachments:** [Notice](#)

This Other Officers Report was received.

## REPORTS OF BOARDS AND COMMISSIONS

6. **15-047** Duluth economic development authority minutes of July 22, 2015, meeting.

**Attachments:** [July 22, 2015](#)

This Board or Commission Report was received.

7. **15-048** Duluth parking commission minutes of January 9, February 6, April 10, May 1, June 12 and July 23, 2015.



**Attachments:** [January 9, 2015](#)  
[February 6, 2015](#)  
[April 10, 2015](#)  
[May 1, 2015](#)  
[June 12, 2015](#)  
[July 23, 2015](#)

This Board or Commission Report was received.

8.     **15-049**     Housing and redevelopment authority of Duluth minutes of June 30, 2015, meeting.

**Attachments:** [June 30, 2015](#)

This Board or Commission Report was received.

## REPORTS OF COUNCIL COMMITTEES

## REPORTS OF COUNCIL OPEN ISSUES

## OPPORTUNITY FOR CITIZENS TO BE HEARD

Karen Lewis spoke of her concern about the Minnesota slip bridge being inoperable and skateboarders and bicyclist not paying attention to pedestrians.

## RESOLUTIONS TABLED

### COMMITTEE 1

### BY COUNCILOR GARDNER (PERSONNEL)

9.     **15-0577R**     RESOLUTION CONFIRMING THE APPOINTMENT OF CRAIG CHILCOTE TO THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY, REPLACING DON MONACO.

### CITY PROPOSAL:

RESOLVED, that the appointment by Mayor Ness of Craig Chilcote to the Duluth economic development authority for a term expiring on May 26, 2021, replacing Don Monaco, is confirmed.

STATEMENT OF PURPOSE: This resolution confirms the mayor's appointment of Craig Chilcote to the Duluth economic development

authority, replacing Don Monaco, who declined reappointment. At large terms for this authority are six years long.

**Attachments:** [Application](#)

A motion was made to remove resolution 15-0577 from the table, which motion was seconded and unanimously carried.

**This Resolution was adopted unanimously.**

## COMMITTEE 2

### BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)

10.     **15-0575R**     RESOLUTION GRANTING AN INTERIM USE PERMIT FOR TWO VACATION DWELLING UNITS AT 718 NORTH 7TH AVENUE EAST (TERESA MCNELLY AND ROB MCCLEARY)

CITY PROPOSAL:

RESOLVED, that:

(a) The city council hereby grants Teresa McNelly and Rob McCleary an interim use permit to operate two vacation dwelling units located at 718 North Seventh Avenue East and as described by the following: PID 010-3940-1750; and

(b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and

(c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use at this location; and

(d) The interim use permit shall remain in effect for up to two years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and

(e) Pursuant to Section 50-20.3.U and Section 50-37.10.D of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly referred to the city planning commission (PL 15-1111); the commission gave due notice of public hearing and considered the application during a public hearing occurring on August 11, 2015; and

(f) The city planning commission, at their regular meeting on August 11, 2015, considered the application's consistency with the use specific

standards for vacation dwelling units and the criteria for granting interim use permits. Staff from the Planning Division had recommended approval subject to the conditions listed below.

FURTHER RESOLVED, that an interim use permit for the subject property, is approved subject to the following conditions:

(a) The interim use permit shall not be effective until the applicant has provided evidence that the required notice has been sent to property owners within 100 feet. The required notice shall note the name, address, and phone number of the managing agent or local contact who resides within 25 miles of the city and who has the authority to respond to complaints 24 hours a day;

(b) The interim use permit shall not be effective until the applicant has received all required licenses and permits for operation, including Minnesota department of revenue tax ID number, Minnesota department of health hotel/motel license, city of Duluth hotel/motel/B&B license, city of Duluth tourism tax permit, and city of Duluth fire department operational permit;

(c) Interim use permit holder must keep a guest record including the name, address, phone number, and vehicle license plat information for all guests;

(d) Interim use permit holder must disclose in writing to their guests the following: name and contact information for managing agent or local contact, maximum number of guests allowed at the property, maximum number of vehicles allowed at the property and where they are to be parked, applicable rules for the City Code governing noise, parks, parking and pets, and "quiet hours" between 10 pm and 8 am.;

(e) Interim use permit holder must post their permit number on all, print, poster, web, or other advertisements;

(f) The applicant shall adhere to the terms and conditions listed in the interim use permit document;

(g) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the land use supervisor without further planning commission; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

STATEMENT OF PURPOSE: This resolution grants to Teresa McNelly and Rob McCleary an interim use permit for two 2-bedroom vacation dwelling units at 718 North 7th Avenue West. The interim use permit remains in effect for six years, or until the property changes hands, whichever occurs first. This application was submitted prior to July 17, 2015, the effective date of the 1 year moratorium on Vacation Dwelling

Units per Ordinance 10390.

The applicant has submitted the required materials and agency approvals, including all the licenses in subsection b above. The applicant will be able to provide the required two off street parking spots in the existing parking lot behind the structure.

The standard length of an interim use permit for this type of use is six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first.

On August 11, 2015, the city planning commission held a public hearing on the proposal and heard testimony from citizens. The planning commission voted 3 yeas, 4 nays, and 0 abstentions, with 2 commissioners absent, to recommend that the city council approve the interim use permit with conditions; the motion to approve failed.

Request filed: July 16, 2015

Action deadline: November 14, 2015

**Attachments:** [Attachment 1](#)

[Attachment 2](#)

A motion was made to remove resolution 15-0575 from table, which motion was seconded and unanimously carried.

**This Resolution was adopted unanimously.**

## **MOTIONS AND RESOLUTIONS**

### **CONSENT AGENDA**

#### **COMMITTEE 1**

#### **BY COUNCILOR FILIPOVICH (FINANCE)**

11. **15-0619R** RESOLUTION AUTHORIZING EXECUTION OF NOTICE OF ACKNOWLEDGMENT OF ASSIGNMENT OF A MASTER LEASE/PURCHASE AGREEMENT DATED MARCH 28, 2008, FROM BANC OF AMERICA PUBLIC CAPITAL CORP TO KEY GOVERNMENT FINANCE, INC.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to execute a Notice of Acknowledgment of Assignment, substantially in the form attached as exhibit A, consenting to the assignment and transfer by Banc of America Public Capital Corp (“Banc of America”) to Key Government Finance, Inc., of the Master Lease/Purchase Agreement dated March 28, 2008, between Banc of America and the City of Duluth.

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize and acknowledge the sale, assignment and transfer by Banc of America to Key Government Finance, Inc., of its rights, titles, interests and obligations in connection with the master lease/purchase agreement for gas utility equipment (water meters, ERTs and related equipment) dated March 28, 2008, with the city of Duluth and to authorize city official to execute the Notice of Acknowledgment of Assignment provided for in the master lease/purchase agreement.

Attachments: [Attachment to 15-0619R - exhibit A](#)

This Resolution was adopted unanimously.

**BY COUNCILOR HANSON (PURCHASING & LICENSING)**

12.    **15-0596R**    RESOLUTION AUTHORIZING A CONTRACT WITH KRAUS-ANDERSON CONSTRUCTION COMPANY FOR THE GARY NEW DULUTH RECREATION CENTER PROJECT IN AN AMOUNT NOT TO EXCEED \$50,000.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to enter into a contract, in substantially the form included as Exhibit A, with Kraus-Anderson Construction Company in an amount not to exceed \$50,000 for construction management services related to the Gary New Duluth Recreation Center Project, payable from fund 452-030-5530 (Tourism & Recreational Projects Fund, Finance, Improvements Other than Buildings.)

STATEMENT OF PURPOSE: This resolution authorizes a contract with

Kraus-Anderson Construction Company (KA) in an amount not to exceed \$50,000 for construction management services for the Gary New Duluth Recreation Center project.

KA will manage construction of the project, which was awarded to Veit & Company (15-0593R). The total cost includes estimated personnel costs not to exceed \$20,440, project reimbursable expenses not to exceed \$16,945, an insurance fee of \$280, and KA's fee of \$12,335 based on 2.5% of the total project cost.

The project to be managed includes the installation of storm water pipe & drain tile, site grading, and the creation of two soccer fields as approved in the Gary New Duluth Recreation Center mini-master plan. KA's proposal for construction management services is included as part of Exhibit A.

**Attachments:** [Exhibit A](#)

**This Resolution was adopted unanimously.**

- 13. 15-0609R** RESOLUTION AWARDING A CONTRACT TO KRAUS-ANDERSON CONSTRUCTION COMPANY FOR THE CITY CENTER WEST RESTROOM RENOVATION IN THE AMOUNT OF \$111,700.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to contract with Kraus-Anderson Construction Company for the city center west restroom renovation, in accordance with plans and specifications provided by TKDA, dated July 31, 2015, and the contractor's low bid of \$111,700, payable from Capital Improvements 450; Finance 030; Buildings & Structures 5520; Project: CP2015-1503b - 2015 Capital Projects, CCW police/library upgrades.

**STATEMENT OF PURPOSE:** This resolution authorizes a contract with Kraus-Anderson Construction Company for the city center west restroom renovation for a total of \$111,700. City Center West ADA Toilet Rooms Remodel project will bring the facilities into ADA compliance and improve accessibility for all users. These toilet rooms are used by the Senior Center, the West Branch Library and the general public.

The purchasing division posted the invitation to bid August 7, 2015, on the city's website and received two bids by the closing date. City professional staff reviewed and verified each bid and determined that Kraus-Anderson had the lowest, complete bid.

BID TABULATION Bid No. 15-0367 Bid Opening September 1, 2015  
Vendor Total Bid  
Max Gray Construction \$113,600  
Kraus-Anderson Construction \$111,700

**This Resolution was adopted unanimously.**

- 14. 15-0616R** RESOLUTION APPROVING THE EXEMPTION OF A RAFFLE LICENSE AND WAIVING THE 60 DAY WAITING PERIOD FOR MARCH OF DIMES FOUNDATION - MINNESOTA CHAPTER, ST. LOUIS RIVER CITIZENS ACTION COMMITTEE, AND THE REGENTS OF THE UNIVERSITY OF MINNESOTA.

**CITY PROPOSAL:**

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to the March of Dimes Foundation - Minnesota Chapter, St. Louis River Citizens Action Committee, and the Regents of the University of Minnesota and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a copy of this resolution to the Minnesota gambling control board immediately after its passage.

STATEMENT OF PURPOSE: The state requires a 60 day waiting period for all raffle licenses to allow the city to review the application. The police department and alcohol, gambling and tobacco commission have approved the applications, and this resolution will waive the 60 day waiting period for the March of Dimes Foundation - Minnesota Chapter, St. Louis River Citizens Action Committee and the Regents of the University of Minnesota

**This Resolution was adopted.**

- 15. 15-0617R** RESOLUTION ISSUING AN OFF SALE 3.2 PERCENT MALT LIQUOR LICENSE TO KWIK TRIP, INC. (KWIK TRIP #273), 6516 GRAND AVENUE AND KWIK TRIP, INC. (KWIK TRIP #274), 6 WEST CENTRAL ENTRANCE.

## CITY PROPOSAL:

Be it resolved, that the city council of the city of Duluth hereby issues the following off sale 3.2 percent malt liquor licenses for the period ending April 30, 2016, subject to departmental approvals and the payment of sales and property taxes;

Kwik Trip, Inc. (Kwik Trip #273), 6516 Grand Avenue

Kwik Trip, Inc. (Kwik Trip #274), 6 West Central Entrance

STATEMENT OF PURPOSE: The applications of Kwik Trip, Inc. for off sale 3.2 % beer licenses for two new locations were reviewed by the Alcohol, Gambling and Tobacco Commission at their September 2nd meeting and were unanimously approved.

**This Resolution was adopted unanimously.**

- 16. 15-0618R** RESOLUTION ISSUING A 3.2 PERCENT MALT LIQUOR LICENSE AND APPROVING ISSUANCE OF AN ON SALE WINE LICENSE TO TOASTY'S SANDWICH SHOP, LLC (TOASTY'S SANDWICH SHOP), 220 WEST SUPERIOR STREET.

## CITY PROPOSAL:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale 3.2 percent malt liquor license for the period ending April 30, 2016, and approves issuance of the following on sale wine license for the period ending August 31, 2016, subject to departmental approvals, the payment of sales and property taxes, and further subject to approval of the Liquor Control Commissioner;

Toasty's Sandwich Shop, LLC (Toasty's Sandwich Shop), 220 West Superior Street, with Thomas Hagen, 100 percent owner.

STATEMENT OF PURPOSE: The applications of Toasty's Sandwich Shop for a 3.2% beer license and wine license were reviewed by the Alcohol, Gambling and Tobacco Commission at their meeting on September 2nd and were unanimously approved.



This Resolution was adopted unanimously.

**BY COUNCILOR GARDNER (PERSONNEL)**

17.     **15-0598R**     RESOLUTION APPROVING PROPOSED SPECIFICATIONS FOR THE NEW CIVIL SERVICE CLASSIFICATION OF TECHNICAL SERVICES COORDINATOR, AND SPECIFYING CONTRACT BENEFITS FOR SAME.

CITY PROPOSAL:

RESOLVED, that the proposed specifications for the new civil service classification of technical services coordinator, which were approved by the civil service board on August 4, 2015, are approved; that said classification shall be subject to the city's collective bargaining agreement with its fire unit employees; and that pay range for said classification shall be Range 231, \$5,860 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

STATEMENT OF PURPOSE: This new classification has been created as a result of funding received by the Duluth fire department to significantly enhance hazardous materials response capabilities. The technical services coordinator will assist with the development, implementation, coordination, and evaluation of the fire department hazardous materials assessment/response team, and to assist with the coordination of the city's emergency and contingency planning efforts. The pay range negotiated for the classification is Range 231, \$5,860 per month.

Attachments: [Technical Services Coordinator Job Description.pdf](#)

This Resolution was adopted unanimously.

18.     **15-0599R**     RESOLUTION APPROVING PROPOSED SPECIFICATIONS FOR THE NEW CIVIL SERVICE CLASSIFICATION OF MANAGER, PLANNING & COMMUNITY DEVELOPMENT, AND SPECIFYING CONTRACT BENEFITS FOR SAME.

CITY PROPOSAL:

RESOLVED, that the proposed specifications for the new civil service classification of manager, planning & community development, which were

approved by the civil service board on July 17, 2015, are approved; that said classification shall be subject to the city's collective bargaining agreement with its supervisory unit employees; and that range for said classification shall be Pay Range 1090-1115, \$5,367 to \$7,320 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

STATEMENT OF PURPOSE: This new classification has been created as a result of organizational restructuring within the planning & construction services department, combining the physical planning and community development divisions. The manager, planning & community development will plan, direct, supervise, and evaluate the operations and staff of the planning & community development division, and supervise complex reviews to ensure development projects are in conformance with comprehensive plan and federal and state grant program guidelines. The range negotiated for the classification is Pay Range 1090-1115, \$5,367 to \$7,320 per month.

**Attachments:** [Manager, Planning & Community Development Job Description.pdf](#)

**This Resolution was adopted unanimously.**

19.     **15-0637R**     RESOLUTION CONFIRMING THE APPOINTMENT OF MEGAN HASERODT TO THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY, REPLACING JOHN HEINO.

CITY PROPOSAL:

RESOLVED, that the appointment by Mayor Ness of Megan Haserodt to the Duluth economic development authority for a term expiring on May 26, 2021, replacing John Heino, is confirmed.

STATEMENT OF PURPOSE: This resolution confirms the mayor's appointment of Megan Haserodt to the Duluth economic development authority, replacing John Heino, who declined reappointment. At large terms for this authority are six years long.

**Attachments:** [Application](#)

**This Resolution was adopted unanimously.**

## COMMITTEE 2

**BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)**

20.     **15-0595R**     RESOLUTION ACCEPTING A CERTIFIED LOCAL GOVERNMENT GRANT OF \$551 FROM THE MINNESOTA STATE HISTORICAL SOCIETY AND A LOCAL MATCH OF \$521 WORTH OF IN-KIND SERVICES FROM THE HERITAGE PRESERVATION COMMISSION (HPC) FOR HPC MEMBER TO ATTEND THE 2015 ANNUAL STATEWIDE HISTORIC PRESERVATION CONFERENCE

CITY PROPOSAL:  
BY COUNCILOR RUSS:

RESOLVED, that the proper city officials are hereby authorized to execute and implement a grant agreement, between the city and Minnesota Historical Society (MHS) in the amount of \$551 for the purpose of reimbursing the city for the costs incurred by one member of the Duluth Heritage Preservation Commission (HPC) to attend the Annual Statewide Historic Preservation conference.

BE IT FURTHER RESOLVED that the proper city officials are authorized to act as legal sponsor of said grant, to execute any documents required to be executed to accept such grant. The grant will be accounted for in Fund 110-132-1301-4210-02 (General Fund, Planning & Construction Services, Planning and Development, Pass-thru Federal Grants).

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize the city to accept a \$551 certified local government (CLG) grant from the Minnesota State Historical Society (MNHS). These funds will be matched by \$521 of in-kind match from the Duluth Heritage Preservation Commission (HPC) to fund the city's 50 percent match. The purpose of the grant is to reimburse one HPC member for costs incurred to attend the 2015 Annual Statewide Historic Preservation conference.

**This Resolution was adopted unanimously.**

21.     **15-0608R**     RESOLUTION AUTHORIZING AN AGREEMENT FOR PROFESSIONAL SERVICES WITH BARR ENGINEERING COMPANY RELATED TO THE ENVIRONMENTAL SITE INVESTIGATION OF AND CLEANUP PLANNING FOR THE GARFIELD AND ELM SITE IN AN AMOUNT NOT

TO EXCEED \$21,500.

CITY PROPOSAL:

RESOLVED, that the proper city officials are authorized to enter into an agreement, substantially in the form of that attached, with Barr Engineering Company, for professional services related to environmental site investigation of and cleanup planning for property located on Rice's Point located at the intersection of Garfield Avenue and Elm Street, in an amount not to exceed \$21,500, payable from Fund 255-020-5319 (economic development, planning, other professional services).

STATEMENT OF PURPOSE: This resolution authorizes Barr Engineering Company (Barr) to provide professional environmental services to the city for work associated with the Garfield Avenue and Elm Street property located on Rice's Point and owned by the Duluth Seaway Port Authority. This 5.6-acre property is located on Rice's Point located at the intersection of Garfield Avenue and the former Lynne Avenue. The Site has been developed and used since at least 1908. The northern portion of the property was historically the southern end of a large railyard and contained railroad track and rail sidings; the track was removed by the early 1970s. The southwestern portion of the property was historically used for residential and commercial/industrial activities (lumber yard, railway and storage) in support of lumber and grain processing and shipping. All buildings in this area were removed when the adjacent Blatnik Bridge was constructed in 1960/61. The property is currently vacant and zoned as heavy manufacturing/industrial.

Redevelopment of the property is hindered by the presence of contamination. The investigation and cleanup planning paid for under this contract will move the property toward reuse. The city Public Works Department is interested in leasing the northern portion of the property (0.5 acres) for storage after environmental issues are resolved.

The Duluth Seaway Port Authority owns the property and is also contributing \$21,500 toward the investigation and cleanup planning for the site.

This contract with Barr will provide the city's commitment of \$21,500 of its EPA Brownfield assessment grant funds to the project; the grant will 100% reimburse the city for this work. Barr is one of three firms short-listed to perform work for the city under that EPA grant.

**Attachments:** [Agreement](#)

This Resolution was adopted unanimously.

- 22. 15-0626R** RESOLUTION APPROVING SETTLEMENT IN THE MATTER OF DULUTH ECONOMIC DEVELOPMENT AUTHORITY V. JOHN E. HOVLAND, ET. AL. AND ACCEPTING AT NO COST TO THE CITY FEE CONVEYANCE OF LAND FROM THOMAS J. BERGUM AND LADONNA E. BERGUM.

CITY PROPOSAL:

RESOLVED, that the city council approves settlement of all claims or causes of actions in the matter venued in the District Court of Minnesota, Sixth Judicial District and identified as Duluth Economic Development Authority v John E. Hovland, et.al., File No. 69DU-CV-14-2789, pursuant to the terms and conditions of the mediated settlement agreement in the form of that attached hereto as Exhibit A.

FURTHER RESOLVED, that the city of Duluth hereby accepts the conveyance of the property described below in trust for the general public for park purposes, and pursuant to the deed from Thomas J. Bergum and LaDonna E. Bergum, substantially in the form of that attached hereto as Exhibit B and at no cost to the city:

The south 150.00 feet of the Northwest One-quarter of the Northwest One-quarter (NW 1/4 of NW 1/4) of Section Nine (9), Township Fifty (50) North, Range Fourteen (14) West of the Fourth Principal Meridian, City of Duluth, St. Louis County, Minnesota.

FURTHER RESOLVED, that the proper city officials shall take all actions necessary to conclude this matter on a full, final, and complete basis.

STATEMENT OF PURPOSE: This resolution authorizes city officials to implement the mediated settlement agreement in Duluth Economic Development Authority v. John E. Hovland, et.al., Court File No. 69DU-CV-14-2789. City approval is needed because the settlement agreement provides for Defendants Thomas and LaDonna Bergum to convey to the city a portion of a larger 40 acre parcel, and for the city to agree to maintain the conveyed parcel in trust to the general public as

public park land. The case arises out of an earlier land sale agreement between DEDA and John E. Hovland, and the failure of John E. Hovland to fulfill the obligations of that land sale agreement. DEDA previously approved the settlement at its August 26, 2015 meeting. The city attorney recommends this settlement.

**Attachments:** [Exhibit A-Mediated Statement](#)  
[Exhibit B-Quit Claim Deed](#)

This Resolution was adopted unanimously.

## **BY COUNCILOR KRUG (INTERGOVERNMENTAL RELATIONS)**

- 23. 15-0621R** RESOLUTION OF INTENT TO TRANSFER EASEMENT TO THE STATE OF MINNESOTA FOR PROPERTY ADJOINING RIDGEVIEW ROAD.

### **CITY PROPOSAL:**

WHEREAS, the state of Minnesota department of military affairs is the owner of certain property adjacent to property owned by the city of Duluth (City), as more particularly described in the easement agreement attached as Exhibit A; and

WHEREAS, the state of Minnesota has extended gravel, pavement, landscaping, and fencing encroaching onto the City-owned property, and wishes to make further improvements to and acquire an easement from the City to the property in order to have a second access point to the Air National Guard Base from Ridgeview Road; and

WHEREAS, the estimated market value of the property to be subject to the easement is \$46,300; and

WHEREAS, the city's planning agency has reviewed the conveyance for conformity with the city's comprehensive plan and reported its findings that the conveyance is in conformity with the comprehensive plan, as shown by the attached Exhibit B; and

WHEREAS, the needs of the State of Minnesota in having a secondary access point to the Air National Guard Base are greater in importance than the need of the City to retain said property, and the City wishes to provide the easement to the state of Minnesota for nominal consideration of \$1.00;

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth intends to convey to the state of Minnesota an easement to City-owned property as described in the attached Exhibit A and according to the terms thereof.

**STATEMENT OF PURPOSE:** This resolution expresses the City's intent to convey an easement in City-owned property to the state of Minnesota for a secondary access to the Air National Guard Base from Ridgeview Road, as required by City Code. The conveyance itself will be accomplished by ordinance.

**Attachments:** [Attachment to 15-0621R - Exhibit A](#)  
[Attachment to 15-0621R - Exhibit B](#)

This Resolution was adopted unanimously.

### COMMITTEE 3

#### BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)

24. 15-0552R RESOLUTION AWARDING AN AGREEMENT TO DNV GL NOBLE DENTON, INC., TO CONDUCT A WATER SYSTEM MODEL FOR THE CITY OF DULUTH WATERMAIN DISTRIBUTION SYSTEM FOR AN AMOUNT NOT TO EXCEED \$78,000.

#### CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with DNV GL Noble Denton, Inc., substantially in the form of that attached as Exhibit A, to conduct a water system model for the city of Duluth watermain distribution system for an amount not to exceed \$78,000, payable from Water Fund 510, Public Works and Utilities 500, Engineering 1930, Utility Engineering 2330, Engineering Services 5303.

STATEMENT OF PURPOSE: This resolution authorizes an agreement with DNV GL Noble Denton, Inc., to conduct a water system model for the city's watermain distribution system for an amount not to exceed \$78,000. The project proposal is attached as Exhibit B.

DNV GL Noble Denton, Inc., provided the modeling software for the natural gas system. Use of their product will allow staff to operate in a similar computer environment and eliminate additional training. Modeling of the city's watermain distribution system is required due to the amount of watermain breaks and leaks that have occurred and repairs that have been performed since the last model was created. Additionally this model would be fully integrated with the Arc-GIS program the Public Works and Engineering Departments currently use.

Requisition No. 15-0528

**Attachments:** [Exhibit A](#)  
[Exhibit B](#)

This Resolution was adopted unanimously.

25.    **15-0556R**    RESOLUTION AUTHORIZING THE RELEASE OF A FINAL CERTIFICATE OF CONDEMNATION AFFECTING TITLE TO THE CENTRAL HIGH SCHOOL PROPERTY LOCATED ON CENTRAL ENTRANCE CURRENTLY OWNED BY I.S.D. 709.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to execute a release of final certificate, substantially in the form of the attachment hereto, releasing certain property from the final certificate running in favor of the city of Duluth dated October 19, 1925, and registered on December 24, 1925, as Document No. 78907, in the office of the Registrar of Titles of St. Louis County, Minnesota.

STATEMENT OF PURPOSE: The purpose of this resolution is to release certain property owned by I.S.D. 709, commonly known as the Central High School property, from a final certificate of condemnation, the contents of which are unknown and missing from the public record, in order to make the title marketable. The current uses of the property by the city of Duluth appear to be evidenced by other documents in the public record.

Attachments:    [Attachment to 15-0556R](#)

**This Resolution was adopted unanimously.**

26.    **15-0597R**    RESOLUTION AUTHORIZING ACCEPTANCE OF A GRANT IN THE AMOUNT OF \$12,000 FROM THE STATEWIDE EMERGENCY COMMUNICATIONS BOARD (SECB) ON RECOMMENDATION OF THE NORTHEAST RADIO ADVISORY COMMITTEE (NE RAC) FOR THE PURCHASE OF TWELVE ARMER RADIOS FOR CITY OF DULUTH PUBLIC WORKS AND UTILITIES.

CITY PROPOSAL:

RESOLVED, that the proper city officials are authorized to accept a grant from the Statewide Emergency Communications Board, in the amount of \$12,000, said funds to be deposited in fund 520-500-1900-4220-02 (State of Minnesota Operating) and committing \$12,000 as the city's local share cost, to be paid from the city's funds 520-500-1945-5241 (Natural Gas



Fund-Public Works and Utilities-Utility Operations-Small Equipment fund).

STATEMENT OF PURPOSE: This resolution authorizes acceptance of a grant in the amount of \$12,000 from Statewide Emergency Communications Board (SECB) on recommendation of the Northeast Minnesota Radio Advisory Committee (NE RAC). Attached is the Statewide Emergency Communications Board (SECB) grant recommendations. The city's local share of the purchase will be \$12,000.

**Attachments:** [2014 SECB Grant Recommendations for NE](#)

**This Resolution was adopted unanimously.**

- 27. 15-0607R** RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN THE CITY OF DULUTH AND THE MINNESOTA DEPARTMENT OF TRANSPORTATION FOR LIGHTING MAINTENANCE ON BRIDGE 6313 ON TRUNK HIGHWAY 23 WITHIN THE CORPORATE CITY LIMITS UNDER STATE PROJECT NO. 6910-98.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of the attached document, between the city of Duluth and the Minnesota Department of Transportation to provide for maintenance by the city of the state's Bridge No. 6313 lighting system, with construction to be performed upon, along and adjacent to Trunk Highway 23 from 0.3 miles south of Trunk Highway 210 to 0.1 miles south of Trunk Highway 210 under State Project 6910-98 (T.H. 23=185).

STATEMENT OF PURPOSE: The city of Duluth has historically maintained the lighting on the state's Bridge 6313. Because the lighting is being replaced as part of State Project 6910-98, a new agreement is needed for the city to continue to provide operation, maintenance and electrical energy.

**Attachments:** [15-0607 Agreement](#)

[15-0607 Map](#)

This Resolution was adopted unanimously.

28. 15-0615R RESOLUTION AWARDDING A CONTRACT TO LAMETTI & SONS, INC. FOR WOODLAND AVENUE STORM SEWER CIPP LINING IN THE AMOUNT OF \$256,351.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Lametti & Sons, Inc. for Woodland Avenue Storm Sewer CIPP Lining in the amount of \$256,351, payable out of Stormwater Fund 535, Department/Agency 500 (Public Works & Utilities), Division 1905 (Capital), city project no. 1477.

STATEMENT OF PURPOSE: This resolution authorizes CIPP lining of storm sewers in upper Woodland Avenue by Lametti & Sons, Inc. in the amount of \$256,351. Lametti & Sons, Inc. was the lowest responsible bidder of the three companies that responded. The engineer's estimate was \$300,000. Payable out of Stormwater Fund 535, Department/Agency 500 (Public Works & Utilities), Division 1905 (Capital), city project no. 1477, requisition no. 15-0515.

**TABULATION OF BIDS RECEIVED SEPTEMBER 2, 2015**

Lametti & Sons, Inc.	Hugo, MN	\$256,351.00
Veit & Company, Inc.	Rogers, MN	\$264,795.00
McCann's Underground	Oregon, WI	\$282,325.00

**Attachments:** [15-0615R Map](#)

This Resolution was adopted unanimously.

**BY COUNCILOR FOSLE (PUBLIC SAFETY)**

29. 15-0567R RESOLUTION AUTHORIZING ACCEPTANCE OF A GRANT FROM THE MINNESOTA BOARD OF FIREFIGHTER TRAINING AND EDUCATION IN THE AMOUNT OF \$10,538.76 FOR THE PURPOSE OF SUPPORTING FIRE DEPARTMENT PERSONNEL TRAINING AND ESTABLISHING A DEDICATED ACCOUNT FOR THE GRANT.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are authorized to accept a grant from the Minnesota board of firefighter training and education in the amount of \$10,538.76, said funds to be deposited in Fund 210, Agency 030, Organization 3178, Revenue Source 4220-02 (Special Projects, Finance, Fire Training Fund, State of Minnesota), and committed for the purpose of supporting the Duluth fire department personnel training.

STATEMENT OF PURPOSE: This resolution authorizes the acceptance of a grant in the amount of \$10,538.76 from the Minnesota board of firefighter training and education for the purpose of supporting the Duluth fire department training and establishes a dedicated funding account for the grants as required by GASB Accounting Standard 54.

Attachments: [MBFTE Grant Award 8-12-15](#)

**This Resolution was adopted unanimously.**

- 30. 15-0569R** RESOLUTION AUTHORIZING ACCEPTANCE OF GRANT FROM MINNESOTA DEPARTMENT OF PUBLIC SAFETY HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION IN THE AMOUNT OF \$20,000 FOR THE PURPOSE OF MAINTAINING LOCAL EMERGENCY MANAGEMENT PROGRAM.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are authorized to accept an emergency management performance grant agreement for Grant No. A-EMPG-2015-DULUTHCI-00022, from the Minnesota department of public safety, homeland security and emergency management division, in the amount of \$20,000, said funds to be deposited in Fund No. 210-030-3164-4210-02 (Special Projects Fund, Finance Department, Homeland Security, Pass-thru Federal Grants Operating), for the purpose of assisting and supporting the city in maintaining adequate local emergency management programs, with matching funds in the amount of \$20,000 to be provided from Fund No. 110-150-1501-5440 (General Fund, Fire, Administration).

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize accepting a grant in the amount of \$20,000 from the state department of public safety, division of homeland security and emergency management to be used to assist and support the city in maintaining adequate local emergency management programs. This grant requires an equal local matching amount which will be provided from the Department's existing budget.

**Attachments:** [Grant A-EMPG-2015-DULUTCI-00022](#)

This Resolution was adopted unanimously.

**BY COUNCILOR SIPRESS (RECREATION, LIBRARIES & AUTHORITIES)**

31.     **15-0630R**     RESOLUTION AUTHORIZING THE CITY TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH HOISINGTON KOEGLER GROUP, INC., FOR THE DEVELOPMENT OF A ST. LOUIS RIVER ESTUARY NATIONAL WATER TRAIL MASTER PLAN AND NATIONAL PARKS SERVICE APPLICATION FOR AN AMOUNT NOT TO EXCEED \$55,820.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into a professional services agreement with Hoisington Koegler Group, Inc., for the development of a St. Louis River Estuary National Water Trail master plan and subsequent application to the national parks service for a national water trail designation for an amount not to exceed \$55,820, payable from Fund 452-030-5530 (tourism and recreational projects, finance, improvements other than buildings), Project HANDHTAX-1516.

STATEMENT OF PURPOSE: This resolution authorizes a consultant agreement with Hoisington Koegler Group Inc., substantially in the form of that attached as Exhibit A, for an amount not to exceed \$55,820. The main objective of the master planning effort is to engage agency partners and the public in both Minnesota and Wisconsin to develop a St. Louis River Estuary National Water Trail master plan that will create a nationally significant paddling experience and earn formal designation from the national parks service as a national water trail. The project proposal is attached as Exhibit B.

**Attachments:** [Exhibit A-HKGi Consultant-PSA Agreement.pdf](#)  
[EXHIBIT B - St. Louis River Estuary Master Plan + NPS Application Proposal.pdf](#)

This Resolution was adopted unanimously.

32.     **15-0634R**     RESOLUTION AUTHORIZING SHARED USE PERMIT AGREEMENT WITH PIEDMONT HEIGHTS HOCKEY ASSOCIATION, INC., A MINNESOTA NON-PROFIT CORPORATION, GLEN AVON HOCKEY CLUB, A MINNESOTA NON-PROFIT CORPORATION, AND

BENTLEYVILLE TOUR OF LIGHTS, INC., A MINNESOTA NON-PROFIT CORPORATION, FOR THE PRODUCTION, PROMOTION, AND MANAGEMENT OF THE HOCKEY DAY MINNESOTA EVENT TO BE HELD AT BAYFRONT FESTIVAL PARK JANUARY 25, 2016 THROUGH FEBRUARY 6, 2016.

CITY PROPOSAL:

RESOLVED, that the proper city officials are authorized to execute an agreement, substantially in the form as the agreement attached as Exhibit A, between the city of Duluth, Piedmont Heights Hockey Association, Inc., a Minnesota non-profit corporation, Glen Avon Hockey Club, a Minnesota non-profit corporation, and Bentleyville Tour of Lights, Inc., a Minnesota non-profit corporation, providing a permit to Piedmont Heights and Glen Avon Hockey Clubs for the shared use of the Bayfront Festival Park for the purpose of conducting the Hockey Day Minnesota 2016 event from January 25, 2016 through February 6, 2016. Fees to be deposited into the city's Fund 0237, Agency 015, Revenue Source 4623 (Bayfront Festival Park fund, public administration department, rent of land).

STATEMENT OF PURPOSE: This resolution authorizes a permit agreement that provides for the production and management of the Hockey Day Minnesota 2016 event at Duluth's Bayfront Festival Park from January 25, 2016 through February 6, 2016. The hockey clubs will be responsible for the full cost of constructing all of the event amenities, conducting the event, and restoring the venue to its original condition. The hockey clubs will not be required to pay a permit fee for the use of Bayfront Festival Park.

**Attachments:** [2015-2016 Hockey Day Agreement](#)

This Resolution was adopted unanimously.

**END OF CONSENT AGENDA**

**The following entitled resolutions were also considered:**

**COMMITTEE 2**

**BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)**

33. 15-0629R RESOLUTION ADOPTING AN AMENDMENT TO THE TAX INCREMENT FINANCING PLAN FOR TAX INCREMENT FINANCING DISTRICT NO. 7 (COUNTY NO. 32).

CITY PROPOSAL:

BE IT RESOLVED by the city council ("council") of the city of Duluth, Minnesota ("city"), as follows:

Section 1. Recitals

1.01. The board of commissioners ("board") of the Duluth Economic Development Authority ("DEDA") has heretofore established a housing development project/municipal development district ("District 1") and adopted a development program therefor. Tax increment financing district No. 7 (the "TIF district") was created within the physical boundary of District 1, and District 1 was the designated "project" for the TIF District within the meaning of Minnesota Statutes, Section 469.174, Subd 8. It has been proposed by DEDA that the city adopt an amendment to the tax increment financing plan (the "TIF plan") for the TIF district which is referred to herein as the "amendment", pursuant to and in conformity with applicable law, including Minnesota Statutes, Sections 469.090 to 469.1082 and Sections 469.174 to 469.1799, all inclusive, as amended, (the "act") all as reflected in the amendment, and presented for the council's consideration.

1.02. DEDA and city have investigated the facts relating to the amendment and have caused the amendment to be prepared.

1.03. DEDA and city have performed all actions required by law to be performed prior to the adoption and approval of the amendment, including, but not limited to, notification of St. Louis County and Independent School District No. 709 having taxing jurisdiction over the property in the TIF district, notification of each county commissioner who represents part of the area included in the TIF district, approval of the amendment by DEDA on July 22, 2015, and the holding of a public hearing upon published notice as required by law.

Section 2. Findings for the amendment to the TIF plan.

2.01 The council hereby reaffirms the original findings for the TIF district, namely that when it was established, it was established as a "redevelopment district."

2.02 The TIF district is being amended to designate Development District No. 17, an economic development project area ("District 17"), as well as District 1 in which the original TIF District was created as the "project" for the TIF District within the meaning of Minnesota Statutes, Section 469.174, Subd. 8, and to incorporate by reference the objectives set forth in the Development Program for District 17. The TIF District is located within the existing physical boundaries of both District 17 and

District 1. DEDA is not modifying the boundaries of the TIF District or extending the term of the TIF District.

2.03 The amendment conforms to the general plan for development or redevelopment of the city as a whole. The fact supporting this finding is that the amendment will generally complement and serve to implement policies adopted in the city's comprehensive plan.

2.04 The amendment will afford maximum opportunity, consistent with the sound needs of the city as a whole, for the development or redevelopment of the project area by private enterprise. The facts supporting this finding are that the amendment will continue the redevelopment that has been stimulated under the TIF plan for the TIF district.

2.05 The council further finds that future development or redevelopment, in the opinion of the city, would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future and therefore the use of tax increment financing is deemed necessary.

2.06 Based on information available from property owners in District 17, DEDA has determined that further development cannot occur without additional investment in infrastructure with respect to those properties, and therefore the increased market value of the sites to be benefited by tax increment financing that could reasonably be expected to occur without the use of tax increment financing would be less than the increase in the market value estimated to result from the proposed developments after subtracting the present value of the projected tax increments for the remaining duration of the TIF District.

### Section 3. Public purpose.

3.01. The adoption of the amendment conforms in all respects to the requirements of the act and will help fulfill a need to redevelop an area of the state which is already built up, to provide employment opportunities, to provide housing and economic development opportunities, to improve the tax base and to improve the general economy of the state and thereby serves a public purpose.

### Section 4. Approval and adoption of the modifications.

4.01. The amendment, as presented to the council on this date, is hereby approved, ratified, adopted and shall be placed on file in the office of the executive director of DEDA ("director"), 402 city hall, 411 west first street, Duluth, MN 55802.

4.02. The staff, the city's advisors and legal counsel are authorized and directed to proceed with the implementation of the amendment and for this purpose to negotiate, draft, prepare and present to this council for its consideration all further amendments, resolutions, documents and contracts necessary for this purpose. Approval of the amendment does not constitute approval of any project or a development agreement with any developer.

4.03. The director is authorized and directed to forward a copy of the

amendment to the commissioner of the Minnesota department of revenue and the office of the state auditor pursuant to M.S., Section 469.175, Subd. 4a.

4.04. The director is further authorized and directed to file a copy of the amendment with St. Louis county auditor.

STATEMENT OF PURPOSE: TIF District 7 was created as a scattered site redevelopment district for the purpose of removing blight and redeveloping housing; the district is known as the West Duluth Housing District. The TIF District was established in the housing project area (District 1) which encompasses the entire city. The current activities for which TIF District 7 monies can be spent are primarily housing.

Project Area No. 17 (District 17) is an economic development project area and is shown on the attached map. TIF District 7 is located within the physical boundaries of both District 1 and District 17. The purpose of this amendment is to designate District 17 as well as District 1 (in which the original TIF District was created) as the "project" for TIF District 7. This amendment will allow TIF District 7 monies to be used for economic development activities as well as housing purposes, giving DEDA greater flexibility in the use of TIF District 7 monies.

**Attachments:** [Attachment to 15-0629R- Map of Development District 17](#)

**A motion was made that this Resolution be adopted. The motion carried unanimously.**

## COMMITTEE 3

### BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)

34.     **15-0606R**     RESOLUTION AUTHORIZING AMENDMENT #3 TO RESOLUTION 09-0502 AUTHORIZING A CONTRACT WITH SEH, INC. TO PROVIDE PROFESSIONAL ENGINEERING SERVICES FOR THE MUNGER TRAIL EXTENSION, TO INCREASE THE AMOUNT BY \$233,000 FOR A NEW TOTAL OF \$939,000.

#### CITY PROPOSAL:

RESOLVED, that contract 21000 with SEH, Inc. for professional engineering services for the Munger Trail Extension from the Lake Superior Zoo to Spirit Mountain and connection to the Munger Trail be amended



(third amendment) to increase the amount by \$233,000 for a new total of \$939,000, payable from Capital Improvement Fund 450, Department/Agency 030 (Finance), Object 5530 (Improvements Other Than Buildings), city project no. 0568TR, capital project no. CP2009-0568TR, S.P. 118-090-014 and Minnesota project no. HPPH H146(001).

STATEMENT OF PURPOSE: This resolution will authorize Amendment 3 to contract 21000 with SEH, Inc. for professional engineering services related to the Munger Trail Extension from the Lake Superior Zoo to Spirit Mountain and connection to the Munger Trail. Construction is scheduled for 2015 - 2017. Engineering is funded by Federal High Priority Funds of \$564,800 and capital funds of \$374,200. The original contract included planning, feasibility study, alternative routes, selecting alignments, final design and permitting of Phase I (Lakewalk to Carlton Street) of the trail. The second amendment covered fees incurred to make the upper route plan and specification submittal deadlines for the phase from Greene Street to the Lake Superior Zoo, as well as public involvement, alternate analysis, cost estimates, field reviews and a project memorandum for the remainder of the proposed upper route of the Cross City Trail. This third amendment will cover from the Lake Superior Zoo to Spirit Mountain and connection to the Munger Trail. This amendment will include project management and meetings, bridge and geotechnical design, some right-of-way work, environmental work (wetlands), survey, as well as final plans and specifications.

**Attachments:** [15-0606 Attachment 1](#)  
[15-0606 Attachment 2](#)  
[15-0606 Attachment 3](#)  
[15-0606 Map](#)

A motion was made, seconded and unanimously carried to suspend the rules to hear a speaker on the resolution.

Mike Casey expressed support for the resolution and public participation.

**This Resolution was adopted unanimously.**

## COMMITTEE 1

### BY COUNCILOR GARDNER (PERSONNEL)

35.     **15-0635R**     RESOLUTION DESIGNATING A HISTORIC ARTS AND THEATER DISTRICT IN DOWNTOWN DULUTH.

BY COUNCILOR GARDNER:

WHEREAS, the area depicted on Exhibit A, attached hereto, has become the hub of Duluth's thriving arts and entertainment scene; and  
WHEREAS, this area is increasingly known as Duluth's Historic Arts and Theater District ("District"); and

WHEREAS, the District has maintained much of its historical feel and character from the District's period of significance (1872 to 1929) and includes fine examples of Romanesque, classical revival and vernacular architectural styles; and

WHEREAS, efforts continue to embrace the District's rich history by giving historical building new lives by careful renovation and creating fine eateries, shops and theatres -- such as the Fitger's Complex, Tycoons, Coney Island, Fannie Rose building, NorShore Theater, Temple Opera, Technology Village, Wieland Block, Greysolon Plaza, Electric Fetus, Zinema, Duluth Trading Company, Carmody, Sheraton, Pickwick, and many more -- making the District a year round destination for tourists, shoppers, artists and locals; and

WHEREAS, the Duluth city council seeks to leverage the District's arts and theater assets to promote the area as a destination and encourage further development of the creative, business friendly scene by creating a unique identity and sense of place.

THEREFORE, BE IT RESOLVED, that the Duluth city council hereby designates the District as the Duluth Historic Arts and Theater District; and

BE IT FURTHER RESOLVED, that the council request that city administration use \$10,000 from the parking fund, and/or other appropriate funds, to help defray cost of the Greater Downtown Council's work to administer and sign the District to help establish its unique brand; and

BE IT FURTHER RESOLVED, that the city administration considers re-naming the East Superior Street parking ramp as the HART ramp, in recognition of the newly recognized District.

**STATEMENT OF PURPOSE:** This resolution establishes an historic arts and theater district in downtown Duluth in order to encourage further development and to create a unique sense of place for locals and tourists. In addition, the resolution encourages the city administration to rename the East Superior Street parking ramp the HART ramp and allocates \$10,000 from the parking fund, and/or other appropriate funds, to help defray the cost of administration and signage.

**Sponsors:** Gardner

**Attachments:** [Exhibit A - Map of Proposed Historic Arts and Theater District](#)

A motion was made, seconded and unanimously carried to suspend the rules to hear a speaker on the resolution.

Rod Raymond spoke in support of the resolution.

**A motion was made that this Resolution be adopted. The motion carried by the following vote:**

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

**Nay:** 1 - Councilor Hanson

**36. 15-0640R RESOLUTION REQUESTING ST. LOUIS COUNTY WORK WITH THE CITY TO PRESERVE THE PONTLIANA WOODS ON MINNESOTA POINT.**

BY COUNCILOR GARDNER:

WHEREAS, land commonly known as Pontliana Woods is located on Minnesota Point from 16th to 18th Street, south of Minnesota Avenue to the shoreline of the Duluth Harbor Basin, and is currently owned by St. Louis County as tax forfeited land, see attached map; and

WHEREAS, Pontliana Woods is one of the last undeveloped areas on Minnesota Point and has been identified by the Minnesota department of natural resources and the United States environmental protection agency as part of the St. Louis River Estuary, Great Lakes Area of Concern, as an important habitat for fish and wildlife and as an area meeting mandatory technical criteria for wetland identification; and

WHEREAS, the Duluth city council recognizes the importance of conserving and protecting Pontliana Woods to ensure public access to St. Louis Bay and the Duluth Harbor and to protect the area's natural resources; and

WHEREAS, Pontliana Woods are presently included in a county land sale in October of this year, imperiling this remnant of undeveloped land on Minnesota Point.

THEREFORE, BE IT RESOLVED, that the city council respectfully requests that St. Louis County remove Pontliana Woods from the upcoming tax forfeit land sale in October 2015.

BE IT FURTHER RESOLVED, that city of Duluth and St. Louis county officials work together to preserve Pontliana Woods and appropriately zone the property.

STATEMENT OF PURPOSE: This resolution supports the conservation and preservation of the Pontliana Woods on Minnesota Point by asking St. Louis county to remove the land from the upcoming tax forfeiture land sale and to work with city of Duluth officials to protect and preserve this important wildlife habitat and undeveloped area.

**Sponsors:** Gardner

**Attachments:** [Attachment to 15-0640R- Map of Pontliana Woods](#)

A motion was made, seconded and unanimously carried to suspend the rules to hear speakers on the resolution.

Vivetter Botner, Dave Johnson, Dulcee Proud and Ellen Dunlap spoke in support of the resolution.

**A motion was made that this Resolution be adopted. The motion carried by the following vote:**

**Yea:** 8 - Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson

**Nay:** 1 - Councilor Fosle

## **INTRODUCTION AND CONSIDERATION OF ORDINANCES**

**The following entitled ordinances were read for the first time:**

### **COMMITTEE 2**

#### **BY COUNCILOR KRUG (INTERGOVERNMENTAL RELATIONS)**

- 37. 15-077-O** AN ORDINANCE AUTHORIZING THE GRANTING OF AN EASEMENT TO THE STATE OF MINNESOTA OVER PROPERTY ADJACENT TO RIDGEVIEW ROAD.

#### **CITY PROPOSAL:**

The city of Duluth does ordain:

Section 1. Pursuant to Section 2-177.3 of the Duluth City Code, 1959, as amended, the city of Duluth ("city") may convey city property, including easements, to another governmental entity if the needs of said governmental unit are greater in importance than the need of the city to retain said property and that the best interests of the citizens of the city will be best served by accomplishing such conveyance. Accordingly, the city council finds that:

(a) The needs of the state of Minnesota in having a secondary access to the Air National Guard Base from Ridgeview Road are greater in importance than the need of the city to retain the property; and

(b) The best interests of the citizens of the city will be best served by conveyance of an easement to the state of Minnesota to allow construction of a secondary access point from Ridgeview Road; and

(c) The assessor has provided a written estimate of the market value of the property to be subject to the easement of \$46,300. The city will provide the easement for nominal consideration of \$1.

Section 2. That the proper city officials are hereby authorized to convey an easement to the state of Minnesota in the form of the Exhibit A, attached hereto and incorporated herein, according to its terms.

Section 3. This ordinance shall take effect 30 days after its passage and publication.

STATEMENT OF PURPOSE: The purpose of this ordinance is to authorize the conveyance of an exclusive and permanent easement for ingress and egress, landscaping, roadway improvements, structures, and fencing to allow construction of a secondary access point to the Air National Guard Base from Ridgeview Road.

Attachments: [Attachment to 15-077-O Exhibit A](#)

**This Ordinance was read for the first time.**

### COMMITTEE 3

#### BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)

38. 15-076-O AN ORDINANCE DEDICATING AN EASEMENT FOR STREET AND UTILITY PURPOSES ON CITY-OWNED PROPERTY ADJACENT TO WOODLAND AVENUE.

#### CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the city of Duluth does hereby dedicate to the general public a perpetual easement for street and utility purposes over that portion of Lots 9, 10, and 11, Block 10, Highland Park Addition to Duluth, in St. Louis County, Minnesota, legally described below and as depicted on the map attached as Exhibit A:

That part of Lots 9, 10, and 11, Block 10, HIGHLAND PARK ADDITION, which lies westerly of a line described as follows: Commencing at the Most Easterly Corner of said Lot 9, Block 10, HIGHLAND PARK ADDITION; thence southwesterly along the northerly right-of-way line of 4th Street 60.00 feet to

the point of beginning; thence northwesterly deflecting to the right 111 degrees 08 minutes 25 seconds to the southerly right-of-way line of Woodland Avenue and said line there terminating.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

STATEMENT OF PURPOSE: The purpose of this ordinance is to dedicate a street and utility easement across city-owned property bounded by Woodland Avenue, 20th Avenue East, and East 4th Street that is currently occupied by Heritage Park. This easement is needed for the re-alignment of Woodland Avenue where it intersects with 4th Street. This intersection re-alignment is part of the St. Louis County project to reconstruct 4th Street. As part of this project, 20th Avenue East has been vacated; most of the east one-half of 20th Avenue East has been acquired by St. Louis County and will be conveyed to the City. This property and the City's one-half of vacated 20th Avenue East will be reallocated for park purposes, thereby resulting in a net gain of parkland. This reconfiguration will also include sidewalks to provide easier and safer access. This street re-alignment was approved by the Parks and Recreation Commission at their February 11, 2015 meeting.

**Attachments:** [090215-Exhibit for 20th ave-Exh 20th park to slc exh A](#)

**This Ordinance was read for the first time.**

- 39. 15-078-O** AN ORDINANCE REDEDICATING AN EASEMENT FOR STREET AND UTILITY PURPOSES ON CITY-OWNED PROPERTY ADJACENT TO WOODLAND AVENUE AND GRANT ST. LOUIS COUNTY A TEMPORARY EASEMENT OVER VACATED 20TH AVE. E.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the City of Duluth does hereby accept the conveyance of an easement for street and utility purposes from Glen M. and Melissa L. Jones over that portion of the following-described property in St. Louis County, Minnesota at no cost to the city, said property being described in that easement agreement attached hereto as Exhibit A and as depicted on

the map attached as Exhibit A-1:

That portion of the Northeast ½ of vacated 20th Avenue East bounded on the West by the East line of Woodland Avenue and the centerline of the alley, extended, between Lot 1, Block 11 and Lot 16, Block 11, all in HIGHLAND PARK ADDITION TO DULUTH and on the Southeast by a line lying 103.86 feet northwesterly of and parallel with the northwesterly line of platted 4th Street.

Section 2. That the city of Duluth does hereby dedicate to the general public a perpetual easement for street and utility purposes over that portion of Lot 9, Block 10, Highland Park Addition to Duluth in St. Louis County, Minnesota legally described below and as depicted on the map attached as Exhibit B:

That portion of the Southwest ½ of vacated 20th Avenue East bounded on the West by the East line of Woodland Avenue, and on the Southeast by a line lying 103.86 feet Northwesterly of and parallel with the Northwesterly line of platted 4th Street.

Section 3. That the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that attached hereto as Exhibit C, with St. Louis County granting said county a temporary easement over the following-described property in St. Louis County, Minnesota for street and utility purposes and for construction thereof, said easement to terminate upon the sooner of the completion of reconstruction of 4th Street by said county or December 31, 2017:

That portion of vacated 20th Avenue East bounded on the Southeast by the Northwesterly line of 4th Street, and on the Northwest by a line lying 103.86 feet Northwesterly of and parallel with the Northwesterly line of platted 4th Street.

Section 4. That this ordinance shall take effect 30 days after its passage and publication.

STATEMENT OF PURPOSE: The purpose of this ordinance is to rededicate a street and utility easement across city-owned property, to accept an easement from the adjacent property owners of a portion of the previously vacated easement for 20th Avenue East lying just south of Woodland Avenue, and to grant St. Louis County a temporary easement to allow them to keep 20th Avenue East open between Woodland 4th Street until construction is completed.

When 20th avenue East was vacated between Woodland and 4th Street, the need for access to the alley on the east side of 20th and the needs for

access of the home owner between the alley and 4th Street were not adequately considered.

This rededication and acceptance of the easement would correct this problem by restoring a small triangular piece of 20th to the status of a public street. The grant of temporary easement will allow the County to keep 20th open until construction starts in 2016 and to deconstruct the street as part of the 4th Street project.

**Attachments:** [Exhibit A-Easement Agreement](#)  
[Exhibit B-City Easement](#)  
[Exhibit C-Temp Easement Agreement](#)

This Ordinance was read for the first time.

The following entitled ordinances were read for the second time:

#### COMMITTEE 1

#### BY COUNCILOR FILIPOVICH (FINANCE)

40. 15-072-O AN ORDINANCE AMENDING CHAPTER 34, SECTION 23, OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW SECTION PROHIBITING EXCESSIVE ENGINE DISCHARGE OR BRAKING NOISE.

BY COUNCILOR FILIPOVICH:

Section 1. That Chapter 34, Section 23, of the Duluth City Code, 1959, as amended, is hereby amended as follows:

**Sec. 34-23. Vehicle noise limits. ~~for electronically amplified sound.~~**

(a) Electronically Amplified Sound.

No motor vehicle, as defined in Section 33-1 of this Code, shall emit any electronically amplified sounds that are plainly audible at a distance of 50 feet from the vehicle, provided that this Section shall not apply to:

- (1) Sirens, horns or other signaling devices used by an authorized emergency vehicle as defined in Minnesota Statutes Section 169.01;
- (2) Vehicles in parades or other civic celebrations duly authorized by the city;
- (3) Motor vehicle horns when actually used as a warning of danger;



(4) Anti-theft devices installed on motor vehicles;

(b) Engine Braking.

(1) Definitions. The following phrases are defined as follows:

(A) "Engine retarding brake" shall mean a Dynamic Brake, Jake Brake, Jacobs Brake, C Brake, Paccar Brake, transmission brake or other similar engine retarding brake system which alters the normal compression of the engine and subsequently releases that compression.

(B) "Abnormal or excessive noise" shall mean (1) distinct and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort and repose of any person or precludes their enjoyment of property or affects their property's value, (2) noise in excess of that permitted by Minnesota Statutes Section 169.69, as it may be amended from time to time, which requires every motor vehicle to be equipped with a muffler in good working order, or (3) noise in excess of that permitted by Minnesota Statutes Section 169.693 and Minnesota Rules parts 7030.1000 through 7030.1050, as this Statute and these rules may be amended from time to time, which establish motor vehicle noise standards.

(2) It shall be unlawful for any person to discharge the exhaust or permit the discharge of the exhaust from any motor vehicle except through a muffler that effectively prevents abnormal or excessive noise and complies with all applicable state laws and regulations.

(3) It shall be unlawful for the operator of any truck to intentionally use an engine retarding brake on any public highway, street, parking lot or alley within the City which causes abnormal or excessive noise from the engine because of an illegally modified or defective exhaust system, except in an emergency.

(4) Signs stating "VEHICLE NOISE LAWS ENFORCED" may be installed at locations deemed appropriate by the City's Traffic Engineer to advise motorists of the prohibitions contained in this Section. The provisions of this ordinance are in full force and effect even if no signs are installed.

(b) Violations of this Section are punishable by fines of not to exceed those set in accordance with Section 31-8 of this Code for the first and second offenses and a fine as provided in Section 1-7 of this Code for all subsequent offenses.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective Date: October 14, 2015)

STATEMENT OF PURPOSE: This ordinance prohibits excessive vehicle noise caused by engine braking and improper discharge of exhaust.

Sponsors: Filipovich

**This Ordinance was adopted.**

**COMMITTEE 2****BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)**

41. 15-073-O AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO MU-N, PROPERTY AT 2421 LONDON ROAD (MICHAEL TEGETHOFF)

**CITY PROPOSAL:**

The city of Duluth does ordain:

Section 1. That approximately 0.22 acres of land located at 2421 London Road and as more particularly described as follows: Lot 11 Block 46 Harrison's Division and Lot 11 Block 30 Endion Division of Duluth including all streets and alleys appurtenant thereto. be reclassified from Residential-Traditional (R-1) to Mixed Use-Neighborhood (MU-N), and that the official zoning map of the City of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as shown in the attached document.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective Date: October 14, 2015)

**STATEMENT OF PURPOSE:** This amendment provides a zoning change from R-1 to MU-N at 2421 London Road.

On August 11, 2015, the Duluth city planning commission held a public hearing on the proposal and voted 5 yeas, 2 nays, and 0 abstentions to recommend that the city council approve the rezoning requested for the following reasons:

- 1.) This proposal is consistent with the Comprehensive Land Use Plan.
- 2.) The proposed MU-N zone district is consistent with the future land use category of Neighborhood Mixed Use.
- 3.) Material adverse impacts on nearby properties are not anticipated.

The applicant did not submit written consent of 2/3 of property owners within 100 feet of the property to be rezoned. The motion to approve the rezoning from R-1 to MU-N must prevail with an affirmative vote of 2/3 by the city council.

Petition Received: July 7, 2015

Action Deadline: November 4, 2015

Petitioner:

Michael Tegethoff

10 Village Drive #201  
Proctor, MN 55810  
miketegethoff@gmail.com

PL 15-105

**Attachments:** [Attachment 1](#)  
[Attachment 2](#)

A motion was made, seconded and unanimously carried to suspend the rules to hear speakers on the ordinance.

Andrea Mousel and Michael Tegethoff spoke in support of the ordinance. Angel Sarkela-Saur, Tom Haas, Ruth Kivisto, Michael D. Linn and Merrienne Deutsch spoke in opposition to the ordinance.

**A motion was made that this Ordinance be adopted. The motion carried by the following vote:**

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

**Nay:** 1 - Councilor Hanson

- 42. 15-074-O** AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1, R-2 AND F-6 TO P-1, FOR BASKETBALL COURT, CHESTER BOWL, CHESTER PARK, LOWER CHESTER COMMUNITY RECREATION CENTER, ENDION COMMUNITY RECREATION CENTER, HILLSIDE SPORT COURT COMMUNITY RECREATION CENTER, LAKEVIEW PARK, MUNGER PARK, AND PORTLAND SQUARE (CITY OF DULUTH)

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the subject properties located in the central portion of

the city and as more particularly described as follows:

Portland Square:

That area located between the Centerline of East Fourth Street, the Centerline of East Fifth Street and the Centerline of Tenth Avenue East and the Centerline of Eleventh Avenue East;

be reclassified from Residential-Traditional (R-1), Residential-Urban (R-2) and Form District 6 (F-6) Mid-Rise Neighborhood Shopping to Park and Open Space (P-1), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as per the attached map.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective Date: October 14, 2015)

STATEMENT OF PURPOSE: This zoning map amendment provides a zoning change for the park properties located in the central portion of the City including Basketball Court, Chester Bowl, Chester Park, Lower Chester Community Recreation Center, Endion Community Recreation Center, Hillside Sport Court Community Recreation Center, Lakeview Park, Munger Park, and Portland Square from the current zoning districts of Residential-Traditional (R-1), Residential-Urban (R-2) and Form District 6 (F-6) Mid-Rise Neighborhood Shopping to Park and Open Space (P-1).

On February 11, 2015 the Duluth parks and recreation commission unanimously passed a resolution in support of the rezoning of city park property.

On July 14, 2015, the Duluth city planning commission held a public hearing

on the proposal and voted 7 yeas, 0 nays, and 0 abstentions, to recommend that the city council approve the rezoning requested for the following reasons:

1) Rezoning to Park and Open Space (P-1) is the zone most reasonably able to implement the objectives of the Comprehensive Plan related to the proposed land use for this area.

2) The rezoning is consistent with the Comprehensive-Plan Future Land Use Map.

3) While providing protection for this area, the P-1 zone will also provide flexibility to permitted uses the ability to improve their facilities, via the Special Use Permit process as required by Section 50-37.10, in order to increase their public benefit.

4) Material adverse impacts on nearby properties are not anticipated.

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ble

Petitioner:  
City of Duluth  
Planning Division  
Room 208  
City Hall  
Duluth, Minnesota

PL 15-098

**Attachments:** [Map](#)  
[Staff Report](#)

**This Ordinance was adopted.**

## **COMMITTEE 3**

### **BY COUNCILOR FOSLE (PUBLIC SAFETY)**

- 43. 15-070-O** ORDINANCE AMENDING CHAPTER 26 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO AERIAL LIFT BRIDGE OPERATIONS, ADDING PROHIBITION ON INTERFERENCE WITH SAFE

## BRIDGE OPERATIONS.

## CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Chapter 26 of the Duluth City Code, 1959, as amended, is hereby amended by adding Section 26-58 thereto which reads as follows: Sec. 26-58. Interference with safe bridge operations prohibited.

No person shall cause or permit to interfere, obstruct, disrupt, or delay the safe operation, use, or enjoyment of the Aerial Lift Bridge and its appurtenances.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

STATEMENT OF PURPOSE: This Ordinance provides a local enforcement mechanism to stop and deter any actions which would interfere with our employees' safe operation of the Aerial Lift Bridge. This ordinance also protects Aerial Lift Bridge area user and bystander safety.

**This Ordinance was adopted.**

- 44. 15-075-O** AN ORDINANCE AMENDING SECTION 10-3 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO THE PROCEDURE FOR VACANT BUILDING REGISTRATION.

## CITY PROPOSAL:

Section 1. That Section 10-3 of the Duluth City Code, 1959, as amended, is hereby amended as follows:  
Sec. 10-3. Demolition procedure.

(a) General. Whenever it comes to the notice of the building official that any building or structure is in a damaged, dilapidated or dangerous condition, it shall be his or her duty to make an inspection of such building or structure. It shall be unlawful to repair or alter any building or structure located in the city if, in the opinion of the building official based upon information documented in the official file and records, such building or structure has been damaged or deteriorated from any cause to the extent that the building official's good faith, reasonable estimate of the cost of

repairing and restoring the building is more than 60 percent of the current fair market value of the building, as shown in the records of the city assessor or as adjusted by the assessor for accuracy, and all such buildings or structures so damaged or deteriorated shall be torn down and removed when so ordered by the building official; provided, however, that the building official, or the building appeal board in cases appealed to it, may allow such a damaged or deteriorated building to be repaired, for good cause shown related to the use, location or unique characteristics of the building, when the owner shows that he or she has dedicated sufficient funds to pay for the repair, have entered into a valid contract to have the repair completed, and will complete all the repair and restoration work within a reasonable time, not to exceed 18 months;

(b) Orders for demolition and assessment of costs. All orders for the demolition of a dangerous, defective or deteriorated building, or for repairs to the same, shall be in writing, signed by the building official, and shall allow not less than 30 days in which to comply with said order. Each order shall identify the structure, state the legal basis of the order, the date of the order, the fair market value of the building, the building official's good faith, reasonable estimate of the cost of repairs, the calculation that forms the basis for the opinion that the damage requires that the building be demolished, the time and procedure for appeal, and other information deemed relevant by the building official. Should any such order not be complied with within the time allowed therefor or, should the structure constitute an immediate threat of bodily harm to the public, or the appeal provided for in Section 10-5 of this Chapter not be taken, the building official shall, in writing, communicate such information to the city council. The city council may direct the building official to proceed with the work ordered, or to contract to have the work done. In case of the demolition of a building, should the sale of the salvage from such building exceed the cost of the demolition, the balance in excess of the cost shall be paid to the owner of said building or to such other persons as may by law be entitled thereto. A statement of the cost of such work shall be transmitted to the city council which may cause the same to be charged against the land on which the building existed as a municipal lien, which lien shall be recorded with the register of deeds or registrar of titles as a lien against such land, or to be recovered in a suit at law against the owner, or to cause any or all of such costs to be assessed against the property from which such removal takes place. If



the city council decides to assess the cost of demolition against the affected property, such assessment shall be made by resolution of the council, and such resolution shall state a time by which such assessment shall be payable, which time shall be not less than 30 days after publication of such resolution and service of notice of the assessment upon the property owner. Notice of such assessment and the time within which it shall be paid, shall be served on the owner of such property in the manner provided in Subsection (c) of this Section below, except that it shall not be necessary to post such notice on the affected property or to publish such notice other than to publish in the regular manner the resolution by which such assessment is made. Delinquent assessments shall be certified to the county auditor of St. Louis County for collection in the same manner as other assessments, pursuant to Section 70 of the Duluth City Charter;

(c) Notice to owner. Except as otherwise provided for in Subsection (b) above, service of all orders provided for in this Section shall be made as follows:

(1) Upon an individual owner, residing within the city of Duluth, by delivering a copy to him or her personally or by leaving a copy at his or her usual place of abode with some person of suitable age and discretion then residing therein. If the owner does not reside within the city of Duluth, by sending a copy of such order by certified mail to his or her last known address, and in addition a copy of such order shall be posted in a conspicuous place in the building to which it relates. Such mailing and posting shall be deemed adequate service. If it should come to the attention of the building official that the owner, as shown by the land records of the register of deeds or the registrar of titles of the county of St. Louis, Minnesota, is deceased, such order shall be sent by certified mail to the known heirs of the deceased owner if the building official is reasonably able to ascertain such heirs. In addition, a copy of the said order shall be posted in a conspicuous place on the building to which it relates, and said order shall be published in the official newspaper of the city of Duluth for one day in each of two consecutive weeks during the period to which the order relates. Such mailing, posting and publication shall be deemed adequate service;

(2) If the owner is confined to a state institution, by serving also the chief executive officer of the institution;

(3) If the owner be an infant under the age of 14 years, by serving a resident guardian, and if he or she has none, then by serving the person having control of such infant or

with whom he or she resides;

(4) If the owner be a partnership or association, by delivering the order to a member or the managing agent of the partnership or association;

(5) If the owner be a domestic or foreign corporation, by delivering the order to an officer or managing agent. If such corporation be a foreign corporation and has no such agent in the city of Duluth, then service may be made upon any such agent of the corporation within the state;

(d) In addition to other provisions of the Code, this Section 10-3(d) is enacted;

(1) Policy. Pursuant to authority provided in Minnesota Statutes, Section 463.26, permitting cities to enact and enforce ordinances on hazardous buildings, and in order to enhance the livability and preserve the tax base and property values of buildings within the city, and based upon the findings contained in Section (2); and because of the need to assure that buildings which are capable of rehabilitation are promptly rehabilitated and buildings which are not capable of rehabilitation be promptly demolished, the city hereby declared that it is the policy of the city to promote rehabilitation of vacant and unoccupied buildings, and to assure a prompt process for demolition of hazardous buildings through a procedure fixing appropriate responsibility in accordance with due process requirements;

(2) Findings. The city council finds, determines and declares that buildings which remain vacant and unoccupied for any appreciable period of time become an attractive nuisance to children, a harborage for rodents, and invitation to derelicts, vagrants and criminals as a temporary abode, and an increased fire hazard, and that the unkempt grounds surrounding such property invite the dumping of garbage and rubbish thereon; that such buildings are permitted to become dilapidated since such buildings are often economically obsolete and the owners of such buildings are unwilling to expend the necessary funds to repair or raze the buildings; that such buildings contribute to the growth of blight within the city, depress market values of surrounding properties to the detriment of the various taxing districts and require additional governmental services; that the use and maintenance of property in such condition and manner endangers the public safety and health, constitutes an unreasonable use and condition to the annoyance, discomfort and repose of a considerable number of the public, is detrimental to the public good and to the common welfare; and renders a considerable number of the public insecure in the use and

enjoyment of their property, and thus may constitute a nuisance condition. Adequate protection of public health, safety and welfare, therefore, requires the establishment and enforcement of the means by which such nuisance conditions may be abated;

(3) Securing vacant buildings;

(A) In general, if any building becomes vacant or unoccupied and is deemed hazardous due to the fact that the building is open to trespass and has not been secured and the building could be made safe by securing the building, the building official may order the building secured and shall cause notice of the order to be served upon the owner of the premises. Such notice may be served personally or by mail. Service by mail is complete upon mailing a copy of the order to the owner at the last known address. If the owner fails to comply with the order within six days after the order is served, the building official shall cause the building to be boarded up or otherwise properly secured;

(B) Emergency. When it is determined by the building official or the chief of police, or the fire chief that an emergency exists with respect to the health or safety of persons in the community, and immediate boarding and securing of a building is required, and where danger will exist to children, transients or others in the absence of an immediate boarding or securing of the building, the building official or the chief of police, or the fire chief may waive all requirements herein and immediately board or otherwise secure the building, provided that:

1. The conditions showing the existence of an exigency are documented in writing by the building official or the chief of police or the fire chief or their designees;

2. Notice be mailed immediately by the department invoking this Section to the address of the owner and taxpayer, and, if recorded on the assessor's rolls, the address of the mortgage holder, of the date of boarding or otherwise securing and the reasons therefore;

(C) After a vacant or unoccupied building has been boarded or otherwise secured under this section, should the owner fail to maintain the building in a secured condition until such time as it has been repaired and reoccupied, the building official shall resecure any openings into the building whenever it again becomes open to trespass, without further notice to the owner. An administrative fee shall be set in accordance with Section 31-6(a) of this Code and all other costs incurred by the city for boarding or otherwise securing a building under this Chapter, including, but not limited to the

actual costs for boarding, posting and monitoring the building, building and housing code compliance inspections, police or fire department inspection, response, or protection; public health and safety investigation; control of people or property wrongfully on the premises shall be assessed as provided in Duluth City Code Section 10-3. The above fees, when collected, shall be dedicated to the use of the department(s) that administer(s) the enforcement actions. Owner, for the purposes of this Section, shall mean the person who is listed as the contact person on the current rental licensing application on file with the city, if any; or, if none, the person listed as owner by the city assessor on the homestead record; or, if none, the taxpayer as shown by the records of the city assessor;

(4) Vacant building registration;

(A) The owner of a residential building or building located in a residentially zoned area shall register the building with the building official within 30 days after it becomes a vacant building. In this Section, a vacant building is at least one of the following:

1. Condemned;
2. Unoccupied and unsecured for 30 days or more;
3. Unoccupied and secured by means other than those normally used in the design of the building for 30 days or more;
4. Unoccupied and has multiple housing maintenance, fire or building code violations existing for 30 days or more;
5. Unoccupied and an existing owner or lienholder requests registration in accordance with the provisions of this Section.

(B) The registration shall be submitted on forms provided by the building official and shall include the following information supplied by the owner:

1. A description of the premises;
2. The names and addresses of the owner or owners;
3. The names and addresses of all known lien holders and all other parties with an ownership interest in the building;
4. The period of time the building is expected to remain vacant; and a plan and timetable for returning the building to appropriate occupancy or for demolition of the building;

(C) The owner shall submit a plan and timetable

that must comply with the guidelines adopted by the building official. The guidelines are adopted for purposes of preventing nuisance conditions and maintaining compliance with this Code. These guidelines shall be made available to building owners. The plan shall be submitted at the time of registration, or within a reasonable period of time thereafter to be determined by the building official;

(D) The owner shall comply with all applicable laws and codes. The owner shall notify the building official of any changes in information supplied as part of the vacant building registration within 30 days of the change. If the plan or timetable for the vacant building is revised in any way, the revisions must meet the approval of the building official;

(E) The owner and the subsequent owners shall keep the building secured and safe and the building and grounds properly maintained until the rehabilitation or demolition has been completed;

(F) Failure of the owner or any subsequent owner to maintain the building and premises that result in abatement completed by the city shall be grounds for revocation of the approved plan and shall be subject to any applicable penalties provided by law;

(G) The new owner(s) shall register or re-register the vacant building with the building official within 30 days of any transfer of an ownership interest in a vacant building. The new owner(s) shall comply with the approved plan and timetable submitted by the previous owner until any proposed changes are submitted and meet the approval of the building official;

(H) The building official shall include in the file any property-specific written statements from community organizations, other interested parties or citizens regarding the history, problems, status or blighting influence of a vacant building;

(I) Vacant building fees:

1. The owner of a vacant building shall pay an annual fee, which shall be set in accordance with Section 31-6(a) of this Code. The fee is imposed to defray the administrative costs for registering and processing the vacant building registration form and for the costs of the city in monitoring the vacant building site;

2. The first annual fee shall be paid no later than 30 days after the building becomes vacant. Subsequent annual fees shall be due on the anniversary date of initial vacancy. The fees shall be paid in full prior to the issuance of any building permits, with the exception of a demolition

permit;

3. Unpaid fees shall be levied and collected as a special assessment against the property as provided for under Section 10-3, with interest at the rate set in accordance with Section 31-8 of this Code per annum on the unpaid balance thereof. Upon transfer of ownership, the new owner(s) shall be responsible for all unpaid and subsequent annual fees;

(J) A building owner shall provide access to all interior portions of an unoccupied building in order to permit a complete inspection for the purpose of enforcing and assuring compliance with the provisions of this Chapter.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

STATEMENT OF PURPOSE: This ordinance amends Section 10-3 of the Duluth City Code, 1959, as amended, to clarify the authority of appropriate code officials to register vacant buildings at an owner or lienholder's request.

This Ordinance was adopted.

## **COUNCILOR QUESTIONS AND COMMENTS**

## **COUNCILOR PREVIEW OF UPCOMING BUSINESS**

The meeting was adjourned at 9:23 p.m.



# City of Duluth

411 West First Street  
Duluth, Minnesota 55802

## Minutes - Draft

### City Council

**MISSION STATEMENT:** *The mission of the Duluth City Council is to develop effective public policy rooted in citizen involvement that results in excellent municipal services and creates a thriving community prepared for the challenges of the future.*

**TOOLS OF CIVILITY:** *The Duluth City Council promotes the use and adherence of the tools of civility in conducting the business of the council. The tools of civility will provide increased opportunities for civil discourse in order to find positive resolutions to the issues that face the city. These tools include: pay attention, listen, be inclusive, do not gossip, show respect, be agreeable, apologize, give constructive criticism and take responsibility. [Approved by the council on August 25, 2003]*

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Thursday, September 17, 2015

12:00 PM

Council Chamber

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#### Special Council Meeting - Election Results Certification; Woodland Avenue Easements

#### ROLL CALL

**Present:** 8 - Councilors Zach Filipovich, Sharla Gardner, Howie Hanson, Jennifer Julsrud, Linda Krug, Barb Russ, Joel Sipress and President Emily Larson

**Absent:** 1 - Councilor Jay Fosle

#### MOTIONS AND RESOLUTIONS

#### COMMITTEE 2

#### BY PRESIDENT LARSON (COMMITTEE OF THE WHOLE)

1. **15-0636R** RESOLUTION DECLARING THE RESULTS OF THE PRIMARY MUNICIPAL ELECTION HELD SEPTEMBER 15, 2015.

#### CITY PROPOSAL:

The council finds as follows:

(a) On September 15, 2015, there was held in the city of Duluth, pursuant to the provisions of Laws of Minnesota, 1973, Chapter 281, a primary municipal election for the purpose of electing certain city officers;

(b) The judges of the election districts in the city have made their returns

of said election and the city council, acting as a canvassing board, has duly canvassed said returns at 12:00 p.m., September 17, 2015, and ascertained the number of ballots cast at said election and thereby declared that at said election there were 8,177 cast votes, said votes having been cast in the following manner:

**Mayor**

Thomas Cooper 45  
John Howard Evans 51  
Howie Hanson 732  
Chuck Horton 1,505  
Emily Larson 5,456  
James Mattson 177  
Robert D. Schieve 27  
John Socha 111

**City Councilor - Fifth District**

Allan Beaulier 44  
Derrick Ellis 25  
Jay Fosle 945  
Janet Kennedy 671

NOW, THEREFORE, BE IT RESOLVED, that Chuck Horton and Emily Larson, having received the two largest numbers of the votes cast at said election for mayor, are hereby certified to have their names placed on the general municipal election ballot and the city clerk is hereby directed to place their names on the general municipal election ballot.

BE IT FURTHER RESOLVED, that Jay Fosle and Janet Kennedy, having the two largest numbers of the votes cast at said election for councilor - fifth district, are hereby certified to have their names placed on the general municipal election ballot and the city clerk is hereby directed to place their names on the general municipal election ballot.

STATEMENT OF PURPOSE: This resolution declares the results of the primary municipal election held on September 15, 2015.

**Attachments:** [Primary Election Statistics](#)

**A motion was made that this Resolution be adopted. The motion carried unanimously.**

**Yea:** 8 - Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson



**INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinances were read for the second time:

**COMMITTEE 3****BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)**

2.     **15-076-O**     AN ORDINANCE DEDICATING AN EASEMENT FOR STREET AND UTILITY PURPOSES ON CITY-OWNED PROPERTY ADJACENT TO WOODLAND AVENUE.

## CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the city of Duluth does hereby dedicate to the general public a perpetual easement for street and utility purposes over that portion of Lots 9, 10, and 11, Block 10, Highland Park Addition to Duluth, in St. Louis County, Minnesota, legally described below and as depicted on the map attached as Exhibit A:

That part of Lots 9, 10, and 11, Block 10, HIGHLAND PARK ADDITION, which lies westerly of a line described as follows: Commencing at the Most Easterly Corner of said Lot 9, Block 10, HIGHLAND PARK ADDITION; thence southwesterly along the northerly right-of-way line of 4th Street 60.00 feet to the point of beginning; thence northwesterly deflecting to the right 111 degrees 08 minutes 25 seconds to the southerly right-of-way line of Woodland Avenue and said line there terminating.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective Date: October 17, 2015)

STATEMENT OF PURPOSE: The purpose of this ordinance is to dedicate a street and utility easement across city-owned property bounded by Woodland Avenue, 20th Avenue East, and East 4th Street that is currently occupied by Heritage Park. This easement is needed for the re-alignment of Woodland Avenue where it intersects with 4th Street. This intersection re-alignment is part of the St. Louis County project to reconstruct 4th Street. As part of this project, 20th Avenue East has been vacated; most of the east one-half of 20th Avenue East has been acquired by St. Louis County

and will be conveyed to the City. This property and the City's one-half of vacated 20th Avenue East will be reallocated for park purposes, thereby resulting in a net gain of parkland. This reconfiguration will also include sidewalks to provide easier and safer access. This street re-alignment was approved by the Parks and Recreation Commission at their February 11, 2015 meeting.

**Attachments:** [090215-Exhibit for 20th ave-Exh 20th park to slc exh A](#)

**A motion was made that this Ordinance be approved. The motion carried unanimously.**

**Yea:** 8 - Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson

Enactment No: 10407

3. **15-078-O** AN ORDINANCE REDEDICATING AN EASEMENT FOR STREET AND UTILITY PURPOSES ON CITY-OWNED PROPERTY ADJACENT TO WOODLAND AVENUE AND GRANT ST. LOUIS COUNTY A TEMPORARY EASEMENT OVER VACATED 20TH AVE. E.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the City of Duluth does hereby accept the conveyance of an easement for street and utility purposes from Glen M. and Melissa L. Jones over that portion of the following-described property in St. Louis County, Minnesota at no cost to the city, said property being described in that easement agreement attached hereto as Exhibit A and as depicted on the map attached as Exhibit A-1:

That portion of the Northeast ½ of vacated 20th Avenue East bounded on the West by the East line of Woodland Avenue and the centerline of the alley, extended, between Lot 1, Block 11 and Lot 16, Block 11, all in HIGHLAND PARK ADDITION TO DULUTH and on the Southeast by a line lying 103.86 feet northwesterly of and parallel with the northwesterly line of platted 4th Street.

Section 2. That the city of Duluth does hereby dedicate to the general public a perpetual easement for street and utility purposes over that portion of Lot 9, Block 10, Highland Park Addition to Duluth in St. Louis County, Minnesota legally described below and as depicted on the map attached

as Exhibit B:

That portion of the Southwest ½ of vacated 20th Avenue East bounded on the West by the East line of Woodland Avenue, and on the Southeast by a line lying 103.86 feet Northwesterly of and parallel with the Northwesterly line of platted 4th Street.

Section 3. That the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that attached hereto as Exhibit C, with St. Louis County granting said county a temporary easement over the following-described property in St. Louis County, Minnesota for street and utility purposes and for construction thereof, said easement to terminate upon the sooner of the completion of reconstruction of 4th Street by said county or December 31, 2017:

That portion of vacated 20th Avenue East bounded on the Southeast by the Northwesterly line of 4th Street, and on the Northwest by a line lying 103.86 feet Northwesterly of and parallel with the Northwesterly line of platted 4th Street.

Section 4. That this ordinance shall take effect 30 days after its passage and publication. (Effective Date: October 17, 2015)

STATEMENT OF PURPOSE: The purpose of this ordinance is to rededicate a street and utility easement across city-owned property, to accept an easement from the adjacent property owners of a portion of the previously vacated easement for 20th Avenue East lying just south of Woodland Avenue, and to grant St. Louis County a temporary easement to allow them to keep 20th Avenue East open between Woodland 4th Street until construction is completed.

When 20th avenue East was vacated between Woodland and 4th Street, the need for access to the alley on the east side of 20th and the needs for access of the home owner between the alley and 4th Street were not adequately considered.

This rededication and acceptance of the easement would correct this problem by restoring a small triangular piece of 20th to the status of a public street. The grant of temporary easement will allow the County to keep 20th open until construction starts in 2016 and to deconstruct the street as part of the 4th Street project.

**Attachments:** [Exhibit A-Easement Agreement](#)  
[Exhibit B-City Easement](#)  
[Exhibit C-Temp Easement Agreement](#)

A motion was made that this ordinance be approved. The motion carried unanimously.

Yea: 8 - Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson

The meeting adjourned at 12:07 p.m.



# City of Duluth

411 West First Street  
Duluth, Minnesota 55802

## Minutes - Draft

### City Council

**MISSION STATEMENT:** *The mission of the Duluth City Council is to develop effective public policy rooted in citizen involvement that results in excellent municipal services and creates a thriving community prepared for the challenges of the future.*

**TOOLS OF CIVILITY:** *The Duluth City Council promotes the use and adherence of the tools of civility in conducting the business of the council. The tools of civility will provide increased opportunities for civil discourse in order to find positive resolutions to the issues that face the city. These tools include: pay attention, listen, be inclusive, do not gossip, show respect, be agreeable, apologize, give constructive criticism and take responsibility. [Approved by the council on August 25, 2003]*

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Monday, September 28, 2015

7:00 PM

Council Chamber

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#### ROLL CALL

**Present:** 9 - Councilors Zach Filipovich, Jay Fosle, Sharla Gardner, Howie Hanson, Jennifer Julsrud, Linda Krug, Barb Russ, Joel Sipress and President Emily Larson

#### APPROVAL OF MINUTES

1. 15-059 June 1 and 15, 2015.

**Attachments:** [June 1, 2015](#)  
[June 15, 2015](#)

The Minutes were approved.

#### **PUBLIC HEARING - 7:00 PM - Proposed Modification to Development District No. 17, Approving the Establishment of TIF District No. 29 and the Adoption of a TIF Plan Therefor.**

At this time, 7:05 p.m., the public hearing on the proposed modification to development district no. 17, approving the establishment of TIF district no. 29 and adoption of a TIF plan therefore began.

Rick McKelvey, developer for the project, spoke in support of the resolution associated with the public hearing.

Linda Ross - Sellner expressed her concerns regarding the expansion of this TIF district.

At this time, 7:11 p.m., the public hearing was declared closed and the regular order of business resumed.

## PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

2.     **15-060**     Communications regarding the proposed Downtown bike facility plans (15-0666R, 15-0667R and 15-0668R).

Attachments:   [Allete, Inc.](#)  
[Bryan Crum](#)  
[Bud and Ruth Darling](#)  
[Duluth Bike Coalition](#)  
[Duluth Coffee Company](#)  
[Greg Follmer Commercial Real Estate](#)  
[Ryan Franke](#)  
[Alec Kadlec](#)  
[Lake Superior Port Cities, Inc.](#)  
[Sandi Larson](#)  
[Dan Little](#)  
[Maurices](#)  
[Rosemarie Mitchell](#)  
[North Shore Title](#)  
[Penny Perry](#)  
[Pizza Man](#)  
[RT Quinlan's](#)  
[Rod Raymond \(map only\)](#)  
[Jim Rogers](#)  
[Shel/Don](#)  
[Rand Sola](#)

**This Petition/Other Communication was received.**

3.     **15-062**     Communication regarding the proposed acceptance of a brownfields area wide planning grant from the US environmental protection agency (15-0673R).

Attachments:   [John and Trina Harris](#)

**This Petition/Other Communication was received.**

4.     **15-065**     Communications regarding the proposed rezoning of the Morgan Park

School site (15-079-O).

**Attachments:** [Brenda Blasey](#)  
[Bill and Sue Majewski](#)

This Petition/Other Communication was received.

## REPORTS FROM OTHER OFFICERS

5.     **15-051**     Clerk applications for exempt permits to the Minnesota gambling control board from Lincoln Park Business Group on November 19, 2015 (bingo, raffle) and Rotary Club of Duluth on February 25, 2016 (raffle).

**Attachments:** [Lincoln Park Business Group Application](#)  
[Rotary Club of Duluth Application](#)

This Other Officers Report was received.

## REPORTS OF BOARDS AND COMMISSIONS

6.     **15-055**     Civil service board minutes of July 7 and July 17, 2015, meetings.

**Attachments:** [July 7, 2015](#)  
[July 17, 2015](#)

This Board or Commission Report was received.

7.     **15-056**     Duluth public utilities commission minutes of July 21, 2015, meeting; and Resolution 15PUC-006 regarding the approval and recommendation of the 2016 utility budget.

**Attachments:** [Minutes](#)  
[Resolution 15PUC-006](#)

This Board or Commission Report was received.

8.     **15-057**     Duluth airport authority minutes of August 18, 2015, meeting.

**Attachments:** [Minutes](#)

This Board or Commission Report was received.

9. 15-058 Library board minutes of June 23, 2015, meeting.

Attachments: [Minutes](#)

**This Board or Commission Report was received.**

10. 15-061 Spirit Mountain recreation area authority minutes of August 20, 2015, meeting.

Attachments: [Minutes](#)

**This Board or Commission Report was received.**

11. 15-063 Duluth economic development authority minutes of August 26, 2015, meeting.

Attachments: [Minutes](#)

**This Board or Commission Report was received.**

## REPORTS OF COUNCIL COMMITTEES

## REPORTS OF COUNCIL OPEN ISSUES

Councilor Krug presented the September 2015 Distinguished Artists Award to the Sarah Thomsen & Echoes of Peach Choir, which present a vocal selection.

## OPPORTUNITY FOR CITIZENS TO BE HEARD

Karen Lewis requested that more care and attention be given to the appearance of the Clayton Jackson McGhie memorial.

## MOTIONS AND RESOLUTIONS

### COMMITTEE 3

### BY COUNCILOR SIPRESS (RECREATION, LIBRARIES & AUTHORITIES)

12. 15-0692R RESOLUTION RECOGNIZING KATHY BERGEN FOR HER YEARS OF SERVICE WITH THE CITY OF DULUTH.

BY COUNCILOR SIPRESS:

WHEREAS, Kathy Bergen has dedicated more than 32 years



serving the citizens of Duluth, first as senior programs director, and then leading parks and recreation; and

WHEREAS, Kathy has shepherded the creative work of developing and maintaining quality services for Duluth residents and visitors in times of both plenty and want; and

WHEREAS, Kathy has played key leadership roles in the senior dining program, senior recreation program, the parks and recreation master plan, the 2012 flood restoration project, and the St. Louis River corridor project, just to name a small selection of a multitude of career accomplishments; and

WHEREAS, Kathy has been a wealth of knowledge to both staff and citizens on past, present, and future city projects; and

WHEREAS, Kathy is a beloved member of the Duluth community and a woman whom so many are honored to call "friend."

RESOLVED, that the city council hereby recognizes and thanks Kathy Bergen for her dedicated service of more than 32 years with the city of Duluth.

STATEMENT OF PURPOSE: The purpose of this resolution is to recognize Kathy Bergen for her dedicated service of more than 32 years with the city of Duluth.

Sponsors: Sipress

**This Resolution was adopted unanimously.**

## **CONSENT AGENDA**

### **COMMITTEE 1**

#### **BY COUNCILOR FILIPOVICH (FINANCE)**

13.     **15-0633R**     RESOLUTION PROPOSING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL PARKS FUND LEVY FOR THE YEAR 2016.

#### **CITY PROPOSAL:**

RESOLVED, that pursuant to Minnesota Statutes, Sec. 275.065, the city council adopts the following proposed tax levy:

Section 1. That sum to be raised by taxation for the year 2016 for the special parks fund levy is hereby determined to be the sum of \$2,600,000 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following section:

Section 2. That pursuant to Ordinance 10134, approved by voter referendum on November 9, 2011, pursuant to the authority contained in Laws of Minnesota 1953, Chapter 560, Section 1, there will be levied for the parks fund the sum of \$2,600,000.

STATEMENT OF PURPOSE: This resolution sets the proposed tax levy for the year 2016 for the parks fund levy. Ordinance 10134, approved by voter referendum on November 9, 2011, created a dedicated parks fund and special levy in the amount of \$2.6 million per year to be utilized for parks and recreation purposes only.

**This Resolution was adopted unanimously.**

- 14. 15-0653R** RESOLUTION AUTHORIZING THE ISSUANCE AND PROVIDING FOR THE SALE OF TAXABLE GENERAL OBLIGATION TOURISM TAX REVENUE BONDS, SERIES 2015E.

CITY PROPOSAL:

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

1. Authorization of Bonds. It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue its Taxable General Obligation Tourism Tax Revenue Bonds, Series 2015E, in the approximate amount of \$13,800,000 (the "Bonds"), pursuant to Minnesota Laws 2014, Chapter 308, Article 3, Sections 21 and 22 and Minnesota Statutes, Chapter 475, for the purpose of providing \$13,600,000 of funds to finance capital improvements to public facilities that support tourism and recreational activities in the portion of the City west of 34th Avenue West, or as otherwise amended by the State legislature.

2. Issuance and sale of Bonds. The terms and conditions of the Bonds and the sale thereof are set forth in the official terms of offering attached as Exhibit A hereto. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the Bonds and the sale thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the Bonds. Due to changes in the municipal bond market, the city's chief administrative officer, with the advice of the city's municipal advisor, may modify the official terms of offering regarding the maturity schedule, the minimum bid and the maximum bid prior to the sale of the Bonds.

3. Competitive sale of Bonds. Public Financial Management, Inc., independent municipal advisor to the city, is hereby authorized to provide the notice of the sale for the Bonds in accordance with Minnesota Statutes, Section 475.60, subdivision 3, and in accordance with the official terms of offering.

4. Subsequent resolutions. The form, specifications and provisions for repayment of the Bonds shall be set forth in a subsequent resolution of this city council.

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize the issuance of Taxable General Obligation Tourism Tax Revenue Bonds in the approximate amount of \$13,800,000 to provide \$13,600,000 of funds to finance capital improvements to public facilities that support tourism and recreational activities in the portion of the city west of 34th Avenue West, or as may be amended, pursuant to the 2014 special legislation. The recreational and tourism projects will be brought forward for council approval as each project's cost and scope is defined. The preliminary list of projects was approved by the City Council on March 23, 2015, resolution 15-0175.

Attachments: [Exhibit A](#)

**This Resolution was adopted unanimously**

15. **15-0654R** RESOLUTION AUTHORIZING THE ISSUANCE AND PROVIDING FOR THE SALE OF GENERAL OBLIGATION STREET IMPROVEMENT REFUNDING BONDS, SERIES 2015F.

CITY PROPOSAL:

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

1. Authorization of Bonds. It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue its approximately \$2,790,000 General Obligation Street Improvement Refunding Bonds, Series 2015F (the "Bonds"), pursuant to Minnesota Statutes, Chapter 475 (the "Act"), and Section 475.67, Subdivisions 1 through 4 of the Act, for the purpose of refunding, on a current refunding basis, the 2016 through 2022 maturities of the city's General Obligation Street Improvement Bonds, Series 2006C, dated September 7, 2006, and the 2016 through 2023 maturities of the city's General Obligation Street Improvement Bonds, Series 2007A, dated December 13, 2007.

2. Issuance and sale of Bonds. The terms and conditions of the Bonds and the sale thereof are set forth in the official terms of offering attached as Exhibit A hereto. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the Bonds and the sale thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the Bonds. Due to changes in the municipal bond market, the city's chief administrative officer, with the advice of the city's municipal advisor, may modify the official terms of offering regarding the maturity schedule, the minimum bid and the maximum bid prior to the sale of the Bonds.

3. Competitive sale of Bonds. Public Financial Management, Inc., independent municipal advisor to the city, is hereby authorized to provide the notice of the sale for the Bonds in accordance with Minnesota Statutes, Section 475.60, subdivision 3, and in accordance with the official terms of offering.

4. Subsequent resolution. The form, specifications and provisions for repayment of the Bonds shall be set forth in a subsequent resolution of this city council.

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize the issuance of General Obligation Street Improvement Refunding Bonds in the approximate amount of \$2,790,000 to refinance two series of city street improvement bonds. Based upon present interest rates (as of September 1, 2015), the refunding would provide a net present value savings of approximately \$171,176.

Attachments: [Exhibit A](#)

**This Resolution was adopted unanimously.**

16.     **15-0655R**     RESOLUTION AUTHORIZING THE ISSUANCE AND PROVIDING FOR THE SALE OF GENERAL OBLIGATION UTILITIES REVENUE REFUNDING BONDS, SERIES 2015G.

CITY PROPOSAL:

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

1. Authorization of Bonds. It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its

residents, that the city should issue its approximately \$2,790,000 General Obligation Utilities Revenue Refunding Bonds, Series 2015G (the "Bonds"), pursuant to Minnesota Statutes, Chapter 475 (the "Act"), and Section 475.67, Subdivisions 1 through 4 of the Act, for the purpose of refunding, on a current refunding basis, the 2016 through 2022 maturities of the city's General Obligation Stormwater Utility Revenue Bonds, Series 2006B, dated September 7, 2006, the 2016 through 2022 maturities of the city's General Obligation Utilities Revenue Bonds, Series 2006F, dated December 19, 2006, and the 2016 through 2023 maturities of the city's General Obligation Sewer Utility Revenue Bonds, Series 2007B, dated December 13, 2007.

2. Issuance and sale of Bonds. The terms and conditions of the Bonds and the sale thereof are set forth in the official terms of offering attached as Exhibit A hereto. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the Bonds and the sale thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the Bonds. Due to changes in the municipal bond market, the city's chief administrative officer, with the advice of the city's municipal advisor, may modify the official terms of offering regarding the maturity schedule, the minimum bid and the maximum bid prior to the sale of the Bonds.

3. Competitive sale of Bonds. Public Financial Management, Inc., independent municipal advisor to the city, is hereby authorized to provide the notice of the sale for the Bonds in accordance with Minnesota Statutes, Section 475.60, subdivision 3, and in accordance with the official terms of offering.

4. Subsequent resolution. The form, specifications and provisions for repayment of the Bonds shall be set forth in a subsequent resolution of this city council.

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize the issuance of General Obligation Utilities Revenue Refunding Bonds in the approximate amount of \$2,790,000 to refinance three series of city utility revenue bonds. Based upon present interest rates (as of September 1, 2015), the refunding would provide a net present value savings of approximately \$260,251.

Attachments: [Exhibit A](#)

**This Resolution was adopted.**

17.     **15-0680R**     RESOLUTION APPROVING A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF DULUTH AND LAW ENFORCEMENT LABOR SERVICES LOCAL 363, DULUTH POLICE

## LIEUTENANTS, FOR THE YEARS 2015-2017.

## CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to execute and implement a collective bargaining agreement with Law Enforcement Labor Services Local 363, Duluth Police Lieutenants, ("LELS") containing the same terms and conditions, and substantially the same as that attached hereto as Exhibit A, covering the years 2015 through 2017.

STATEMENT OF PURPOSE: The city and LELS have been in negotiations for a successor agreement to the current 2012-2014 collective bargaining agreement. The parties tentatively agreed to a 2015-2017 collective bargaining agreement on September 9, 2015, and LELS membership ratified this 2015-2017 collective bargaining agreement on September 27, 2015. The agreement is a three-year contract with wage increases of 2% in 2015, 2.5% in 2016, and 2.5% in 2017. Beginning January 1, 2016, LELS members will also receive 2% of monthly pay as compensation for off-duty law enforcement availability. This agreement modifies family dental insurance eligibility rules, provides for more flexible deferred compensation availability by allowing employee choice in health insurance coverage options, and clarifies retirees' eligibility for healthcare coverage upon retirement.

**Attachments:** [Final 2015-2017 LELS Agreement \(clean\)](#)  
[Final 2015-2017 LELS Agreement \(Changes Marked\)](#)

This Resolution was adopted unanimously.

**BY COUNCILOR HANSON (PURCHASING & LICENSING)**

18. 15-0605R RESOLUTION AUTHORIZING AN AMENDMENT TO C22370 WITH ACCRUENT, LLC, FOR ADDITIONAL IMPLEMENTATION OF THE WORK ORDER SYSTEM IN THE AMOUNT OF \$4,000, FOR A TOTAL 5-YEAR CONTRACT AMOUNT OF \$90,708.

## CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to amend C22370 with Accruent, LLC, for 20 hours of additional implementation of the work order system in the amount of \$4,000 for a total a 5-year contract total of \$90,708, payable from General Fund 110, Public Administration

121, Facilities Management 1222, Software Licenses and Maintenance Agreements 5414.

STATEMENT OF PURPOSE: This resolution authorizes an amendment to C22370 with Accruent, LLC, in the amount of \$4,000, for 20 hours of additional implementation of the work order system; see Exhibit A for full details, for a total 2015 cost of \$17,000, and a 5-year contract total amount of \$90,708.

The 5-year contract with Accruent, LLC, was presented to council and approved on December 15, 2014; Resolution No. 14-0632R.

Attachments: [Exhibit A](#)

**This Resolution was adopted unanimously.**

- 19. 15-0681R** RESOLUTION AUTHORIZING A SINGLE SOURCE PURCHASE FROM EVOLVING SOLUTIONS FOR SUPPORT AND MAINTENANCE OF A NETAPP SYSTEM IN THE AMOUNT OF \$47,507.32.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to purchase an annual support and maintenance package from Evolving Solutions for the currently utilized NetApp data storage system in the amount of \$47,507.32, payable from General Fund 110, Public Administration 121, Information Technology 1107, Software Licenses and Maintenance Agreements 5414.

STATEMENT OF PURPOSE: The resolution authorizes the single source purchase of annual support and maintenance in the amount of \$47,507.32 from Evolving Solutions. The City is in the fifth year of support with the NetApp hardware which stores most of the data, files and operating systems for City networked computer systems. Included in this quote is the NetApp SAN located in city hall and the public safety building. The equipment was purchased through Evolving Solutions and has been supported and maintained through them annually.

Requisition No. 15-0604

**This Resolution was adopted.**

**COMMITTEE 2**

**BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)**

- 20. 15-0673R** RESOLUTION AUTHORIZING ACCEPTANCE OF A BROWNFIELDS AREA-WIDE PLANNING GRANT FROM THE U.S. ENVIRONMENTAL

PROTECTION AGENCY AND EXECUTION OF THE AGREEMENT  
RELATED THERETO

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to accept a brownfields area-wide planning grant from the U.S. environmental protection agency (EPA), region 5 in the amount of \$200,000 payable into Fund 255 (economic development fund), Agency 020 (planning), Revenue Source Code 4210-02 (pass through federal grant operating).

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute assistance agreement no. 00E01495 substantially in the form of that attached, with the EPA in connection with the above grant.

STATEMENT OF PURPOSE: The City submitted a grant application to the EPA in September 2014 for brownfields area-wide planning in the Western Port Area Neighborhood (WPAN).

The WPAN is called out in the 2006 Comprehensive Plan as an area needing more focused long-term planning. Given that the WPAN has more than 40 identified brownfield and/or blighted properties, this EPA grant was pursued as a means of implementing a planning process. The process will focus upon prioritization of brownfield sites for redevelopment and will also address issues such as connectivity, traffic and infrastructure. Staff was notified in late March that the City's application for \$200,000 had been approved. Subsequently, a work plan for the grant was submitted and approved, resulting in the attached Cooperative Agreement. These federal grant funds will be used for compensating two subgrantees, the St. Louis River Alliance and Minnesota Brownfields, for their assistance with community education and engagement, for staff training, and for consultant services. This grant award does not require a local match; grant proceeds are available through August 2017.

**Attachments:** [Agreement No. 00E01495](#)

**This Resolution was adopted unanimously.**

21.     **15-0678R**     RESOLUTION AUTHORIZING A PROFESSIONAL SERVICES CONTRACT WITH THE CENTER FOR MUNICIPAL SERVICES (CMS) TO PROVIDE TECHNICAL ASSISTANCE FOR WIRELESS TELECOMMUNICATIONS PLANNING AND ZONING APPLICATIONS IN AN AMOUNT NOT TO EXCEED \$200,000.

CITY PROPOSAL:



RESOLVED, that the proper city officials are hereby authorized to enter into a contract with the Center for Municipal Services for professional services in an amount not to exceed \$200,000, payable out of General Fund 110, Department/Agency 132 (Planning and Construction Services), Division 1301 (Planning and Development), Object 5310 (Construction Services).

STATEMENT OF PURPOSE: This resolution authorizes a new contract between the city and the Center for Municipal Services (CMS). The city has had a contract with CMS since May 2010 to provide technical assistance in reviewing new planning and zoning applications for wireless telecommunications facilities, including new cell towers and new antennas on existing structures (such as buildings, chimneys, etc). CMS is reimbursed for their services through escrow accounts that are established by the applicants when they submit new planning and zoning applications; no city taxpayer funds are used to reimburse CMS for their services. The new contract reduces the scope of CMS's professional services. The previous contract had them reviewing all new wireless proposals, including expansion projects on existing sites; the revised contract has them reviewing only entirely new facilities (facilities on property where no previous wireless facilities have been present), or expansion projects that substantially change the physical dimensions of the existing telecommunication facility.

Action deadline: N/A

**Attachments:** [Attachment 1](#)

**This Resolution was adopted unanimously.**

- 22. 15-0684R** RESOLUTION APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY AND KENWOOD VILLAGE LLC RELATED TO THE MIXED USE DEVELOPMENT AT THE SOUTHWEST CORNER OF ARROWHEAD ROAD AND KENWOOD AVENUE.

CITY PROPOSAL:

RESOLVED, that the city council of the city of Duluth does hereby approve, pursuant to the provisions of resolution no. 10-0229, the

development agreement between the Duluth economic development authority (DEDA) and Kenwood Village LLC, substantially in the form of that attached as Exhibit A, related to the mixed use development at the southwest corner of Arrowhead Road and Kenwood Avenue.

STATEMENT OF PURPOSE: The purpose of this resolution is to obtain the city council's approval of the Development Agreement between DEDA and Kenwood Village LLC (Developer) for the development of the mixed use project at the southwest corner of Arrowhead Road and Kenwood Avenue as is required pursuant to Paragraph 19 of the amended DEDA enabling Legislation Resolution 10-0229. DEDA approved the Agreement at its September 23, 2015, meeting.

The project will be located in an area identified as Tax Increment District No. 29, a 26-year redevelopment district. The agreement provides for the construction of not less than 80 market rate apartment units, not less than 14,000 gross square feet of commercial space and approximately 73,000 square feet of parking, some of which will be located within a two-story parking deck.

DEDA will provide 90% of the TIF generated by the project up to \$2,862,500 plus interest to pay for public eligible costs of construction on a pay-as-you-go basis. The Developer is contributing \$200,000 to the city toward street improvements to Kenwood Avenue and Arrowhead Road.

The public purpose of the tax increment assistance to be provided pursuant to this Agreement is to stimulate the redevelopment of underutilized, blighted or obsolete land uses including rehabilitation or demolition of substandard structures, to encourage the development of commercial areas in the city that result in higher quality development or redevelopment and private investment, to achieve development on sites which would not be developed without assistance, and to enhance and diversify the tax base of the city of Duluth

Tax base impact statement: The current market value of the properties located in this 26 year Redevelopment TIF District to be created by DEDA is \$729,500 and the property is generating \$8,836 in net tax capacity. After the improvements are completed, the taxable market value will increase to \$9,900,000 and the annual tax increment will be provided to the Developer to facilitate the redevelopment. After the TIF District is terminated, the development is anticipated to generate over \$141,750 per year in net tax capacity (based on the county assessor's valuation of the completed property, not including inflation).

Attachments: [Exhibit A](#)  
[Graphics](#)

This Resolution was adopted unanimously.

### BY COUNCILOR KRUG (INTERGOVERNMENTAL RELATIONS)

23. 15-0679R RESOLUTION AUTHORIZING AN AMENDMENT TO THE LEASE AGREEMENT (CONTRACT NO. 21469) WITH THE STATE AUDITOR FOR OFFICE SPACE IN CITY HALL EXTENDING THE TERM AND INCREASING THE RENT.

#### CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to an agreement with the state of Minnesota, department of administration, substantially in the form of the attached Amendment of Lease, for the lease of space for the state auditor in city hall extending the term through September 30, 2019, in the total amount of \$64,275.84 to be deposited in Fund 110-121-1217-2150-4622 (general, public administration, maintenance operations, buildings and grounds, rent of buildings).

STATEMENT OF PURPOSE: This resolution authorizes a four year renewal of the existing lease agreement with the state of Minnesota for office space in City Hall for the office of the state auditor, funds payable to the general fund. The office of the state auditor currently occupies space within City Hall under a 2011 lease that expires on September 30, 2015. The state of Minnesota wants to continue leasing the existing space under an amendment of lease. The lease rate for year 1 is \$15,477.12, year 2 is \$15,868.68, year 3 \$16,260.36 and year 4 is \$16,669.68 for a total of \$64,275.84.

Attachments: [Lease 11877 Amendment 1 Redacted InitialedOSA](#)

This Resolution was adopted unanimously.

### COMMITTEE 3

### BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)

24. 15-0646R RESOLUTION AWARDDING A CONTRACT TO NORTHLAND CONSTRUCTORS OF DULUTH, LLC FOR THE RECONDITIONING/RECONSTRUCTION OF RIDGEVIEW ROAD FROM RICE LAKE ROAD (CSAH 4) TO THE MNANG BASE IN THE AMOUNT OF \$562,083.78.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Northland Constructors of Duluth, LLC for the Reconditioning/Reconstruction of Ridgeview Road from Rice Lake Road (CSAH 4) to the MNANG Base in the amount of \$562,083.78. The city of Duluth is acting as the agent for the federal and MNANG funds, with no monetary contribution by the city. The Air National Guard is reimbursing the city for engineering expenses. The working fund is Permanent Improvement Fund 411, Department 035 (Capital Projects Accounts), Object 5530 (Improvements Other than Buildings), city project no. 1055, S.P. 118-080-042.

**STATEMENT OF PURPOSE:** This resolution will authorize the Reconditioning/Reconstruction of Ridgeview Road from Rice Lake Road to the MNANG Base by Northland Constructors of Duluth, LLC in the amount of \$562,083.78. Northland Constructors was the lowest responsible bidder of the three companies that responded. The engineer's estimate was \$788,501.09. Payable out of Permanent Improvement Fund 411, Department 035 (Capital Projects Accounts), Object 5530 (Improvements Other than Buildings), city project no. 1055, S.P. 118-080-042, requisition no. 15-0559, with the city of Duluth acting as the agent for the federal and MNANG funds, with no monetary contribution by the city. The Air National Guard is reimbursing the city for engineering expenses.

**TABULATION OF BIDS RECEIVED SEPTEMBER 16, 2015**

Northland Constructors of Duluth, LLC	Duluth, MN	\$562,083.78
KGM Contractors, Inc.	Angora, MN	\$597,488.76
Ulland Brothers, Inc.	Carlton, MN	\$606,388.04

**Attachments:** [15-0646R Map](#)

**This Resolution was adopted unanimously.**

- 25. 15-0648R** RESOLUTION AUTHORIZING ACCEPTANCE OF EASEMENTS FROM J & S PARTNERSHIP, LLP, J & S V, LLC, AND GLENN AND SALLY PRATT FOR J & S/ONEOTA REDEVELOPMENT PROJECT AT A COST OF \$50,000, AND RESCINDING RESOLUTION 11-0034R.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, attached as Agreement Exhibit A with J & S Partnership, LLP, J S & V, LLC, and Glenn and Sally Pratt, accepting various utility easements from them in furtherance of J & S's redevelopment of property below Grand Avenue from 44th Avenue West to 46th Avenue West at a cost not to exceed \$50,000, payable from Economic Development Fund 255.

FURTHER RESOLVED, that Resolution No. 11-0034R is hereby rescinded.

**STATEMENT OF PURPOSE:** The purpose of this resolution is to authorize an agreement with J & S Partnership, LLP, J & S V, LLC, and Glenn and Sally Pratt, accepting various utility easements from them at no cost to the city in furtherance of J & S's redevelopment of property below Grand Avenue from 44th Avenue West to 46th Avenue West.

J & S Partnership is a limited partnership in which the principals are Ron Johnson and Fred Strom. They, in the form of this limited partnership and another limited partnership, and Glenn and Sally Pratt have undertaken the redevelopment of property in the Oneota neighborhood which lies between 44th and 46th Avenues West below Grand Avenue; the property is principally located adjacent to 45th Avenue West and vacated Traverse (or Second) Street. See the attached area map.

The city has secured a Minnesota Department of Employment and Economic Development (DEED) Redevelopment grant in the amount of \$664,780 to cover the costs associated with the acquisition of the easements and the infrastructure construction.

The easements are granted in conjunction with various vacations and other dedications which will be used for a new gas main, new water main including fire safety improvements, storm and sanitary sewer improvements, and new street lighting, which allow reconfiguration of the property to facilitate its development. The new public utilities have been installed.

This resolution also rescinds the previously adopted resolution accepting a previous version of the easement. The city was unable to record the easements due to underlying title issues that needed to be resolved. During that process it was discovered that the easements to be granted to the city contained technical errors such that, if they were recorded, would result in the wrong property being affected by the city's action and needed easements not being on the right property. Fortunately the errors were discovered before the erroneous document was recorded, and so the

errors can be easily corrected by eliminating the record of the errors through rescission of the resolution containing the errors and approval of the correctly-described easements. This resolution accomplishes that.

**Attachments:** [Agreement Exhibit A](#)  
[15-0648R Map](#)

**This Resolution was adopted unanimously.**

- 26. 15-0661R** RESOLUTION ESTABLISHING A PROCEDURE FOR ISSUING CITY HELD OFF-SALE LIQUOR LICENSES.

CITY PROPOSAL/BY COUNCILOR JULSRUD:

RESOLVED, that the city council desires to establish procedures and guidelines for issuing city held off-sale liquor licenses and adopts the procedures and guidelines attached hereto as Exhibit A.

STATEMENT OF PURPOSE: This resolution adopts procedures and guidelines for the issuance of city held off-sale liquor licenses. The procedures and guidelines outline the process for applying for an off-sale liquor license and explain the selection criteria used to issues the license(s). Proposals for the Lakeside and Lester Park neighborhoods will not be considered at the present time.

**Sponsors:** Julsrud

**Attachments:** [Exhibit A - 15-0661R](#)

**This Resolution was adopted unanimously.**

- 27. 15-0665R** RESOLUTION ACCEPTING CONDITIONS OF CONSENT AND AUTHORIZATION OF THE MINNESOTA POLLUTION CONTROL AGENCY FOR RIDGEVIEW ROAD PROJECT.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to execute the Amended and Restated Consent and Authorization of the Commissioner of the Minnesota Pollution Control Agency Pursuant to Landfill Cleanup Agreement, substantially in the form of the attached document, accepting the conditions of consent set forth in the document.

STATEMENT OF PURPOSE: The purpose of this resolution is to accept the conditions of consent from the MPCA related to the Ridgeview Road project for construction work within and easements needed over property subject to a Landfill Cleanup Agreement.

Attachments: [Attachment to 15-0665R](#)

This Resolution was adopted unanimously.

## BY COUNCILOR FOSLE (PUBLIC SAFETY)

28.     **15-0659R**     RESOLUTION AUTHORIZING PROPER CITY OFFICIALS TO ACCEPT A GRANT FROM THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY IN THE AMOUNT OF \$125,411 FOR UPGRADES TO THE SURVEILLANCE CAMERA SYSTEM AND PURCHASE OF AN EXPLOSIVE DETECTION CANINE AND FURTHER AUTHORIZING EXECUTION OF THE GRANT AGREEMENT.

### CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to accept a FY2015 Port Security Grant Program award from the United States department of homeland security, in the amount of \$125,411. Matching funds in the total amount of \$41,804 to come from fund number 250-015-2015-5580 CE250-E1510 (Capital Equipment, Public Administration, Fiscal year 2015, Capital Equipment, Network Storage Replacement) and fund number 210-030-3123-5441 (Police Department, K9 Account for Other Services) The grant and matching funds will be used to upgrade the city camera surveillance system and to purchase/train an explosive detection canine.

FURTHER RESOLVED, that the proper city officials are authorized to execute a grant agreement, substantially the same as the attached Exhibit A, from the United States department of homeland security. \$100,493 to be deposited in fund number 215-200-2213-4210-01 and \$24,918 to be deposited in fund 215-200-2213-4210-02 (Duluth police grant programs, police, 2015 port security grant program, pass-thru federal grants operating).

STATEMENT OF PURPOSE: This resolution authorizes the acceptance of a FY2015 Port Security Grant Program grant from the U.S. Department of Homeland Security in the amount of \$125,411 that requires a total match of \$41,804. \$100,493 of the grant award will be utilized to upgrade the city camera surveillance system and \$24,918 of the grant award will be used by the Duluth police department to purchase/train an explosive detection canine for the explosive detection canine team. \$33,498 of the required match is being provided by the City of Duluth IT Department and \$8,306 of the required match is being provided by the Police Department K9

Account.

**Attachments:** [Exhibit A](#)

This Resolution was adopted unanimously.

## **BY COUNCILOR SIPRESS (RECREATION, LIBRARIES & AUTHORITIES)**

- 29. 15-0657R** RESOLUTION GRANTING APPROVAL AND IMPLEMENTATION OF THE WEST DULUTH SPORTS CORRIDOR MINI-MASTER PLAN.

### CITY PROPOSAL:

RESOLVED, that the city council hereby approves the West Duluth Sports Corridor Mini-Master Plan and authorizes implementation of the plan as funding becomes available.

STATEMENT OF PURPOSE: This resolution approves the West Duluth Sports Corridor Mini-Master Plan and implementation thereof. The Plan supports the following Parks and Recreation guiding principles:

- Provide Safe, Clean, Fun and Beautiful Parks
- Build Partnerships
- Ensure Equitable Access
- Connect the Community
- Continue to Meet Evolving Recreation Needs
- Be Sustainable
- Take Care of What We Have
- Identify and Create Greatest Value at Acceptable Costs

The development of this Mini-Master Plan aligns with the parks and recreation master plan to have parks serve community needs by gathering input from the surrounding community of each park. City sponsored forums for public input regarding the West Duluth Sports Corridor were held.

The planning process started in February 2015 with staff, stakeholder groups and partner organizations meetings. Public meetings were held in 2015 on March 3 and May 5. There was opportunity for public input between each meeting. Draft plans and comment forms were available on the City's website throughout the process. Additional time was taken to revise the Plan after each comment period. Partner organizations reviewed each revision and offered comments to develop a consensus. A final draft Plan was presented at the September 9, 2015, Parks Commission meeting. This plan was unanimously supported by the Duluth Parks and Recreation Commission during their September 9, 2015, meeting.

**Attachments:** [WDSCMMP FINAL.PDF](#)



This Resolution was adopted unanimously.

## END OF CONSENT AGENDA

The following entitled resolutions were also considered:

### COMMITTEE 1

#### BY COUNCILOR FILIPOVICH (FINANCE)

30. 15-0632R RESOLUTION PROPOSING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2016.

#### CITY PROPOSAL:

RESOLVED, that pursuant to Minnesota Statutes, Section 275.065, the city council adopts the following proposed tax levy:

Section 1. The sum to be raised by taxation for the year 2016 for general operations is hereby determined to be the sum of \$21,630,792 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts of the city, as set forth in the following sections, viz:

Section 2. There will be levied for the support of the general fund the sum of \$14,128,900.

Section 3. There will be levied for the support of the street lighting fund the amount of \$647,592.

Section 4. For the payment of debt, there will be levied for the general obligation debt fund the sum of \$6,574,300.

Section 5. That pursuant to Laws of Minnesota 1971, Chapter 824, to pay for the portion of the cost of local improvements which will not sustain a special assessment, there will be levied for the permanent improvement fund the sum of \$280,000.

STATEMENT OF PURPOSE: This resolution sets the maximum property tax levy for the year 2016.

The city council must approve and certify a proposed tax levy to St. Louis County no later than September 30. The council must adopt the final levy in December of the same or a lesser amount.

The intent of this amendment is to provide additional funding options for city programs. Increasing the maximum levy by the amended amount will result in a total levy increase of 5.55 percent and a total tax rate increase of 3.5 percent. The average homeowner will see a total increase of \$18 per year. The council will have the opportunity to discuss budget priorities and the funding for these priorities before the final levy is set in December.

**Attachments:** [mta 15-0632r Filipovich/Sipress](#)

[mta 15-0632r Julsrud 1](#)

[mta 15-0632r Julsrud 2](#)

Councilor Filipovich moved to amend the resolution, which motion was seconded, discussed and carried as follows:

Yea: 6 - Councilors Filipovich, Gardner, Julsrud, Russ, Sipress and President Larson

Nay: 3 - Councilors Fosle, Hanson and Krug

Councilor Julsrud moved to amend the resolution, which motion was seconded, discussed and carried as follows:

Yea: 4 - Councilors Filipovich, Julsrud, Krug and Russ.

Nay: 5 - Councilors Fosle, Gardner, Hanson, Sipress and President Larson.

Councilor Julsrud moved to amend the resolution, which motion was seconded, discussed and carried as follows:

Yea: 3 - Councilors Julsrud, Krug and Russ

Nay: 6 - Councilors Filipovich, Fosle, Gardner, Hanson, Sipress and President Larson.

**This Resolution, as amended, was adopted as follows:**

**Yea:** 7 - Councilors Filipovich, Gardner, Julsrud, Krug, Russ, Sipress and President Larson

**Nay:** 2 - Councilors Fosle and Hanson

- 32. 15-0649R** RESOLUTION AUTHORIZING THE ISSUANCE AND PROVIDING FOR THE SALE OF GENERAL OBLIGATION CAPITAL IMPROVEMENT BONDS, SERIES 2015A.

CITY PROPOSAL:

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

1. Authorization of Bonds. The city council adopted Resolution No. 14-0593 on December 8, 2014, declaring its intent to issue capital improvement bonds in 2015 in an amount not to exceed \$1,800,000. It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue General

Obligation Capital Improvement Bonds, Series 2015A, in the approximate amount of \$1,530,000 (the "Bonds"), pursuant to Minnesota Statutes, Section 475.521 and Chapter 475, and the City Charter, for the purpose providing approximately \$1,603,000 for capital improvements projects pursuant to an approved capital improvement plan. The city's municipal advisor is anticipating receipt of bids with original issue premium.

2. Issuance and sale of Bonds. The terms and conditions of the Bonds and the sale thereof are set forth in the official terms of offering attached as Exhibit A hereto. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the Bonds and the sale thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the Bonds. Due to changes in the municipal bond market, the city's chief administrative officer, with the advice of the city's municipal advisor, may modify the official terms of offering regarding the maturity schedule, the minimum bid and the maximum bid prior to the sale of the Bonds.

3. Competitive sale of Bonds. Public Financial Management, Inc., independent municipal advisor to the City, is hereby authorized to provide the notice of the sale for the Bonds in accordance with Minnesota Statutes, Section 475.60, subdivision 3, and in accordance with the official terms of offering.

4. Subsequent resolution. The form, specifications and provisions for repayment of the Bonds shall be set forth in a subsequent resolution of this city council.

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize the issuance of approximately \$1,530,000 General Obligation Capital Improvement Bonds to provide approximately \$1,603,000 of funds for capital improvement projects pursuant to an approved capital improvement plan, which Bonds are payable from ad valorem taxes. The city's municipal advisor is anticipating bids with substantial premium, which results in the par amount of the Bonds being less than cash needed for the projects.

Attachments: [Exhibit A](#)

**A motion was made that this Resolution be adopted. The motion carried by the following vote:**

**Yea:** 8 - Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson

**Nay:** 1 - Councilor Fosle

**32. 15-0650R RESOLUTION AUTHORIZING THE ISSUANCE AND PROVIDING FOR**

THE SALE OF GENERAL OBLIGATION CAPITAL EQUIPMENT NOTES,  
SERIES 2015B.

CITY PROPOSAL:

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

1. Authorization of Notes. The city council adopted Resolution No. 14-0594 on December 8, 2014, declaring its intent to issue general obligation capital equipment notes in 2015 in an amount up to \$4,416,000 plus costs of issuance and discount. It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue General Obligation Capital Equipment Notes, Series 2015B, in the approximate amount of \$3,380,000 (the "Notes"), pursuant to Minnesota Statutes, Sections 410.32 and 412.301 (the "Act"), and Minnesota Statutes, Chapter 475, and the City Charter, for the purpose of providing approximately \$3,451,000 to purchase capital equipment, as permitted by the Act, having an expected useful life at least as long as the term of the Notes. The city's municipal advisor is anticipating receipt of bids with original issue premium.

2. Issuance and sale of Notes. The terms and conditions of the Notes and the sale thereof are set forth in the official terms of offering attached as Exhibit A hereto. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the Notes and the sale thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the Notes. Due to changes in the municipal bond market, the city's chief administrative officer, with the advice of the city's municipal advisor, may modify the official terms of offering regarding the maturity schedule, the minimum bid and the maximum bid prior to the sale of the Notes.

3. Competitive sale of Notes. Public Financial Management, Inc., independent municipal advisor to the city, is hereby authorized to provide the notice of the sale for the Notes in accordance with Minnesota Statutes, Section 475.60, subdivision 3, and in accordance with the official terms of offering.

4. Subsequent resolutions. The form, specifications and provisions for repayment of the Notes shall be set forth in a subsequent resolution of this city council.

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize the issuance of approximately \$3,380,000 General Obligation Capital Equipment Notes for the purpose of purchasing capital equipment in the approximate amount of \$3,451,000. The Notes are payable from ad valorem taxes. The city's municipal advisor is anticipating bids with substantial premium, which results in the par amount of the Notes being less than cash needed to purchase the capital equipment.

Attachments: [Exhibit A](#)

**A motion was made that this Resolution be adopted. The motion carried by the following vote:**

**Yea:** 8 - Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson

**Nay:** 1 - Councilor Fosle

- 33. 15-0651R** RESOLUTION AUTHORIZING THE ISSUANCE AND PROVIDING FOR THE SALE OF TAXABLE GENERAL OBLIGATION AIRPORT IMPROVEMENT BONDS, SERIES 2015C.

CITY PROPOSAL:

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

1. Authorization of Bonds. It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue Taxable General Obligation Airport Improvement Bonds, Series 2015C, in the approximate amount of \$2,910,000 (the "Bonds"), pursuant to Minnesota Statutes, Chapter 475, and Sections 360.011 through 360.076 and all other enabling statutes, for the purpose of financing improvements to Hanger 103 located at the Duluth International Airport; such improved Hanger is being leased in connection with Lake Superior College's aviation program.

2. Issuance and sale of Bonds. The terms and conditions of the Bonds and the sale thereof are set forth in the official terms of offering attached as Exhibit A hereto. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the Bonds and the sale thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the Bonds. Due to changes in the municipal bond market, the city's chief administrative officer, with the advice of the city's municipal advisor, may modify the official terms of offering regarding the maturity

schedule, the minimum bid and the maximum bid prior to the sale of the Bonds.

3. Competitive sale of Bonds. Public Financial Management, Inc., independent municipal advisor to the City, is hereby authorized to provide the notice of the sale for the Bonds in accordance with Minnesota Statutes, Section 475.60, subdivision 3, and in accordance with the official terms of offering.

4. Subsequent resolution. The form, specifications and provisions for repayment of the Bonds shall be set forth in a subsequent resolution of this city council.

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize the issuance of Taxable General Obligation Airport Improvement Bonds, Series 2015C, in the approximate amount of \$2,910,000 to finance improvements to Hanger 103 located at the Duluth International Airport, which Hanger is to be leased in connection with Lake Superior College's aviation program, and are secured by revenues expected to be paid by Airport Authority revenues, including the lease payments from such Hanger. The bond resolution for the sale of this bond issue will require an affirmative vote of at least six councilors.

Attachments: [Exhibit A](#)

**A motion was made that this Resolution be adopted. The motion carried by the following vote:**

**Yea:** 7 - Councilors Filipovich, Gardner, Julsrud, Krug, Russ, Sipress and President Larson

**Nay:** 2 - Councilors Fosle and Hanson

- 34. 15-0652R** RESOLUTION AUTHORIZING THE ISSUANCE AND PROVIDING FOR THE SALE OF TAXABLE GENERAL OBLIGATION STEAM UTILITY REVENUE BONDS, SERIES 2015D.

CITY PROPOSAL:

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

1. Authorization of Bonds. It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue Taxable General Obligation Steam Utility Revenue Bonds, Series 2015D, in the approximate amount of

\$4,060,000 (the "Bonds"), pursuant to the provisions of Section 55 of the City Charter, Minnesota Laws 1979, Chapter 113, and Minnesota Statutes, Chapter 475, for the purpose of financing improvements to the municipal steam plant located in downtown Duluth.

2. Issuance and sale of Bonds. The terms and conditions of the Bonds and the sale thereof are set forth in the official terms of offering attached as Exhibit A hereto. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the Bonds and the sale thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the Bonds. Due to changes in the municipal bond market, the city's chief administrative officer, with the advice of the city's municipal advisor, may modify the official terms of offering regarding the maturity schedule, the minimum bid and the maximum bid prior to the sale of the Bonds.

3. Competitive sale of Bonds. Public Financial Management, Inc., independent municipal advisor to the City, is hereby authorized to provide the notice of the sale for the Bonds in accordance with Minnesota Statutes, Section 475.60, subdivision 3, and in accordance with the official terms of offering.

4. Subsequent resolution. The form, specifications and provisions for repayment of the Bonds shall be set forth in a subsequent resolution of this city council.

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize the issuance of approximately \$4,060,000 Taxable General Obligation Steam Utility Revenue Bonds to provide funds for improvements to the municipal steam utility located in downtown Duluth, which Bonds are payable from revenues of the steam utility.

**Attachments:** [Exhibit A](#)

**A motion was made that this Resolution be adopted. The motion carried by the following vote:**

**Yea:** 8- Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson

**Nay:** 1 - Councilor Fosle

**COMMITTEE 2****BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)**

Councilor Russ moved to suspend the rules to consider in reverse order resolutions 15-0666, 15-0067 and 15-0668 all at this time, which motion was seconded and unanimously carried.

Councilor Russ moved to suspend the rules to hear speakers on the resolutions 15-0666 15-0667 and 15-0668, which motion was seconded and unanimously carried.

At this time, 9:34 p.m. Councilor Fosle left the meeting.

Taylor Zare, Madhi Yloliye, Runrd Schoolderman, Bryon French, John Doberstein, Heather Wendel, Eric Viken, Eli Miller, Dani Smilanich, Ruth Axtell-Adams, Bryan Crum, Shanna Mullen-Eardley, Johanna Hanson, Paige Bebus, Mike Casey, Leah Gruhn, Jeff Schmidt, Rose Maloof, Tim Gregorich, Brandon Channell, Troy Rodgers, Melissa Maki, Michael Latsch, Brad Little, Mariana Glitsos, Scot Bol, Cathy Skyler, Karen Lewis, Najeeb Jindeel, Morris Levy, Brian Downing, Rod Raymond, Kristi Stokes, Penny Perry, Dan Hartman, Carol Andrews, Penny Clark, Mark Fredrickson and Dough Melander spoke of their support or concerns on this issue.

At this time, 10:50 p.m. Councilor Gardner moved to suspend the rules to extend the council meeting to 11:45 p.m., which motion was seconded and unanimously carried.

**35. 15-0668R RESOLUTION CALLING FOR A DOWNTOWN BIKE FACILITY ON SUPERIOR STREET**

**CITY PROPOSAL:**

WHEREAS, the city of Duluth wishes to encourage bicycling as an alternate mode of transportation; and

WHEREAS, the city adopted a Bikeways Plan in 2013 that indicated Superior Street as a location for on-street bike lanes; and

WHEREAS, the Superior Street Reconstruction Project's Preliminary Design Phase has studied Superior Street as a location for an on-street bike facility and found physically separated bike lanes are feasible; and

WHEREAS, a bike facility could be included only with converting all parking spaces to parallel, rather than diagonal, spaces;

THEREFORE, BE IT RESOLVED, that the Superior Street Reconstruction Project shall include a design for physically separated bike lanes.

**STATEMENT OF PURPOSE:** The purpose of this resolution is to designate Superior Street as a location for a bike facility with protected or physically separated bike lanes. Inclusion of bike lanes will reduce



available space for sidewalk cafes/plaza areas, as well as trees, plantings, and on-street parking.

**A motion was made that this Resolution be adopted. The motion failed by the following vote:**

**Yea:** 2 - Councilors Krug and President Larson

**Nay:** 6 - Councilors Filipovich, Gardner, Hanson, Julsrud, Russ, Sipress

**Absent:** 1 - Councilor Fosle

- 36. 15-0667R** RESOLUTION CALLING FOR A DOWNTOWN BIKE FACILITY ON MICHIGAN STREET FROM SIXTH AVENUE WEST TO FIRST AVENUE EAST, AND ON SUPERIOR STREET FROM FIRST AVENUE EAST TO FOURTH AVENUE EAST

**CITY PROPOSAL:**

WHEREAS, the city of Duluth wishes to encourage bicycling as an alternate mode of transportation; and

WHEREAS, the city adopted a Bikeways Plan in 2013 that indicated Superior Street as a location for on-street bike lanes; and

WHEREAS, the Superior Street Reconstruction Project's Preliminary Design Phase has studied Superior Street as a location for an on-street bike facility and found physically separated bike lanes are feasible but would reduce parking and desired amenity spaces; and

WHEREAS, a bike facility could be included only with converting adjacent parking spaces to parallel, rather than diagonal, spaces; and

WHEREAS, a Downtown Bikeways Study was conducted that included a public meeting, a survey with 640 responses, and meetings with stakeholders, and showed that priorities along Superior Street include pedestrian space and on-street parking, with support for bike facilities along adjacent downtown streets;

WHEREAS, the Downtown Bikeways Study showed that Michigan Street was the preferred alternative for a bike facility downtown;

THEREFORE, BE IT RESOLVED, that the city of Duluth dedicate resources to plan and design physically separated two-way bike lanes on

Michigan Street from Sixth Avenue West to First Avenue East.

BE IT FURTHER RESOLVED, that the Superior Street Reconstruction Project shall include a design for physically separated bike lanes from First Avenue East to Fourth Avenue East.

STATEMENT OF PURPOSE: The purpose of this resolution is to provide for a two-way bike facility, with protected or physically separated lanes, on Michigan Street from Sixth Avenue West to First Avenue East, and on Superior Street from First Avenue East to Fourth Avenue East.

**A motion was made that this Resolution be adopted. The motion failed by the following vote:**

**Yea:** 1 - Councilor Krug

**Nay:** 7 - Councilors Filipovich, Gardner, Hanson, Julsrud, Russ, Sipress and President Larson

**Absent:** 1 - Councilor Fosle

**37. 15-0666R RESOLUTION CALLING FOR A DOWNTOWN BIKE FACILITY ON MICHIGAN STREET OR FIRST STREET**

**CITY PROPOSAL:**

WHEREAS, the city of Duluth wishes to encourage bicycling as an alternate mode of transportation; and

WHEREAS, the city adopted a Bikeways Plan in 2013 that indicated Superior Street as a location for on-street bike lanes; and

WHEREAS, the Superior Street reconstruction project's preliminary design phase has studied Superior Street as a location for an on-street bike facility and found that such facility would reduce parking and desired amenity spaces; and

WHEREAS, a Downtown bikeways study was conducted that included a public meeting, a survey with 640 responses, and meetings with stakeholders, and showed that priorities along Superior Street include pedestrian space and on-street parking, with support for bike facilities instead along adjacent downtown streets; and

WHEREAS, the Downtown bikeways study showed that Michigan Street was the preferred alternative for a bike facility Downtown.

THEREFORE, BE IT RESOLVED, that the 2013 bikeways plan be amended to change Superior Street from "on road - bike lane" to "on-road bike route" from Sixth Avenue West to Tenth Avenue East.

BE IT FURTHER RESOLVED that the city of Duluth dedicate resources to plan and design bike lanes on Michigan Street with the following features:

1. The bike lanes will be located on Michigan Street from Sixth Avenue West to Fourth Avenue East;
2. The bike lanes will be two way;
3. The bike lanes will be designated by a painted or patterned surface, or both; and
4. The bike lanes will include a bumper, barrier, cone or other physical demarcation system.

BE IT FURTHER RESOLVED, that Michigan Street from Third Avenue East to Fourth Avenue East will be signed as a delivery and loading zone only and closed to all motorized traffic not engaged in delivery or loading.

BE IT FURTHER RESOLVED, that a usage study be conducted to assess the feasibility and likelihood of ridership on Michigan Street.

BE IT FURTHER RESOLVED that if such a study finds the Michigan Street alternative to be infeasible, the city of Duluth will dedicate resources to design and construct physically separated bike lanes on First Street.

STATEMENT OF PURPOSE: The purpose of this resolution is to allow for the Superior Street reconstruction project to proceed without the inclusion of on-street bike lanes, focusing on providing attractive pedestrian spaces and amenities, adequate on-street parking, and bike amenities such as bike racks, while supporting design of bike facilities on Michigan Street, if feasible, or if Michigan Street is not feasible, on First Street.

**Attachments:** [mta 15-0666r Larson, Julsrud, Sipress](#)

Councilor Julsrud moved to amend the resolution, which motion was seconded and discussed.

Councilor Sipress moved to amend the amendment to vote separately on the second to last "be it further resolved...." from the rest of the amendment, which

motion was seconded, discussed and carried as follows:

Yea: 6 - Councilors Filipovich, Hanson, Krug, Russ, Sipress and President Larson  
Nay: 2 - Councilors Gardner and Julsrud  
Absent: 1 - Councilor Fosle.

The amended amendment carried unanimously.

**This Resolution was unanimously approved as amended.**

- 38. 15-0683R** RESOLUTION APPROVING THE ADOPTION OF A MODIFICATION TO THE DEVELOPMENT PROGRAM FOR DEVELOPMENT DISTRICT NO. 17; THE ESTABLISHMENT OF TAX INCREMENT FINANCING DISTRICT NO. 29 THEREIN AND THE ADOPTION OF A TAX INCREMENT FINANCING PLAN THEREFOR.

CITY PROPOSAL:

Section 1. Recitals

1.01. The Board of Commissioners of the Duluth Economic Development Authority ("DEDA") has heretofore established Development District No. 17 and adopted the Development Program therefor. It has been proposed by DEDA and the city of Duluth ("City") that the City approve the adoption of a Modification to the Development Program for Development District No. 17 (the "Development Program Modification"), the establishment of Tax Increment Financing District No. 29 (the "District") therein and the adoption of a Tax Increment Financing Plan (the "TIF Plan") therefor (the Development Program Modification and the TIF Plan are referred to collectively herein as the "Program and Plan"); all pursuant to and in conformity with applicable law, including Minnesota Statutes, Sections 469.090 to 469.1082 and Sections 469.174 to 469.1794, all inclusive, as amended, (the "Act") all as reflected in the Program and Plan, and presented for the consideration by the city council (the "Council").

1.02. DEDA and the City have investigated the facts relating to the Program and Plan and have caused the Program and Plan to be prepared.

1.03. DEDA and the City have performed all actions required by law to be performed prior to the establishment of the District and the adoption and approval of the Program and Plan, including, but not limited to, notification of St. Louis County and Independent School District No. 709 having taxing jurisdiction over the property to be included in the District, a review of and written comment on the Program and Plan by the City Planning Commission, approval of the Program and Plan by the DEDA on September 23, 2015, and the holding of a public hearing upon published

notice as required by law.

1.04. Certain written reports (the "Reports") relating to the Program and Plan and to the activities contemplated therein have heretofore been prepared by staff and consultants and submitted to the Council and/or made a part of the City files and proceedings on the Program and Plan. The Reports, including the redevelopment qualification report and planning documents, include data, information and/or substantiation constituting or relating to the basis for the other findings and determinations made in this resolution. The Council hereby confirms, ratifies and adopts the Reports, which are hereby incorporated into and made as fully a part of this resolution to the same extent as if set forth in full herein.

1.05 The City is not approving a modification to the boundaries of Development District No. 17, but is however, approving a modification to the Development Program therefor.

#### Section 2. Findings for the Approval of the Development Program Modification

2.01. The Council approves the Development Program Modification, and specifically finds that: (a) the land within the Project area would not be available for redevelopment without the financial aid to be sought under this Development Program; (b) the Development Program, as modified, will afford maximum opportunity, consistent with the needs of the City as a whole, for the development of the Project by private enterprise; and (c) that the Development Program, as modified, conforms to the general plan for the development of the City as a whole.

#### Section 3. Findings for the Approval of the Establishment of Tax Increment Financing District No. 29

3.01. The Council hereby finds that the District is in the public interest and is a "redevelopment district" under Minnesota Statutes, Section 469.174, Subd. 10 of the Act.

3.02. The Council further finds that the proposed redevelopment would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future and that the increased market value of the site that could reasonably be expected to occur without the use of tax increment financing would be less than the increase in the market value estimated to result from the proposed development after subtracting the present value of the projected tax increments for the maximum duration of the District permitted by the TIF Plan, that the Program and Plan conform to the general plan for the development or redevelopment of the City as a whole, and that the Program and Plan will afford maximum opportunity consistent with the sound needs of the City as a whole for the development or redevelopment of the District by private enterprise.

3.03. The Council further finds, declares and determines that the City made the above findings stated in this Section and has set forth the reasons and supporting facts for each determination in writing, attached hereto as Exhibit A.

#### Section 4. Public Purpose

4.01. The adoption of the Program and Plan conforms in all respects to the requirements of the Act and will help fulfill a need to develop an area of the City which is already built up, to provide employment opportunities, to improve the tax base and to improve the general economy of the State and thereby serves a public purpose. For the reasons described in Exhibit A, the City believes these benefits directly derive from the tax increment assistance provided under the TIF Plan. A private developer will receive only the assistance needed to make this development financially feasible. As such, any private benefits received by a developer are incidental and do not outweigh the primary public benefits.

Section 5. Approval of the Program and Plan

5.01. The Program and Plan as presented to the Council on this date, attached hereto as Exhibit B, including without limitation the findings and statements of objectives contained therein, are hereby approved, ratified, established, and adopted and shall be placed on file in the office of the Director of Business and Economic Development.

5.02. The staff of the City, the City's advisors and legal counsel are authorized and directed to proceed with the implementation of the Program and Plan and to negotiate, draft, prepare and present to this Council for its consideration all further plans, resolutions, documents and contracts necessary for this purpose.

5.03 The Auditor of St. Louis County is requested to certify the original net tax capacity of the District, as described in the Program and Plan, and to certify in each year thereafter the amount by which the original net tax capacity has increased or decreased; and the City is authorized and directed to forthwith transmit this request to the County Auditor in such form and content as the County Auditor may specify, together with a list of all properties within the District for which building permits have been issued during the 18 months immediately preceding the adoption of this resolution.

5.04. The Director of Business and Economic Development is further authorized and directed to file a copy of the Program and Plan with the Commissioner of the Minnesota Department of Revenue and the Office of the State Auditor pursuant to Minnesota Statutes 469.175, Subd. 4a.

STATEMENT OF PURPOSE: The purpose of this resolution is to approve the Tax Increment Financing Plan for Tax Increment Financing District No. 29 and the related amendment to the Development Program for Development District No. 17 necessary to provide tax increment assistance to the Kenwood Village mixed use development at the southwest corner of Arrowhead Road and Kenwood Avenue.

**Attachments:** [Exhibit A to Resolution 15-0683R](#)  
[Exhibit B to Resolution 15-0683R](#)

This Resolution was approved unanimously.

## INTRODUCTION AND CONSIDERATION OF ORDINANCES

**The following entitled ordinances were read for the first time:**

**COMMITTEE 2**

**BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)**

- 39. 15-079-O** AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-2 AND MU-N, PROPERTY AT 1243 88th AVENUE WEST (SDH&M, LLC)

**CITY PROPOSAL:**

The city of Duluth does ordain:

Section 1. That approximately 6.44 acres of land located on the eastern portion of 1243 88th Avenue West and as more particularly described as follows:

That part of Block 13, MORGAN PARK OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, bounded as follows:

On the South by the center line of Hilton Street as dedicated on said MORGAN PARK OF DULUTH.

On the West by the center line of 90th Avenue West as dedicated on said MORGAN PARK OF DULUTH.

On the North by the center line of Falcon Street as dedicated on said MORGAN PARK OF DULUTH.

On the East by a line 295.91 feet Easterly and parallel with the West line of Block 13, said MORGAN PARK OF DULUTH; be reclassified from Residential-Traditional (R-1) to Residential-Urban (R-2), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as shown in the attached document.

Section 2. That approximately 5.58 acres of land located on the western portion of 1243 88th Avenue West and as more particularly described as follows:

That part of Block 13, MORGAN PARK OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, bounded as follows:

On the South by the center line of Hilton Street as dedicated on said MORGAN PARK OF DULUTH.

On the West by a line 295.91 feet Easterly and parallel with the

West line of Block 13, said MORGAN PARK OF DULUTH.

On the North by the center line of Falcon Street as dedicated on said MORGAN PARK OF DULUTH.

On the East by the center line of 88th Avenue West as dedicated on said MORGAN PARK OF DULUTH;

be reclassified from Residential-Traditional (R-1) to Mixed Use-Neighborhood (MU-N), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as shown in the attached document.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

STATEMENT OF PURPOSE: This amendment provides a zoning change from R-1 to R-2 and MU-N at 1243 88th Avenue West.

On September 8, 2015, the Duluth city planning commission held a public hearing on the proposal and voted 7 yeas, 0 nays and 1 abstention to recommend that the city council approve the rezoning requested.

The applicant did not submit written consent of 2/3 of property owners within 100 feet of the property to be rezoned. The motion to approve the rezoning must prevail with an affirmative vote of 2/3 by the city council.

Petition received: August 5, 2015  
Action deadline: December 3, 2015

Petitioner:  
Aaron Schweiger  
SDH&M, LLC  
1115 W Michigan Street  
Duluth, MN 55806  
Schweiger.aaron@gmail.com

PL 15-124

**Attachments:** [Map](#)  
[Staff Report](#)  
[Comments received after staff report](#)

**This Ordinance was read for the first time.**

- 40. 15-080-O** AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RR-1 TO MU-C, PROPERTY AT 4258 HAINES ROAD (HAINES ROAD, LLC)



**CITY PROPOSAL:**

The city of Duluth does ordain:

Section 1. That approximately 2.96 acres of land located at 4258 Haines Road and as more particularly described as follows:

That part of the Southwest Quarter of the Northwest Quarter of the Northwest Quarter of Section 18, Township 50 North, Range 14 West of the Fourth Principal Meridian, St. Louis County, Minnesota, described as follows:

Commencing at the West Quarter corner of said Section 18; thence on an assumed bearing of North 00 degrees 14 minutes 33 seconds West, along the West line of said Section 18, a distance of 1321.17 feet to the South line of said Southwest Quarter of the Northwest Quarter of the Northwest Quarter; thence South 89 degrees 48 minutes 39 seconds East, along said South line, a distance of 300.00 feet to the intersection with a line 300 feet Easterly and parallel with the said West line of Section 18; thence South 89 degrees 48 minutes 39 seconds East, along said South line, a distance of 405.28 feet to the East line of said Southwest Quarter of Northwest Quarter of Northwest Quarter; thence North 00 degrees 22 minutes 22 seconds West, along said East line, a distance of 144.68 feet to the center line of Sundby Road as traveled; thence North 49 degrees 13 minutes 07 seconds West, along said center line, a distance of 508.04 feet; thence South 40 degrees 46 minutes 53 seconds West, a distance of 33.00 feet to the Southwesterly right of way line of said Sundby Road and the intersection with a line 300 feet Easterly and parallel with the said West line of Section 18; thence South 00 degrees 14 minutes 33 seconds East, along said parallel line, a distance of 450.19 feet to the Point of Beginning; be reclassified from Rural Residential-1 (RR-1) to Mixed Use-Commercial (MU-C), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as shown in the attached document.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

**STATEMENT OF PURPOSE:** This amendment provides a zoning change from RR-1 to MU-C at 4258 Haines Road.

On September 8, 2015, the Duluth city planning commission held a public hearing on the proposal and voted 7 yeas, 0 nays and 0 abstentions to

recommend that the city council approve the rezoning requested.

The applicant did not submit written consent of 2/3 of property owners within 100 feet of the property to be rezoned. The motion to approve the rezoning must prevail with an affirmative vote of 2/3 by the city council.

Petition received: August 7, 2015  
Action deadline: December 5, 2015

Petitioner:  
Haines Road, LLC  
4258 Haines Road  
Duluth, MN 55811  
Rwmertz29@gmail.com

PL 15-129

**Attachments:** [Attachment 1](#)  
[Attachment 2](#)

**This Ordinance was read for the first time.**

- 41. 15-081-O** AN ORDINANCE GRANTING A CONCURRENT USE PERMIT FOR A PARKING LOT DRIVE AISLE IN THE RIGHT-OF-WAY OF ELIZABETH STREET.

CITY PROPOSAL:

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 granted to Mark Lambert and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) A private drive aisle and sidewalk servicing the adjacent BlueStone Flats building, as shown in the exhibits.

Section 2. Before this ordinance shall be effective for any purpose whatsoever, the permittee shall file with the planning division a certification

of insurance approved as to form by the city attorney evidencing that the permittee has in force a policy of insurance meeting the following requirements:

(a) Comprehensive general liability insurance in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage; and

(b) Insurance coverage shall include all permittee's activities occurring upon or within public right of way or easement occupied pursuant to this ordinance whether said activities are performed by the permittee or its agents or representatives; and

(c) The insurance policy shall be approved by the city attorney; and

(d) The policy shall contain a condition that it may not be canceled without 30 days written notice to the city of Duluth and directed to the attention of the city attorney; and

(e) The city of Duluth shall be named as an additional insured; and

(f) The certificate shall also reference this ordinance by its ordinance number.

Section 3. The permit granted by this ordinance may be terminated at any time by the city official exercising departmental authority of the public easement if the city of Duluth determines to use the area occupied by the permittee for any public purpose in accordance with the duly dedicated public easement or other lawful use.

Unless a shorter notice period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance, giving the permittee 30 days written notice delivered to the last known electronic address, facsimile number, or mailing address of the permittee shall be sufficient notice of termination.

Upon termination permittee shall cause all private improvements to be removed by the deadline provided in termination notice. Permittee shall be responsible for all costs incurred to remove the private improvements, including any costs associated with repairing damage caused to the public easement by the removal and without right to claim from the city of Duluth, or any of its officers, agents or servants, any compensation or reimbursement for damages of any kind whatsoever.

Section 4. By accepting the terms of this ordinance, the permittee agrees to hold harmless and defend and indemnify the city of Duluth

against claims or demand which may arise against the city of Duluth by reason of the existence of private improvements, or any act or omission of the permittee, its employees, agents, and assigns. The permittee agrees that the city of Duluth shall not be liable for damage caused to the private improvements while the city engages in the repair and maintenance to, or replacement of, the public improvements or public utilities, including any snow removal operations. The permittee agrees to pay to the city of Duluth all extra costs of installation of any public improvements or public utilities made necessary by the presence of the private improvements.

Section 5. The permittee shall, at its expense, protect, support, temporarily disconnect, or remove from the public easement, the private improvements when required by city officials by reason of snow removal, traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines and tracks, the installation or repair of any type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

Section 6. Upon the sale or transfer of permittee's interest in the permit granted by this ordinance, the permittee shall provide written notice to the planning division within five days of such transfer. The permittee's successor in interest shall file with the planning division within ten days of such transfer a duly executed and acknowledged written acceptance of the terms of this ordinance and the certificate of insurance required in Section 2 above.

Section 7. The permit granted by this ordinance is subject to termination by the city of Duluth upon permittee's failure to comply with any of the terms and conditions of this permit. Ten days written notice, delivered as provided in Section 3 above shall be sufficient notice of termination. Upon termination, permittee shall remove the private improvements as provided in Section 3.

Section 8. The permittee shall observe the following conditions:

(a) Permittee's use of the public right of way or easement shall be limited to the designated area described in Section 1 above and further shown on the exhibits; and

(b) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as in no way interfere with or damage any portion of any public improvement, or other public utilities now or to hereinafter located in any part of said public easement.

Section 9. The following events shall automatically cause the termination of the term of this ordinance:

(a) The failure by the permittee to file the required insurance certificate as specified in Section 2 30 days after this ordinance takes effect; or

(b) The failure of the permittee to commence the improvements authorized by this ordinance within 180 days after this ordinance takes effect.

Section 10. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

STATEMENT OF PURPOSE: This ordinance grants Mark Lambert a concurrent use permit for installation of a parking lot drive aisle and sidewalk in the right-of-way of Elizabeth Street.

On September 8, 2015, the planning commission held a public hearing on the proposal, and voted 7 yeas, 1 nay and 0 abstentions to recommend that the city council approve the request for a concurrent use of streets.

Petition received: August 21, 2015  
Action deadline: December 19, 2015

Applicant  
Mr. Mark Lambert  
333 North Main Street, Suite 110  
Stillwater, MN 55082  
mlambert@summitre.net

PL 15-084

**Attachments:** [Attachment 1](#)

**This Ordinance was read for the first time.**

- 42. 15-082-O** AN ORDINANCE GRANTING A CONCURRENT USE PERMIT FOR A PARKING RAMP CANOPY IN THE RIGHT OF WAY OF THE 400 BLOCK OF EAST SECOND STREET (ESSENTIA HEALTH)

CITY PROPOSAL:

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 granted to Essentia Health, and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) A canopy, with a minimum clear space of 10' 6", over the parking ramp entrance on East Second Street in a 10' x 43' area, as shown in the exhibits.

Section 2. Before this ordinance shall be effective for any purpose whatsoever, the permittee shall file with the planning division a certification of insurance approved as to form by the city attorney evidencing that the permittee has in force a policy of insurance meeting the following requirements:

(a) Comprehensive general liability insurance in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage; and

(b) Insurance coverage shall include all permittee's activities occurring upon or within public right of way or easement occupied pursuant to this ordinance whether said activities are performed by the permittee or its agents or representatives; and

(c) The insurance policy shall be approved by the city attorney; and

(d) The policy shall contain a condition that it may not be canceled without 30 days written notice to the city of Duluth and directed to the attention of the city attorney; and

(e) The city of Duluth shall be named as an additional insured; and

(f) The certificate shall also reference this ordinance by its ordinance number.

Section 3. The permit granted by this ordinance may be terminated at any time by the city official exercising departmental authority of the public easement if the city of Duluth determines to use the area occupied by the permittee for any public purpose in accordance with the duly dedicated public easement or other lawful use.

Unless a shorter notice period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance,

giving the permittee 30 days written notice delivered to the last known electronic address, facsimile number, or mailing address of the permittee shall be sufficient notice of termination.

Upon termination permittee shall cause all private improvements to be removed by the deadline provided in termination notice. Permittee shall be responsible for all costs incurred to remove the private improvements, including any costs associated with repairing damage caused to the public easement by the removal and without right to claim from the city of Duluth, or any of its officers, agents or servants, any compensation or reimbursement for damages of any kind whatsoever.

Section 4. By accepting the terms of this ordinance, the permittee agrees to hold harmless and defend and indemnify the city of Duluth against claims or demand which may arise against the city of Duluth by reason of the existence of private improvements, or any act or omission of the permittee, its employees, agents, and assigns. The permittee agrees that the city of Duluth shall not be liable for damage caused to the private improvements while the city engages in the repair and maintenance to, or replacement of, the public improvements or public utilities, including any snow removal operations. The permittee agrees to pay to the city of Duluth all extra costs of installation of any public improvements or public utilities made necessary by the presence of the private improvements.

Section 5. The permittee shall, at its expense, protect, support, temporarily disconnect, or remove from the public easement, the private improvements when required by city officials by reason of snow removal, traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines and tracks, the installation or repair of any type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

Section 6. Upon the sale or transfer of permittee's interest in the permit granted by this ordinance, the permittee shall provide written notice to the planning division within five days of such transfer. The permittee's successor in interest shall file with the planning division within ten days of such transfer a duly executed and acknowledged written acceptance of the terms of this ordinance and the certificate of insurance required in Section 2 above.

Section 7. The permit granted by this ordinance is subject to termination by the city of Duluth upon permittee's failure to comply with any of the terms and conditions of this permit. Ten days written notice, delivered as provided in Section 3 above shall be sufficient notice of termination. Upon

termination, permittee shall remove the private improvements as provided in Section 3.

Section 8. The permittee shall observe the following conditions:

(a) Permittee's use of the public right of way or easement shall be limited to the designated area described in Section 1 above and further shown on the exhibits; and

(b) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as in no way interfere with or damage any portion of any public improvement, or other public utilities now or to hereinafter located in any part of said public easement.

Section 9. The following events shall automatically cause the termination of the term of this ordinance:

(a) The failure by the permittee to file the required insurance certificate as specified in Section 2 30 days after this ordinance takes effect; or

(b) The failure of the permittee to commence the improvements authorized by this ordinance within 180 days after this ordinance takes effect.

Section 10. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

STATEMENT OF PURPOSE: This ordinance grants Essentia Health a concurrent use permit for installation of a parking ramp entrance canopy in the right of way of East Second Street.

On September 8, 2015, the planning commission held a public hearing on the proposal, and voted 8 yeas, 0 nays and 0 abstentions to recommend that the city council approve the request for a concurrent use of streets.

Petition received: July 7, 2015

Action deadline: November 4, 2015

Applicant  
Essentia Health  
Attn: Harvey Anderson  
502 E 2nd Street  
Duluth, MN 55805  
Harveyj.anderson@essentiahealth.org

PL 15-104



Attachments: [Attachment 1](#)

This Ordinance was read for the first time.

43. 15-083-O AN ORDINANCE AMENDING SECTION 50-37.12 TEMPORARY OR SIDEWALK USE PERMIT, AND 50-37.13 ZONING PERMIT, RELATED TO SIDEWALK CAFES AND ENSURING ADEQUATE PEDESTRIAN ACCESS ON PUBLIC SIDEWALKS

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 50-37.12 of the Duluth City Code, 1959, as amended, be amended as follows:

50-37.12 ~~Temporary or~~ Sidewalk use permit.

This Section applies to ~~temporary~~ uses or proposals to use a portion of a public sidewalk for a café, eating area, transit shelter or bench, bicycle rack, temporary display or other purpose that does not involve the permanent vacation of any part of the street.

Application.

An application for a ~~temporary or~~ sidewalk use permit shall be filed pursuant to Section 50-37.1.B;

Procedure.

The land use supervisor shall refer the application to the city engineer for a recommendation as to whether the proposed design and location of the ~~temporary or~~ sidewalk use will provide for and not hinder the safety of pedestrians, bicyclists and motor vehicle drivers near the proposed use or structure. The land use supervisor shall then review and make a decision on an application based on the criteria in subsection 50-37.12.C. The land use supervisor may refer the application to any city, county or other public or quasi-public agency deemed necessary to confirm whether the criteria in subsection C have been met;

Criteria.

The land use supervisor shall approve the application, or approve it with modifications, if the supervisor determines that the following criteria have been met:

The city engineer has confirmed that the proposed use or structure will not hinder the safety of pedestrians, bicyclists and motor vehicle drivers near the proposed use or structure;

The proposed use or structure will not encroach into drive aisles, loading zones, fire lanes or parking lots;

The proposed use or structure will not encroach into any area located directly between any operating building entrance and the street curb (other than a building entrance intended only to serve patrons of an outside eating area);

The proposed use or structure will be set back at least ~~5~~ seven feet from the curb and at least ~~five~~ six feet from all parking meters, street trees, and street furniture in order to allow for the free passage of pedestrians;

The applicant has signed an agreement with the city (a) to keep the sidewalk and street within 20 feet of the proposed use or structure free from any litter generated by the use or activity, (b) accepting all liability resulting from the proposed use or structure and holding the city harmless for any and all such liability, (c) providing liability insurance meeting city standards, and (d) determining the period of use.

Section 2. That Section 50-37.13 of the Duluth City Code, 1959, as amended, be amended as follows:

50-37.13 Zoning permit.

This Section applies to a variety of permits covering development, redevelopment, and natural resources protection where the land use is a permitted use and the city must confirm whether the application complies with all other applicable provisions of this Chapter. The specific permits included in this Section are summarized in Table 50-37.13-1 below. *[See Attachment 1, Table 50-37.13-1, Zoning Permits]*

Application.

An application for a zoning permit shall be filed pursuant to Section 50-37.1.B;

Procedure.

The building official shall review and make a decision on an application for a zoning permit based on the criteria in subsection C below. The building official may refer the application to any city, county or other public or quasi-public agency deemed necessary to

firm whether the criteria in subsection C have been met;

All buildings, structures and improvements must be constructed and maintained, and all land uses must be operated, in accordance with the terms and conditions of this Chapter and any zoning permit issued pursuant to this Section 50-37.13;

General criteria.

The building official shall approve the application, or approve it with modifications, if the building official determines that the application complies with all applicable provisions of this Chapter;

Additional provisions for specific areas and types of permits.

Shoreland permit.

No building or zoning permit for land within any shoreland shown on the Natural Resources Overlay map in Section 50-18.1 may be issued until the building official has confirmed that the application complies with all applicable requirements of Section 50-18.1.D;

Erosion and sediment control permit (ESCP).

No land disturbance activity that requires an erosion and sediment control permit (ESCP) as indicated in Table 50-18.1.E-1 may be begin until a permit has been obtained. The building official shall refer the application to the city engineer, who shall review the plan to ensure that it complies with the requirements of Section 50-18.1.E. The city engineer may require additional information and may require that any information submitted be verified by a licensed engineer, licensed surveyor or other technical professional. If the application is denied, the applicant shall be given a summary of the plan's deficiencies. The ESCP permit shall be considered expired only after all construction activities are completed and the entire site is fully stabilized with 70 percent successful establishment of vegetation;

Airport environs permit.

No airport environs permit shall be issued unless all of the requirements of Section 50-18.2 have been met. A permit for a tree or structure of less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway except when

such tree or structure, because of terrain, land contour or topographic features, would violate the provisions of Section 50-18.2;  
Flood plain permit.

No building or zoning permit for land within any flood plain shown on the Natural Resources Overlay map in Section 50-18.1 may be issued until the building official has confirmed that the application complies with all applicable requirements of Section 50-18.1.C.

Section 3. That this ordinance shall take effect 30 days after its passage and publication.

**STATEMENT OF PURPOSE:** This ordinance implements two minor text amendments to Chapter 50 of the City Code, known as the Unified Development Chapter (UDC).

The proposed ordinance clarifies the approval process for temporary permits, as the language currently directs these types of permits, incorrectly, to the section for sidewalk use permits.

The proposed ordinance also increases the required distances for sidewalk cafes, and similar uses, on public sidewalks. Planning staff believe that the current minimum requirement (five feet from the curb and five feet from all street furniture) does not leave sufficient space for adequate pedestrian flow on the sidewalks, around the cafes. Proposing increasing the minimum required distance to seven feet from the curb, and six feet from all street furniture, meters, trees, etc.

The proposed changes were discussed at a published public hearing on September 8, 2015. After the public hearing was closed, the Duluth planning commission made a motion to recommend that the city council approve the recommended amendments to UDC. The vote passed with a vote of 8 yeas, 0 nays and 0 abstentions, with 1 planning commission member being absent from the meeting.

Action deadline: Not applicable

PL: 15-146

**Attachments:** [Attachment 1](#)  
[Attachment 2](#)

**This Ordinance was read for the first time.**

**44. 15-084-O** AN ORDINANCE AMENDING SECTION 50-20.4 INDUSTRIAL USES, 50-20.6 TEMPORARY USES, 50-26.4 FENCES AND WALLS, AND 50-41 DEFINITIONS, TO ALLOW FOR CRAFT MANUFACTURING.

AN ORDINANCE AMENDING SECTION 50-20.4 INDUSTRIAL USES, 50-20.6 TEMPORARY USES, 50-26.4 FENCES AND WALLS, AND 50-41 DEFINITIONS, TO ALLOW FOR CRAFT MANUFACTURING.

The city of Duluth does ordain:

Section 1. That Section 50-19.8 of the Duluth City Code, 1959, as amended, be amended as per Attachment A, Table 50-19.8 Use Table and Table 50-19.1 Use Table Legend.

Section 2. That Section 50-20.4 of the Duluth City Code, 1959, as amended, be amended as follows:

50-20.4 Industrial uses.

Airport and related facilities.

In the R-C district, airport and related facilities are permitted only on land owned by the public or airport authority that is used for the exclusive purpose as an airport and only on land on which an airport was established on November 19, 2010;

In the I-G district, airport and related facilities are permitted only on land owned by the public or airport authority that is used for the exclusive purpose as an airport;

Contractor's shop and storage yard.

In the F-5 zone, this use is permitted only in the West Superior study area;

Electric power transmission line or substation.

The following standards shall apply, in addition to regular requirements of the special use permit process:

General corridor criteria:

The public need for the route and facility as specifically proposed shall be demonstrated;

Where possible, lines shall avoid existing and potential urban density residential neighborhoods;

The applicant shall provide an evaluation of the future needs for additional transmission lines in the same general area as the proposed route and the advisability of utilizing structures capable of expansion of transmission capacity through multiple circuiting or design modification;

When routing transmission lines, the following shall be avoided unless no reasonable alternative exists: slopes of 20 percent grade or greater; intrusions into scenic areas such as streams, open water, valleys, overviews, ridge crests and high points; wetlands; forests, by running along the fringe rather than through the forests, and by utilizing open areas in order to minimize cutting, although leaving a strip at the outside for screening purposes; soils susceptible to erosion that would create sedimentation and pollution problems; areas of unstable soils that would be subject to extensive slippages; areas with high water tables, especially if construction requires excavation; open space recreation areas, including parks, golf courses, etc.; long views of lines parallel to highways and trails; airports; and parkways;

Routes shall utilize or parallel existing railroads and highway rights-of-way if possible. If such highway rights-of-way are developed the line and structures shall be sufficiently set back and screened in order to minimize view of the line and structures from the highway;

Design criteria:

If a proposal would unduly harm adjacent property or property values, alternatives must be evaluated to determine whether a feasible alternative to the proposal exists. Such consideration of alternatives shall include the underground placement of the line. Any consideration of feasibility of such underground lines shall include economic, technological or land characteristic factors. Economic considerations alone shall not render underground placement not feasible;

All structures shall be located and designed in such a way that they are compatible with surrounding land uses, scenic views and existing transmission structures with regard to height, scale, material, color and design;

Lines shall meet or exceed the National Electric Safety Code;

Electromagnetic noise and interference with radio and television reception, as well as audible hum outside the line right of way, shall be minimized;

The cleared portion of the right-of-way shall be

t to a minimum and where vegetation will be removed, new vegetation consisting of native grasses, shrubs and low growing trees shall be planted and maintained. Vegetative screening shall be utilized to the maximum extent consistent with safety requirements;

Junk and salvage services.

Junk and salvage service operations and facilities shall comply with all state and Western Lake Superior Sanitary District requirements;

No junk or salvage service facilities, shall be permitted in a designated shoreland or flood plain zone nor in an identified wetland as these are defined or shown in Section 50-18.1, *Natural Resources Overlay*;

There shall be no burning of materials;

Major utility or wireless telecommunications facility.

Policy.

Overall policy and desired goals for special use permits for wireless telecommunications facilities. In order to ensure that the placement, construction and modification of wireless telecommunications facilities protects the city's health, safety, public welfare, environmental features, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in this Section 50-20.4.E, the city has adopted an overall policy with respect to a special use permit for wireless telecommunications facilities for the express purpose of achieving the following goals:

Requiring a special use permit for any new, co-location or modification of a wireless telecommunications facility;

Implementing an application process for person(s) seeking a special use permit for wireless telecommunications facilities;

Establishing a policy for examining an application for and issuing a special use permit for wireless telecommunications facilities that is both fair and consistent;

Promoting and encouraging, wherever possible, the sharing and co-location of wireless telecommunications facilities among service providers;

Promoting and encouraging, wherever possible, the placement, height and quantity of wireless

communications facilities in such a manner, including but not limited to the use of stealth technology, to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances;

That in granting a special use permit, the city has found that the facility shall be the most appropriate site as regards being the least visually intrusive among those available in the city;

Applicability and exemptions.

Except as otherwise provided by subsection (b) below, no person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of, wireless telecommunications facilities after July 25, 2010, without having first obtained a special use permit for wireless telecommunications facilities. All legally permitted wireless tele-commun-i-ca-tions facilities, constructed as permitted, existing on or before July 25, 2010, shall be allowed to continue as they presently exist, provided however, that any visible modification of an existing wireless telecommunications facility will require the complete facility and any new installation to comply with this Section 50-20.4.E. Any repair and maintenance of a wireless facility does not require an application for a special use permit;

The following shall be exempt from the requirements of this Section 50-20.4.E:

The city's fire, police, department of transportation or other public service facilities owned and operated by the city or those owned and operated by county, the state or federal government;

Any facilities expressly exempt from the city's siting, building and permitting authority;

Over-the-air reception devices including the reception antennas for direct broadcast satellites (DBS), multichannel multipoint distribution (wireless cable) providers



DS), television broadcast stations (TVBS) and other customer-end antennas that receive and transmit fixed wireless signals that are primarily used for reception;

Facilities exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial telecommunications;

Facilities exclusively for providing unlicensed spread spectrum technologies (such as IEEE 802.11a, b, g (Wi-Fi) and Bluetooth) where the facility does not require a new tower;

Location standards.

Wireless telecommunications facilities shall be located, sited and erected in accordance with the following priorities, (i) being the highest priority and (vii) being the lowest priority:

On existing towers or other structures on city owned properties;

On existing towers or other structures on other property in the city;

A new tower on city owned properties, other than property designated for park use, or in the Park and Open Space (P-1) District;

A new tower on city owned properties designated for park use, or in the Park and Open Space (P-1) District;

A new tower on properties in Industrial-General (I-G) and Industrial-Waterfront (I-W) districts;

A new tower on properties in form districts or mixed use districts, other than the Mixed-Use Neighborhood (MU-N) District;

A new tower on properties in residential, Mixed-Use Neighborhood (MU-N) and Airport (AP) districts;

If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site;

An applicant may not by-pass sites of higher

riority by stating the site proposed is the only site leased or selected. An application shall address co-location as an option. If such option is not proposed, the applicant must explain to the reasonable satisfaction of the city why co-location is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of commercial impracticability or hardship; The applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application;

The city may approve any site located within an area in the above list of priorities, provided that the city finds that the proposed site is in the best interest of the health, safety and welfare of the city and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood;

Other standards and requirements.

The following requirements are applicable to all wireless telecommunications facilities.

To the extent that the holder of a special use permit for wireless telecommunications facilities has not received relief, or is otherwise exempt from appropriate state or federal agency rules or regulations, then the holder of such special use permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any state or federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards;

To the extent that applicable rules, regulations, standards and provisions of any state or federal agency, including but not limited to the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting and security are changed or are modified during the duration of

pecial use permit for wireless telecommunications facilities, then the holder of such special use permit shall conform the permitted wireless telecommunications facilities to the applicable changed or modified rule, regulation, standard or provision within a maximum of 24 months of the effective date of the applicable changed or modified rule, regulation, standard or provision, or sooner as may be required by the issuing entity;

The wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and to harmonize with the natural surroundings; this shall include the utilization of stealth or concealment technology as may be required by the city. Facilities located within the migratory bird flight path shall utilize stealth or concealment technology;

All utilities at a wireless telecommunications facilities site shall be installed underground whenever possible and in compliance with all laws, ordinances, rules and regulations of the city, including specifically, but not limited to, the city and state building and electrical codes, where appropriate;

At a telecommunications site, an access road, turn-around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion;

All wireless telecommunications facilities shall be constructed, operated, maintained, repaired, provided for removal of, modified or restored in strict compliance with all current applicable technical, safety and safety-related codes adopted by the city, state, or federal government, including but not limited to the most recent editions of the ANSI Code, as well as accepted and responsible workmanlike industry practices and recommended

ctices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health and land use codes. In the event of a conflict between or among any of the preceding, the more stringent shall apply;

A holder of a special use permit granted under this Section 50-20.4.E shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the city or other governmental entity or agency having jurisdiction over the applicant;

The holder of a special use permit shall notify the city of any intended modification of a wireless telecommunication facility and shall apply to the city to modify, relocate or rebuild a wireless telecommunications facility;

All new towers shall be structurally designed to accommodate at least four additional antenna arrays equal to those of the applicant, and located as close to the applicant's antenna as possible without causing interference. This require-ment may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower is not technologically feasible, is commercially impracticable or creates an unnecessary and unreasonable burden, based upon:

The foreseeable number of FCC licenses available for the area;

The kind of wireless telecommunications facilities site and structure proposed;

The number of existing and potential licenses without wireless telecommunications facilities spaces/sites;

Available space on existing and approved towers;

New guyed towers are prohibited;

Tower condition inspections shall be conducted every three years for a guyed tower and five years for monopoles and self-supporting towers. All inspections shall be documented in a report such as an ANSI report as per Annex E, Tower Maintenance and Inspection Procedures,

SI/TIA/EIA-222F or most recent version. The inspection report shall be provided to the building official within two days of a request by the city for such records;

The owner of a proposed new tower, and the owner's successors in interest, shall negotiate in good faith for the shared use of the proposed tower by other wireless service providers in the future, and shall:

Respond within 60 days to a request for information from a potential shared-use applicant;

Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers;

Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference;

No tower constructed after July 25, 2010, including allowing for all attachments, shall exceed a height that shall permit operation without required artificial lighting of any kind in accordance with city, state or federal statute, law, code, rule or regulation;

No tower constructed after July 25, 2010, including allowing for all attachments, shall exceed 75 feet in height within the migratory bird flight path;

Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by law;

Towers shall be galvanized or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Section 50-20.4.E;

Wireless telecommunications facilities and antennas shall be located, fenced or otherwise

ured in a manner that prevents unauthorized access. All antennas, towers and other supporting structures, including guy anchor points and wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with. Transmitters and telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them;

Wireless telecommunications facilities shall contain a sign no larger than four square feet in order to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. A sign of the same size is also to be installed to contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC registration sign as applicable is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted; All proposed towers and any other proposed wireless telecommunications facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the following distances: A distance equal to the height of the proposed tower or wireless telecommunications facility structure plus ten percent of the height of the tower or structure, or the existing setback requirement of the underlying zone district, whichever is greater. Any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated;

The applicant and the owner of record of any proposed wireless telecommunications facilities property site shall, at its cost and expense, be jointly required to execute and file with the city a bond, or other form of security acceptable to the

as to type of security and the form and manner of execution, in an amount that shall be set in accordance with Section 31-6(a) of the City Code, and with such sureties as are deemed sufficient by the city to assure the faithful performance of the terms and conditions of this Section 50-20.4.E and conditions of any special use permit issued. The full amount of the bond or security shall remain in full force and effect throughout the term of the special use permit and until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original special use permit;

A holder of a special use permit for wireless telecommunications facilities shall secure and at all times maintain for the duration of the special use permit commercial general liability insurance for personal injuries, death and property damage, and umbrella insurance coverage in the following amounts: \$1,000,000 per occurrence/\$2,000,000 aggregate;

For a wireless telecommunications facility on city property, the policy shall specifically include the city and its officers, employees, agents and consultants as additional insureds. The amounts of such coverage shall be established as a condition of the special use permit and shall be consistent with the liability limits provided in MSA 466.04;

The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with a Best's rating of at least A;

The insurance policies shall contain an endorsement obligating the insurance company to furnish the building official with at least 30 days prior written notice in advance of the cancellation of the insurance;

Renewal or replacement policies or certificates shall be delivered to the building official at least 15 days before the expiration of the insurance that such policies are to renew or replace;

No permit necessary to the site preparation or construction of a permitted wireless

ommunications facilities may be issued until the holder of the special use permit shall file with the city building official a copy of the required policies or certificates representing the insurance in the required amounts;

Notwithstanding the requirements noted in this subsection no insurance shall be required in those instances where the city, county, state or a federal agency applies for and secures a special use permit for wireless telecommunications facilities.

All special use permits approved for wireless telecommunication facilities located on city property after July 25, 2010, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the city, and its officers, employees, agents and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal or restoration of said facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the city, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the city. An indemnification provision will not be required in those instances where the city itself applies for and secures a special use permit for wireless telecommunications facilities;

Additional provisions for special use permit review.

In addition to those standards and criteria in Section 50-37.1 *Common procedures* and Section 50-37.10



*Special and interim use permits*, each application for a special use permit for a wireless telecommunications facility shall comply with the following additional standards:

(a) The city may hire any consultant or expert necessary to assist the city in reviewing and evaluating an application for a special use permit for a wireless telecommunications facility, including the construction and modification of the site, once permitted, and any site inspections. An applicant shall deposit with the city funds sufficient to reimburse the city for all reasonable costs of consultant and expert evaluation and consultation to the city in connection with the review of any application including where applicable, the lease negotiation, the pre-approval evaluation, and the construction and modification of the site, once permitted. The initial deposit shall be set in accordance with Section 31-6(a) of the City Code;

(b) The placement of the deposit with the city shall precede the pre-application meeting. The city will maintain a separate escrow account for all such funds. The city's consultants shall invoice the city for its services related to the application. The total amount of the funds needed for the review of the application may vary depending on the scope and complexity of the project, the completeness of the application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification. If at any time during the process this escrow account has a balance less than \$2,500, the applicant shall immediately, upon notification by the city, replenish said escrow account so that it has a balance of at least \$5,000. Such additional escrow funds shall be deposited with the city before any further action or consideration is taken on the application. In the event that the amount held in escrow by the city is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall, upon request of the applicant, be refunded to the applicant;

(c) The land use supervisor will administratively approve an application to collocate on an existing wireless telecommunication facility upon receiving

a complete application, if the application meets all the requirements of the Chapter and would not substantially change the physical dimensions of the wireless telecommunication facility. Substantial changes shall mean:

- (i) The mounting of the proposed antenna on the tower would increase the existing height of the tower by more than ten percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas; or
- (ii) The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or
- (ii) The mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or
- (iv) The mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property; or
- (v) The mounting of the proposed antenna would defeat the concealment elements of the eligible support structure; or
- (vi) The mounting of the proposed antenna would not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment;

- (d) At any stage prior to issuing a special use permit the city may require such additional information as it deems necessary to confirm compliance with this UDC;
- (e) The city may refer any application or part of an application to any advisory, other committee or commission for a non-binding recommendation;
- (f) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the city may disapprove an application for any of the following reasons:
- (i) Conflict with safety and safety-related codes and requirements;
  - (ii) Conflict with the historic nature or character of a neighborhood or historical district;
  - (iii) The use or construction of wireless telecommunications facilities that is contrary to an already stated purpose of a specific zoning or land use designation;
  - (iv) The placement and location of wireless telecommunications facilities that would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the city or employees of the service provider or other service providers;
  - (v) Conflicts with the provisions of this Section 50-20.4.E;
  - (vi) The failure of the applicant to provide additional requested information in sufficient time for the city to comply with the requirements of MSA 15.99;
  - (g) Except for necessary building permits, once a special use permit has been granted, no additional zoning approvals shall be required by the city for the wireless telecommunications facilities covered by the special use permit;
  - (h) In order to verify that the holder of a special use permit for wireless telecommunications facilities and any and all lessees, renters and licensees of wireless telecommunications facilities, place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building and zoning codes, laws, ordinances and regulations and other

applicable requirements, the city may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, towers, antennas and buildings or other structures constructed or located on the permitted site;

6. Relief and appeal.

Any applicant desiring relief, waiver or exemption from any aspect or requirement of this Section 50-20.4.E may request relief, waiver or exemption in the submitted application for either a special use permit, or in the case of an existing or previously granted special use permit a request for modification of its tower and/or facilities. The requested relief, and any relief granted by the city, may be temporary or permanent, partial or complete. The burden of proving the need for the requested relief, waiver or exemption is solely on the applicant to prove. The applicant shall bear all costs of the city in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that if granted, the relief, waiver or exemption will have no significant affect on the health, safety and welfare of the city, its residents and other service providers;

Manufacturing, craft.

Manufacturing, craft, artisan production shop.

(a) In the F-5 and F-7 districts, the use shall not exceed 5,000 sq. ft. in gross floor area;

(b) In the F-5 and F-7 districts, the use is permitted in all building types and on all floors;

(c) Artisan production shops shall maintain at least ten percent of the gross floor area of the facility for retail purposes;

Manufacturing, craft, artisan studio.

(a) In the F-5 and F-7 districts, the use shall not exceed 3,000 sq. ft. in gross floor area;

(b) In the F-5 and F-7 districts, this use is permitted in all building types and on all floors;

(c) Artisan studio's shall maintain at least ten percent of the gross floor area of the facility for retail purposes;

3 Manufacturing, craft, brewery or distillery.

- (a) No outdoor storage is permitted;  
(b) Access and loading areas facing any street, adjacent residential use or residential zoning district, shall have the doors closed at all times, except during movement of raw material, other supplies and finishes

STATEMENT OF PURPOSE: This ordinance implements a text amendment to chapter 50 of the City Code, known as the Unified Development Chapter (UDC).

The proposed ordinance creates new land use definitions for “craft, artisan production shop”, “craft, artisan studio”, and “craft, brewery or distillery”, and use specific development standards (industrial). These new land uses are allowed as permitted uses only in the F-5 and F-7 zone districts, and the MU-B district (as recommended by the Planning Commission). It also relaxes the restriction on fences in the front yard; the current rules restrict fences to four feet in the front yard, whereas the proposed change would allow fences up to six feet in height, with some restrictions.

The proposed changes were discussed at a published public hearing on September 8, 2015. After the public hearing was closed, the Duluth planning commission made a motion to recommend that the city council approve the recommended amendments to UDC. The planning commission recommended a minor text change to the language related to allowing craft manufacturing in the MU-B zone district, which has been incorporated in this ordinance. The vote passed with a vote of 8 yeas, 0 nays and 0 abstentions, with 1 planning commission member being absent from the meeting.

PL: 15-133

**Attachments:** [Attachment A](#)  
[Ordinance Cover Letter](#)  
[Motion to Split Ordinance 15-084 Larson](#)

Ordinance was split into 15-084-O and 15-086-O

**This Ordinance was read for the first time.**

**15-086-O** AN ORDINANCE AMENDING SECTIONS 50-20.3 COMMERCIAL USES, 50.20.5 ACCESSORY USES, AND 50-41 DEFINITIONS TO ALLOW FOR URBAN AGRICULTURE LAND USES.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 50-20.3 of the Duluth City Code, 1959, as amended, be amended as follows:

Sec. 50-20.3. Same--Commercial uses.

Adult entertainment establishment.

All adult entertainment establishments shall comply with MSA 617.242 and Chapter 5 of this Code;

Agriculture, community garden, farmers market, general and urban.

~~No killing or dressing of poultry, rabbits or other small or large animals, fish or creatures shall be permitted, other than the animals, fish or creatures raised on the premises and that such killing or dressing is done in an accessory building located not less than 200 feet from any lot line;~~

~~All buildings and enclosures, including fences, for the feeding, breeding or milking of large livestock or small animals, such as poultry, rabbits, fish and other similar animals, but not including pasturing and grazing, of such animals, must be located not less than 200 feet from any lot line;~~

Agriculture, community garden.

(a) Compost bins, water tanks, and other containers shall be controlled for odors and pests and shall be screened from view by adjacent properties and any public right-of-way with a fence at least as tall as the container, or with shrubs, trees, and/or perennials planted so that at maturity they will provide at least 75 percent opacity to the height of the container. If not visible from a public right-of-way or adjacent property, this screening is not required;

(b) If a primary structure is present, accessory structures shall follow requirements in Section 50-21. If no primary structure is present, structures shall be allowed no closer than 20 feet from the front property line, three feet from any side property line, and five feet from the rear property line. No accessory structure shall exceed 20 feet in height;

(c) Fences must adhere to restrictions in Section 50-26.4;

(d) No sale of produce or other goods is allowed;

(e) Events such as weddings, parties and other activities normally associated with an event center, religious assembly, or other use that typically holds large events, are not allowed unless permitted within the zone district;

(f) For outdoor growing operations, mechanized

equipment similar in scale to that designed for household use shall be permitted. Use of larger mechanized farm equipment is generally prohibited; provided, however, that during the initial preparation of the land, heavy equipment may be used;

(g) Keeping of bees is permitted, as regulated by Chapter 6 of the City Code. Keeping of all other animals is prohibited;

(h) All tools and equipment shall be stored in an enclosed, secured structure; Agriculture, farmers market.

(a) Farmers markets are only allowed between the hours of 7:00 a.m. to 7:00 p.m.;

(b) As part of the special use permit process, planning commission shall determine that the farmer's market will provide adequate on-site parking, or that sufficient public parking exists nearby;

(c) Sales shall be limited to no more than three days per week;

Agriculture, general.

(a) No killing or dressing of poultry, rabbits or other small or large animals, fish or creatures shall be permitted, other than the animals, fish or creatures raised on the premises and that such killing or dressing is done in an accessory building located not less than 200 feet from any lot line;

(b) All buildings and enclosures, including fences, for the feeding, breeding or milking of large livestock or small animals, such as poultry, rabbits, fish and other similar animals, but not including pasturing and grazing, of such animals, must be located not less than 200 feet from any lot line;

(c) Any production or processing of cheese, honey or other products raised on the farm must be done inside a building and in accordance with all state regulations;

Agriculture, urban.

(a) Compost bins, water tanks, and other containers shall be controlled for odors and pests and shall be screened from view by adjacent properties and any public right-of-way with a fence at least as tall as the container, or with shrubs, trees, and/or perennials planted so that at maturity they will provide at least 75 percent opacity to the height of the container. If not visible from a public right-of-way or adjacent property, this screening is not required;

(b) If a primary structure is present, accessory structures, including ones of a temporary nature such as hoop houses, shall follow requirements in Section 50-21;

(c) For urban agriculture uses where operations are primarily conducted within a building, such as a greenhouse or hydroponic operation, such building shall

be considered the primary building and not an accessory building. For urban agriculture uses where operations are primarily conducted outside, structures (including ones of a temporary nature such as hoop houses) shall be allowed no closer than 20 feet from the front property line, three feet from any side property line, and five feet from the rear property line. No accessory structure shall exceed 20 feet in height, and accessory structures shall not exceed more than 30 percent of the lot area;

(d) Fences must adhere to restrictions in Section 50-26.4;

(e) No sale of produce or other goods is allowed;

(f) Events such as weddings, parties and other activities normally associated with an event center, religious assembly, or other use that typically holds large events, are not allowed unless permitted within the zone district;

(g) For outdoor growing operations, mechanized equipment similar in scale to that designed for household use shall be permitted. Use of larger mechanized farm equipment is generally prohibited; provided, however, that during the initial preparation of the land, heavy equipment may be used;

(h) Keeping of fish for aquaculture or aquaponics is allowed, subject to any conditions of the special use permit. Keeping of chickens, rabbits and bees is permitted, as regulated by Chapter 6 of the City Code. Keeping of all other animals is prohibited unless specifically approved in the City Code;

(i) All tools and equipment shall be stored in an enclosed, secured structure;

Automobile and light vehicle repair and service.

No displays or storage of merchandise, parts or refuse may be located closer than 20 feet from any public right-of-way;

A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district;

All areas for outdoor storage of automobiles or light vehicles shall be screened from adjacent properties by a dense urban screen regardless of the use on the adjacent property;

Automobile or light vehicle sales, rental or storage.

In the MU-C district, the use is permitted when located at least 100 feet from any R district;

Bank.

When in the MU-N district, the following standards apply:

The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;

Drive-through may not open before 7:00 a.m. or after



.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend;  
Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing or a dense urban screen;

The land use supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;

Banks are limited to no more than two drive-through windows and one drive-through lane for ATM services on the premises;

Any drive-through lane that is located between a bank and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open past 10:00 p.m.;

Banks in the R-P, F-1, F-3, F-5, F-6, F-7, F-8 or F-9 districts may not have drive-through facilities;

Drive-through lanes shall allow for stacking space for three cars;

Bed and breakfast.

This is a primary use of land, and the owner need not reside in the use. The use shall:

Have no more than 12 habitable units;

If located in a residential zone district, the use shall appear outwardly to be a one-family dwelling, giving no appearance of a business use other than allowed signs;

If located in a residential zone district, the use shall have no greater impact on surrounding public areas or infrastructure or natural resources than a fully occupied private home with house guests;

Be located on a lot or tract containing a minimum of 0.6 acre;

Contain a minimum of 1,500 square feet of area on the first floor of the main building;

Dining areas shall not exceed five seats per habitable unit. In addition to resident guests, only guests of resident guests shall be permitted to dine in a bed and breakfast, or guests participating in meetings or other private events hosted by the facility when other overnight guests are not present, not to exceed the approved seating capacity of the facility. For-profit events on the premises that involve a total number of participants in excess of the approved dining area seating capacity shall be limited to six days per year and shall be restricted to the period of October 15 through June 15;

Shall not have signage exceeding 12 square feet in size, and any signage shall complement the architecture of the structure;

Shall limit each guest stay to a maximum of 21 consecutive days;

Building materials sales.

Outdoor storage is limited to ten percent of the parcel's land area, and shall not be permitted in any required front yard area;

Each such area shall be screened from view from any ground floor window or door on any adjacent property, and from all adjacent rights-of-way, by an opaque fence or wall between six feet and eight feet in height. The fence may exceed eight feet in height where the difference in grade between the property line or right-of-way and the outdoor storage area makes a taller fence necessary to effectively screen the area;

A landscaped earth berm may be used instead or in combination with a required fence or wall;

Convention center.

A convention center may not exceed 50,000 square feet if it is within 500 feet of a multi-family use, or 15,000 square feet if it is within 500 feet of a one or two family use;

Daycare facility, small and large.

In the RR-1 and RR-2 districts this use and related parking facilities and structures other than driveways are limited to no more than 20 percent of the lot or parcel area;

Filling station.

No displays or storage of merchandise, parts or refuse may be located closer than ten feet from any public right-of-way;

A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district;

Grocery store, small and large.

Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas;

Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock;

Mini-storage facility.

This use shall comply with the following standards:

The use shall be contained within an enclosed building or buildings;

If the use abuts a residential zone district on any property line, building architecture shall employ sloped roofs and shall display wall relief features and colors commonly found in residential construction;

The use shall be designed so that doors to individual storage units do not face any abutting street frontage;

At least 50 percent of the wall surface area of any wall facing an abutting public street shall be faced with brick

split-block materials. Exposed concrete masonry unit (CMU) construction is not permitted on those facades;

Hours of public access to mini-storage units abutting one or more residential zone districts shall be restricted to the period from 6:00 a.m. to 10:00 p.m.;

Signage shall be limited to one 40 square feet illuminated pole and 20 square feet of non-illuminated wall signage. Signs shall not be located closer than ten feet to the front property line and no closer than 50 feet to any side property line;

Mini-storage facilities are only allowed on properties within the RR-1 district that are also within the Airport Overlay District Safety Zone B. There shall be a minimum of 50 feet of landscaped or naturally vegetated buffer from all property lines;

In the R districts a dense urban screen shall be installed along all side and rear property lines;

Office.

In the MU-I district, offices are limited to those in support of the permitted institutional uses in the district; general offices unrelated to the activities of those institutions are not permitted;

In the MU-B district, offices are limited to those in support of the permitted industrial uses in that zone district; general offices unrelated to the activities of those institutions are not permitted;

In the F-6 district, offices may not have drive-through facilities;

Other outdoor entertainment or recreation use not listed.

No circus ground, carnival ground, event ground, or amusement park shall be approved within 300 feet of an R-C, RR-2 or R district;

Parking lot or parking structure (primary use).

In the MU-C district, any parking structure shall be located at least 50 feet from any RC, RR or R district;

In F-1, F-2, F-3, F-4, F-6, F-8 and F-9 districts, only parking lots are allowed as primary uses. In F-7, only parking structures are allowed as primary uses. In F-5, parking lots and parking structures are allowed as primary uses;

Parking lots (primary use) are stand alone and self-contained, separate and distinct from other adjacent land uses. They need to conform to UDC requirements, such as lot frontage and drive aisle width, independent of adjacent properties;

Recreational vehicle (RV) park.

Within any flood plain district, recreational vehicles that do not meet the exemption criteria specified in Subsection 2 below shall be subject to the elevation and

horing provisions of Section 50-18.1.C for new structures;

Criteria for exempt recreational vehicles:

- (a) The vehicle must have a current license required for highway use;
- (b) The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks;
- (c) No permanent structural type additions may be attached to the vehicle;
- (d) The vehicle and associated use must be permissible in any pre-existing, underlying zoning district;
- (e) Accessory structures are not permitted within the floodway district. Any accessory structure in the flood fringe district must be constructed of flood-resistant materials and be securely anchored as specified in Section 50-18.1.C.3.v;
- (f) Cost of an accessory structure must not exceed \$500;

Recreational vehicles that are exempt in Section 50-20.3.P.2 lose this exemption when development occurs on the site exceeding \$500 for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as a new structure and shall be subject to the elevation/floodproofing requirements and the land use standards specified in Section 50-18.1.C.3(C) of this ordinance [*Chapter*]. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle to a flood-free location;

New commercial recreational vehicle parks or campgrounds, subdivisions or condominium associations, and the expansion of any similar existing use exceeding five units or dwelling sites may be allowed subject to the following:

On any new or replacement recreational vehicle site in the flood fringe district, the recreational vehicle and its contents must be placed on fill above the regulatory flood protection elevation and adequate road access to the site must be provided in accordance with Section 50-18.1.C.5(d). No fill placed in the floodway to meet the requirements of this section shall increase the flood stage of the regional flood;

Any new or replacement recreational vehicle site located in the floodway district, or as an alternative to 4(a) above in the flood fringe district, may be allowed as a special use in accordance with the following

visions and the provisions of Section 50-37.10;

The applicant must submit an emergency plan for the safe evacuation of all vehicles and people acceptable to the city council as specified in Section 50-18.1.C.5(d). The plan shall demonstrate that adequate time and personnel exist to carry out an evacuation, and that all vehicles will meet the exemption criteria specified in Section 50-20.Q.2 above; and

All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding;

Restaurant.

In the R-2 and MU-N district, no use shall exceed 5,000 sq. ft. in gross floor area; Drive-ins and drive-throughs for restaurants are only allowed in the MU-N, MU-C, MU-B, MU-P, F-2, F-3, F-4, and F-5 zone districts;

Drive-through lanes shall allow for stacking space for 5 cars;

When in the MU-N district, the following additional standards apply:

The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;

Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend;

Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing, or a dense urban screen;

The land use supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;

Restaurants are limited to one drive through lane and one speaker box;

When in the F-3 and F-5 districts, the following additional standards apply;

Access to and from the drive-through must be through the alley, if alley exists;

Restaurants are limited to one drive through lane;

Retail sales, small and large.

Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas;

Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock;

Retail stores are limited to one drive-through window;

Any drive-through lane that is located between a retail store and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open part 10:00 p.m.;

Drive-through lanes shall allow for stacking space for three cars;

When in the MU-N district, the following standards apply:

The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;

Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend;

Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing, or a dense urban screen;

The land use supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;

Seasonal camp or cabin.

In the R-C and RR-1 districts, buildings shall be located not less than 200 feet from any R district;

In the R-C district, the design of the site shall preserve the rural character by:

Separating each camp or cabin site by at least 50 feet, measured from the closest points on each tent or cabin area;

Preserving all natural vegetation not required to be removed for access roads, trails or public safety;

Using gravel or pervious paving, rather than impervious materials, for all access road and driveways serving fewer than 25 camp or cabin sites;

Veterinarian or animal hospital.

In the R-C and RR-1 districts, this use is permitted provided that service is limited to large livestock/large animal care and any building or enclosure so used shall be located not less than 100 feet from any lot line;

In the R-2, R-P, MU-N and MU-C districts, this use is permitted provided that practice is limited to the treatment of small animals (household pets, i.e. dogs, cats, birds, that are ordinarily permitted in the house for company) and that all aspects of the facility are totally contained (including kennel runs and exercise areas) within a soundproof building with adequate ventilation;

Vacation dwelling unit.

The minimum rental period shall as follows:

For properties zoned RR-1, RR-2, R-1 and R-P the

imum rental period shall not be less than two nights except for the period from June 15 to September 15 when the minimum rental period shall not be less than five nights;

For properties zoned R-2, MU-N and F-5 the minimum rental period shall not be less than two nights except for the period from June 15 to September 15 when the minimum rental period shall not be less than three nights;

The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two;

Off street parking shall be provided at the following rate:

1-2 bedroom unit, one space;

3-4 bedroom unit, two spaces;

5+ bedroom unit, three spaces;

Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street;

The property owner must obtain all licenses and permits from the city of Duluth and state of Minnesota required for guest occupancy on the property for three to 21 days;

The property owner must provide required documents and adhere to additional requirements listed in the city of Duluth's UDC application manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures;

The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first.

Section 2. That Section 50-20.5 of the Duluth City Code, 1959, as amended, be amended as follows:

50-20.5 Accessory uses.

Accessory agriculture roadside stand.

Only one stand offering for sale farm products produced on the premises is permitted provided that such stand does not exceed an area of 200 square feet and that it is located not nearer than 25 feet to any street or highway;

Accessory bed and breakfast.

The owner and operator of an accessory bed and breakfast shall be required to live in the establishment. In addition, the use shall:

Have no more than five habitable units;

Appear outwardly to be a one-family dwelling, giving no appearance of a business use other than allowed signs;

Have no greater impact on surrounding public areas, infrastructure or natural resources than a fully occupied private home with house guests;

Be located on a lot or tract containing a minimum of 0.6 acre;

Contain a minimum of 1,500 square feet of area on the first floor of the main building;

Dining areas shall not exceed three seats per habitable unit in bed and breakfast inns. In addition to resident guests, only guests of resident guests shall be permitted to dine in a bed and breakfast, or guests participating in meetings or other private events hosted by the facility when other overnight guests are not present, not to exceed the approved seating capacity of the facility. For profit events on the premises that involve a total number of participants in excess of the approved dining area seating capacity shall be limited to six days per year and shall be restricted to the period of October 15 through June 15;

Shall not have signage exceeding 12 square feet in size, and any signage shall complement the architecture of the structure;

Shall limit each guest stay to a maximum of 21 consecutive days;

May be subject to other conditions deemed necessary by the city to ensure the use complies with the purpose of this subsection;

Accessory boat dock, residential.

This use shall comply with the following standards:

Dockage of boats owned and primarily used by a resident of the property is a permitted accessory use to the primary residential use and shall not be limited in number;

If there is a residential structure on the property and the property has frontage on an improved street, the owner of the residential structure may rent out boat dockage to a maximum of two boats owned by others. If the property does not have frontage on an improved street, the owner of the residential structure may not rent dockage space to others. Boat dockage use on a property that is not residentially developed is permitted as a principal use provided that the use is limited to one boat for each lot or group of contiguous lots in the same ownership, and the boat is owned and primarily used by the owner of the property;

For each new rental boat dock space created or made legal after April 14, 1974, one off street parking space shall be provided in addition to all other off street parking spaces required by other legal uses of the property, such spaces to be constructed in accordance with



tion 50-24;

At the request of the building official, the owner of property shall provide boat registration or other documentary evidence to prove compliance with these standards;

No buildings other than residential or residential accessory structures, no winter storage of boats other than those owned by a resident of the property in question, no repair facilities, fuel sales, food or refreshment sales, rentals of boats, boat or parts sales or displays or other commercial uses shall be permitted;

Accessory dwelling unit.

An accessory dwelling unit may be created within, or detached from, any one-family dwelling, as a subordinate use, in those districts shown in Table 50-19.8, provided the following standards are met:

Only one accessory dwelling unit may be created per lot;

No variances shall be granted for an accessory dwelling unit;

Only the property owner, which shall include title holders and contract purchasers, may apply for an accessory dwelling unit;

One off-street parking space shall be provided in addition to off-street parking that is required for the primary dwelling;

Accessory dwelling units shall contain no more than 800 square feet of floor space and shall be consistent in character and design with the primary dwelling;

If a separate outside entrance is necessary for an accessory dwelling unit located within the primary dwelling, that entrance must be located either on the rear or side of the building;

Accessory heliport.

All accessory heliports shall have and maintain in effect at all times all required permits and approvals, if any, for the facility and operation required by the FAA, and shall design and maintain the facility and conduct operations in compliance with those permits and approvals;

In the R-C and I-G districts, this use shall be permitted only when it is accessory to an airport as a primary use;

Accessory home occupation.

All home occupations not listed separately in Table 50-19.8 must comply with the following standards:

The use must be conducted entirely in the residence or accessory buildings and not on outdoor portions of the lot, except that the growing of food crops or ornamental crops, to be sold or donated off-site, shall be exempt from this provision;

No business involving retail sales of goods from the premises is permitted;

No person not a member of the family residing on the premises shall work on the premises;

Not more than 25 percent of the floor area of one story of the dwelling shall be devoted to such home occupation and not more than 50 percent of an accessory structure may be devoted to such home occupation;

The home occupation shall not require external alterations that would change the residential character of the property;

No display pertaining to such occupation shall be visible from the street;

The use of the property for a home occupation shall not result in the number of client appointments at the property in excess of two appointments per hour and appointments shall be limited to the hours of 8 a.m. to 7 p.m. and not more than four clients shall be on site at the same time;

No equipment shall be used that creates offensive noise, vibration, sound, smoke, dust, odors, heat, glare, X-ray or electrical disturbance to radio or television or that otherwise constitutes a nuisance;

All home occupations that require a license from the state shall maintain a valid license at all times and shall operate in compliance with the terms of that license and all applicable regulations of the state at all times;

. No motor vehicle repair is permitted as an accessory home occupation and repair of motor vehicles not registered to the owner or leaseholder of the property is prohibited regardless of whether the repair is being made for compensation;

Accessory sidewalk dining area.

In all districts, this use requires approval of a sidewalk use permit pursuant to Section 50-37.12;

Accessory solar or geothermal power equipment.

In all districts, other than building integrated solar collection systems, solar collection systems shall comply with the following requirements:

Ground-mounted solar system.

Solar collectors shall not be located in the front yard between the principal structure and the public right-of-way;

Solar collectors shall be located a minimum of six feet from all property lines and other structures;

Solar collector areas in any residential district shall not exceed the greater of one-half the footprint of the principal structure or 600 square feet, whichever is greater. The size of solar collector areas in all districts except residential districts shall not exceed one-half of the footprint of the principal structure;

Free-standing or ground-mounted solar installations shall not exceed 20 feet in height, when the system is oriented at its maximum design pitch;

Roof-mounted or wall-mounted solar system.

A solar collection system shall be located a minimum of six feet from all property lines and other structures except the structure on which it is mounted;

Notwithstanding the height limitations of the zoning district, building-mounted solar energy systems shall not extend higher than three feet above the ridge level of a roof on a structure with a gable, hip or gambrel roof and shall not extend higher than ten feet above the surface of the roof when installed on a flat or shed roof;

The solar collector surface and mounting devices for building-mounted solar energy systems shall be set back not less than one foot from the exterior perimeter of a roof for every one foot that the system extends above the parapet wall or roof surface, if no parapet wall exists, on which the system is mounted. Solar energy systems that extend less than three feet above the roof surface shall be exempt from this provision;

A solar collection system may be located on an accessory structure;

Solar easements.

A property owner who has installed or intends to install a solar collection system shall be responsible for negotiating with other property owners in the vicinity for any necessary solar easement and shall record the easement with the county recorder. If no such easement is negotiated and recorded, the owner of the solar collector shall have no right to prevent the construction of structures permitted by this Chapter on nearby properties on grounds that the construction would cast shadows on the solar collection system;

Accessory uses or structures not listed elsewhere.

In any residential district, any accessory building that is erected prior to the construction of the principal building shall comply with the following conditions:

The construction of the principal building shall be completed and the certificate of occupancy for such principal use issued within two years of issuance of the building permit for the accessory building;

Prior to issuance of a building per

STATEMENT OF PURPOSE: This ordinance implements a text amendment to Chapter 50 of the City Code, known as the Unified Development Chapter (UDC). The proposed ordinance clarifies use specific development standards for urban agriculture and general

agriculture. The proposed changes were discussed at a published public hearing on September 8, 2015. After the public hearing was closed, the Duluth planning commission made a motion to recommend that the city council approve the recommended amendments to UDC. The vote passed with a vote of 8 yeas, 0 nays and 0 abstentions, with 1 planning commission member being absent from the meeting.

**This Ordinance was read for the first time.**

- 45. 15-085-O** AN ORDINANCE AMENDING SECTIONS 50-19.8 USE TABLE, AND 50-20.3 COMMERCIAL USES, RELATED TO DRIVE-THROUGHS FOR BANKS, RESTAURANTS AND RETAIL STORES, AND PRIMARY USE PARKING LOTS, IN THE MU-N ZONE DISTRICT

**CITY PROPOSAL:**

The city of Duluth does ordain:

Section 1. That Section 50-19.8 of the Duluth City Code, 1959, as amended, be amended as follows:

*[See Attachment 1, Table 50-19.8 Use Table and Table 50-19.1 Use Table Legend]*

Section 2. That Section 50-20.3 of the Duluth City Code, 1959, as amended, be amended as follows:

Sec. 50-20.3. Same--Commercial uses.

Adult entertainment establishment.

All adult entertainment establishments shall comply with MSA 617.242 and Chapter 5 of this Code;

Agriculture, general.

No killing or dressing of poultry, rabbits or other small or large animals, fish or creatures shall be permitted, other than the animals, fish or creatures raised on the premises and that such killing or dressing is done in an accessory building located not less than 200 feet from any lot line;

All buildings and enclosures, including fences, for the feeding, breeding or milking of large livestock or small

nals, such as poultry, rabbits, fish and other similar animals, but not including pasturing and grazing, of such animals, must be located not less than 200 feet from any lot line;

Automobile and light vehicle repair and service.

No displays or storage of merchandise, parts or refuse may be located closer than 20 feet from any public right-of-way;

A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district;

All areas for outdoor storage of automobiles or light vehicles shall be screened from adjacent properties by a dense urban screen regardless of the use on the adjacent property;

Automobile or light vehicle sales, rental or storage.

In the MU-C district, the use is permitted when located at least 100 feet from any R district;

Bank.

When in the MU-N district, the following standards apply:

The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;

Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend.

Drive-through may be open at 6:00 a.m. during the weekday or at 7:00 a.m. on the weekend only if all speaker boxes and drive-through windows are at least 125 feet from any residential structure, excluding any residential use or structure on the same property or within the same development;

Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing or a dense urban screen;

The land use supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;

Banks are limited to no more than two drive-through windows and one drive-through lane for ATM services on the premises;

Any drive-through lane that is located between a bank

| a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open past 10:00 p.m.;

Banks in the R-P, F-1, F-3, F-5, F-6, F-7, F-8 or F-9 districts may not have drive-through facilities;

Drive-through lanes shall allow for stacking space for three cars;

Bed and breakfast.

This is a primary use of land, and the owner need not reside in the use. The use shall:

Have no more than 12 habitable units;

If located in a residential zone district, the use shall appear outwardly to be a one-family dwelling, giving no appearance of a business use other than allowed signs;

If located in a residential zone district, the use shall have no greater impact on surrounding public areas or infrastructure or natural resources than a fully occupied private home with house guests;

Be located on a lot or tract containing a minimum of 0.6 acre;

Contain a minimum of 1,500 square feet of area on the first floor of the main building;

Dining areas shall not exceed five seats per habitable unit. In addition to resident guests, only guests of resident guests shall be permitted to dine in a bed and breakfast, or guests participating in meetings or other private events hosted by the facility when other overnight guests are not present, not to exceed the approved seating capacity of the facility. For-profit events on the premises that involve a total number of participants in excess of the approved dining area seating capacity shall be limited to six days per year and shall be restricted to the period of October 15 through June 15;

Shall not have signage exceeding 12 square feet in size, and any signage shall complement the architecture of the structure;

Shall limit each guest stay to a maximum of 21 consecutive days;

Building materials sales.

Outdoor storage is limited to ten percent of the parcel's land area, and shall not be permitted in any required front yard area;

Each such area shall be screened from view from any ground floor window or door on any adjacent property,

l from all adjacent rights-of-way, by an opaque fence or wall between six feet and eight feet in height. The fence may exceed eight feet in height where the difference in grade between the property line or right-of-way and the outdoor storage area makes a taller fence necessary to effectively screen the area;

A landscaped earth berm may be used instead or in combination with a required fence or wall;

Convention center.

A convention center may not exceed 50,000 square feet if it is within 500 feet of a multi-family use, or 15,000 square feet if it is within 500 feet of a one or two family use;

Daycare facility, small and large.

In the RR-1 and RR-2 districts this use and related parking facilities and structures other than driveways are limited to no more than 20 percent of the lot or parcel area;

Filling station.

No displays or storage of merchandise, parts or refuse may be located closer than ten feet from any public right-of-way;

A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district;

Grocery store, small and large.

Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas;

Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock;

Mini-storage facility.

This use shall comply with the following standards:

The use shall be contained within an enclosed building or buildings;

If the use abuts a residential zone district on any property line, building architecture shall employ sloped roofs and shall display wall relief features and colors commonly found in residential construction;

The use shall be designed so that doors to individual storage units do not face any abutting street frontage;

At least 50 percent of the wall surface area of any wall facing an abutting public street shall be faced with brick or split-block materials. Exposed concrete masonry unit (CMU) construction is not permitted on those facades;

Hours of public access to mini-storage units abutting

or more residential zone districts shall be restricted to the period from 6:00 a.m. to 10:00 p.m.;

Signage shall be limited to one 40 square feet illuminated pole and 20 square feet of non-illuminated wall signage. Signs shall not be located closer than ten feet to the front property line and no closer than 50 feet to any side property line;

Mini-storage facilities are only allowed on properties within the RR-1 district that are also within the Airport Overlay District Safety Zone B. There shall be a minimum of 50 feet of landscaped or naturally vegetated buffer from all property lines;

In the R districts a dense urban screen shall be installed along all side and rear property lines;

Office.

In the MU-I district, offices are limited to those in support of the permitted institutional uses in the district; general offices unrelated to the activities of those institutions are not permitted;

In the MU-B district, offices are limited to those in support of the permitted industrial uses in that zone district; general offices unrelated to the activities of those institutions are not permitted;

In the F-6 district, offices may not have drive-through facilities;

Other outdoor entertainment or recreation use not listed.

No circus ground, carnival ground, event ground, or amusement park shall be approved within 300 feet of an R-C, RR-2 or R district;

Parking lot or parking structure (primary use).

~~In the MU-C district, any parking structure shall be located at least 50 feet from any RC, RR or R district;~~

~~In F-1, F-2, F-3, F-4, F-6, F-8 and F-9 districts, only parking lots are allowed as primary uses. In F-7, only parking structures are allowed as primary uses. In F-5, parking lots and parking structures are allowed as primary uses;~~

~~3. Parking lots (primary use) are stand alone and self-contained, separate and distinct from other adjacent land uses. They need to conform to UDC requirements, such as lot frontage and drive aisle width, independent of adjacent properties;~~

Parking lots.

(a) Parking lots (primary use) shall be stand alone and self-contained, separate and distinct from other adjacent land uses. They need to conform to UDC



requirements, such as lot frontage and drive aisle width, independent of adjacent properties;

(b) When in the MU-N district, the following standards apply:

(i) Primary use parking lots shall meet all the street landscaping provisions in Section 50-25.3 as applicable. In addition, primary use parking lots shall be screened from adjacent structures and uses. Such screening shall consist of a continuous, view-obscuring fence, wall or compact evergreen hedge along all property lot lines which are adjacent to residential structures and uses, which shall be broken only for egress and access driveways and walkways. Such fence, wall or hedge shall be not less than four feet nor more than six feet in height;

(ii) Primary use parking lots shall meet all the landscaping provisions in Section 50-25.4, as applicable. In addition, regardless of the number of parking spaces provided, the parking lot must set aside at least 15 percent of the interior parking area for landscaping islands;

(iii) If the primary use parking lot abuts an improved public alley, driveway access must be provided to the alley;

(iv) Primary use parking lots must be designed to be a similar lot size as other lots in the neighborhood, and shall not alter the essential character of the neighborhood;

Parking structures.

(a) In the MU-C district, any parking structure shall be located at least 50 feet from any RC, RR or R district;

Recreational vehicle (RV) park.

Within any flood plain district, recreational vehicles that do not meet the exemption criteria specified in Subsection 2 below shall be subject to the elevation and anchoring provisions of Section 50-18.1.C for new structures;

Criteria for exempt recreational vehicles:

(a) The vehicle must have a current license required for highway use;

(b) The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the

site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks;

(c) No permanent structural type additions may be attached to the vehicle;

(d) The vehicle and associated use must be permissible in any pre-existing, underlying zoning district;

(e) Accessory structures are not permitted within the floodway district. Any accessory structure in the flood fringe district must be constructed of flood-resistant materials and be securely anchored as specified in Section 50-18.1.C.3.v;

Cost of an accessory structure must not exceed \$500;

Recreational vehicles that are exempt in Section 50-20.3.P.2 lose this exemption when development occurs on the site exceeding \$500 for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as a new structure and shall be subject to the elevation/floodproofing requirements and the land use standards specified in Section 50-18.1.C.3(C) of this ordinance [Chapter]. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle to a flood-free location;

New commercial recreational vehicle parks or campgrounds, subdivisions or condominium associations, and the expansion of any similar existing use exceeding five units or dwelling sites may be allowed subject to the following:

On any new or replacement recreational vehicle site in the flood fringe district, the recreational vehicle and its contents must be placed on fill above the regulatory flood protection elevation and adequate road access to the site must be provided in accordance with Section 50-18.1.C.5(d). No fill placed in the floodway to meet the requirements of this section shall increase the flood stage of the regional flood;

Any new or replacement recreational vehicle site located in the floodway district, or as an alternative to 4.(a) above in the flood fringe district, may be allowed as a special use in accordance with the following provisions and the provisions of Section

37.10:

The applicant must submit an emergency plan for the safe evacuation of all vehicles and people acceptable to the city council as specified in Section 50-18.1.C.5(d). The plan shall demonstrate that adequate time and personnel exist to carry out an evacuation, and that all vehicles will meet the exemption criteria specified in Section 50-20.Q.2 above; and

All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding;

Restaurant.

In the R-2 and MU-N district, no use shall exceed 5,000 sq. ft. in gross floor area;

Drive-ins and drive-throughs for restaurants are only allowed in the MU-N, MU-C, MU-B, MU-P, F-2, F-3, F-4, and F-5 zone districts;

Drive-through lanes shall allow for stacking space for 5 cars;

When in the MU-N district, the following additional standards apply:

The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;

Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend.

Drive-through may be open at 6:00 a.m. during the weekday or at 7:00 a.m. on the weekend only if all speaker boxes and drive-through windows are at least 125 feet from any residential structure, excluding any residential use or structure on the same property or within the same development;

Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing, or a dense urban screen;

The land use supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;

Restaurants are limited to one drive through lane and one speaker box;

When in the F-3 and F-5 districts, the following additional standards apply;  
Access to and from the drive-through must be through the alley, if alley exists;

Restaurants are limited to one drive through lane;

Retail sales, small and large.

Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas;

Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock;

Retail stores are limited to one drive-through window;

Any drive-through lane that is located between a retail store and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open part 10:00 p.m.;

5 Drive-through lanes shall allow for stacking space for three cars;

When in the MU-N district, the following standards apply:

The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;

Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend.

Drive-through may be open at 6:00 a.m. during the weekday or at 7:00 a.m. on the weekend only if all speaker boxes and drive-through windows are at least 125 feet from any residential structure, excluding any residential use or structure on the same property or within the same development;

Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing, or a dense urban screen;

The land use supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;

Seasonal camp or cabin.

In the R-C and RR-1 districts, buildings shall be located not less than 200 feet from any R district;

In the R-C district, the design of the site shall preserve the rural character by:

Separating each camp or cabin site by at least 50 feet, measured from the closest points on each tent or cabin area;

Preserving all natural vegetation not required to be removed for access roads, trails or public safety;

Using gravel or pervious paving, rather than impervious materials, for all access road and driveways serving fewer than 25 camp or cabin sites;

Veterinarian or animal hospital.

In the R-C and RR-1 districts, this use is permitted provided that service is limited to large livestock/large animal care and any building or enclosure so used shall be located not less than 100 feet from any lot line;

In the R-2, R-P, MU-N and MU-C districts, this use is permitted provided that practice is limited to the treatment of small animals (household pets, i.e. dogs, cats, birds, that are ordinarily permitted in the house for company) and that all aspects of the facility are totally contained (including kennel runs and exercise areas) within a soundproof building with adequate ventilation;

Vacation dwelling unit.

The minimum rental period shall as follows:

For properties zoned RR-1, RR-2, R-1 and R-P the minimum rental period shall not be less than two nights except for the period from June 15 to September 15 when the minimum rental period shall not be less than five nights;

For properties zoned R-2, MU-N and F-5 the minimum rental period shall not be less than two nights except for the period from June 15 to September 15 when the minimum rental period shall not be less than three nights;

The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two;

Off street parking shall be provided at the following rate:

1-2 bedroom unit, one space;

3-4 bedroom unit, two spaces;

5+ bedroom unit, three spaces;

Only one motorhome (or pickup-mounted camper)

/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street;

The property owner must obtain all licenses and permits from the city of Duluth and state of Minnesota required for guest occupancy on the property for three to 21 days;

The property owner must provide required documents and adhere to additional requirements listed in the city of Duluth's UDC application manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures;

The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first.

Section 3. That this ordinance shall take effect 30 days after its passage and publication.

**STATEMENT OF PURPOSE:** This ordinance implements two text amendments to Chapter 50 of the City Code, known as the Unified Development Chapter (UDC).

The proposed ordinance allows the land use "primary use parking lot" as a special use in the MU-N district. The current UDC does not allow this use in the Mixed Use Neighborhood district out of concern for potential land use conflicts, such as noise and light, between the parking lot and any adjacent residential uses. This amendment allows primary use parking lots in the MU-N zone district, but any new primary use parking lots would have higher landscaping standard than primary use parking lots in other zone districts, and would require a special use permit (and a public hearing in front of the planning commission).

The proposed ordinance also allows for increased hours of operation for drive-throughs in the MU-N district. This text change allows drive-throughs to be open an hour earlier (6 a.m. instead of 7 a.m. on weekdays, and 7 a.m. instead of 8 a.m. on weekends), but only if there is at least 125 feet from the drive-through to the nearest residential structure (note that the ordinance reviewed by the planning commission had originally stated 150 feet).

The proposed changes were discussed at a published public hearing on September 8, 2015. After the public hearing was closed, the Duluth planning commission made a motion to recommend that the city council

approve the recommended amendments to UDC. The planning commission recommended a minor text change to the language related to primary use parking lots and screening, which has been incorporated in this ordinance. The vote passed with a vote of 8 yeas, 0 nays and 0 abstentions, with 1 planning commission member being absent from the meeting.

Action deadline: Not applicable

PL: 15-135

**Attachments:** [Attachment 1](#)  
[Cover Letter](#)

**This Ordinance was read for the first time.**

**The following entitled ordinance was read for the second time:**

**COMMITTEE 2**

**BY COUNCILOR KRUG (INTERGOVERNMENTAL RELATIONS)**

**46. 15-077-O** AN ORDINANCE AUTHORIZING THE GRANTING OF AN EASEMENT TO THE STATE OF MINNESOTA OVER PROPERTY ADJACENT TO RIDGEVIEW ROAD.

AN ORDINANCE AUTHORIZING THE GRANTING OF AN EASEMENT TO THE STATE OF MINNESOTA OVER PROPERTY ADJACENT TO RIDGEVIEW ROAD.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. Pursuant to Section 2-177.3 of the Duluth City Code, 1959, as amended, the city of Duluth ("city") may convey city property, including easements, to another governmental entity if the needs of said governmental unit are greater in importance than the need of the city to retain said property and that the best interests of the citizens of the city will be best served by accomplishing such conveyance. Accordingly, the city council finds that:

(a) The needs of the state of Minnesota in having a secondary access to the Air National Guard Base from Ridgeview Road are greater in importance than the need of the city to retain the property; and

(b) The best interests of the citizens of the city will be best served by

conveyance of an easement to the state of Minnesota to allow construction of a secondary access point from Ridgeview Road; and

(c) The assessor has provided a written estimate of the market value of the property to be subject to the easement of \$46,300. The city will provide the easement for nominal consideration of \$1.

Section 2. That the proper city officials are hereby authorized to convey an easement to the state of Minnesota in the form of the Exhibit A, attached hereto and incorporated herein, according to its terms.

Section 3. This ordinance shall take effect 30 days after its passage and publication. (Effective Date: October 28, 2015)

STATEMENT OF PURPOSE: The purpose of this ordinance is to authorize the conveyance of an exclusive and permanent easement for ingress and egress, landscaping, roadway improvements, structures, and fencing to allow construction of a secondary access point to the Air National Guard Base from Ridgeview Road.

**Attachments:** [Attachment to 15-077-O Exhibit A](#)

**This Ordinance was adopted unanimously.**

**Yea:** 8 - Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson

## **COUNCILOR QUESTIONS AND COMMENTS**

## **COUNCILOR PREVIEW OF UPCOMING BUSINESS**

**The meeting adjourned at 11:41 p.m.**





# City of Duluth

411 West First Street  
Duluth, Minnesota 55802

## Minutes

### City Council

**MISSION STATEMENT:** *The mission of the Duluth City Council is to develop effective public policy rooted in citizen involvement that results in excellent municipal services and creates a thriving community prepared for the challenges of the future.*

**TOOLS OF CIVILITY:** *The Duluth City Council promotes the use and adherence of the tools of civility in conducting the business of the council. The tools of civility will provide increased opportunities for civil discourse in order to find positive resolutions to the issues that face the city. These tools include: pay attention, listen, be inclusive, do not gossip, show respect, be agreeable, apologize, give constructive criticism and take responsibility. [Approved by the council on August 25, 2003]*

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Thursday, October 8, 2015

5:15 PM

Council Chamber

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#### Special Council Meeting - Bond Sales

#### ROLL CALL

**Present:** 8 - Councilors Zach Filipovich, Jay Fosle, Sharla Gardner, Howie Hanson, Jennifer Julsrud, Barb Russ, Joel Sipress and President Emily Larson.

**Absent:** 1 – Councilor Linda Krug

#### PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

- 15-072** The PFM Group bid results for the sale of seven issues: \$1,530,000 General Obligation Capital Improvement Bonds, Series 2015A (“Series 2015A Bonds”), \$3,380,000 General Obligation Capital Equipment Notes, Series 2015B (“Series 2015B Notes”), \$2,910,000 Taxable General Obligation Airport Improvement Bonds, Series 2015C (“Series 2015C Bonds”), \$4,060,000 Taxable General Obligation Steam Utility Revenue Bonds, Series 2015D (“Series 2015D Bonds”), \$13,800,000 Taxable General Obligation Tourism Tax Revenue Bonds, Series 2015E (“Series 2015E Bonds”), \$2,790,000 General Obligation Street Improvement Refunding Bonds, Series 2015F (“Series 2015F Bonds”), and \$2,790,000 General Obligation Utilities Revenue Refunding Bonds, Series 2015G (“Series 2015G Bonds”).

Attachments: [Bid Results](#)

This Petition/Other Communication was received.

#### MOTIONS AND RESOLUTIONS

**COMMITTEE 1****BY COUNCILOR FILIPOVICH (FINANCE)**

Wayne Parson reviewed the results of the bids on all the bonds that are on the agenda and answered council questions.

2.     **15-0701R**     RESOLUTION PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF \$1,615,000 GENERAL OBLIGATION CAPITAL IMPROVEMENT BONDS, SERIES 2015A; ESTABLISHING THE TERMS AND FORM THEREOF; CREATING A DEBT SERVICE FUND THEREFOR; AND AWARDING THE SALE THEREOF.

## CITY PROPOSAL:

BE IT RESOLVED, by the City Council (the "City Council") of the city of Duluth, St. Louis County, Minnesota (the "City"), as follows:

Section 1. Purpose and Authorization.

1.01 Under and pursuant to the provisions of Minnesota Statutes, Section 475.521 (the "Act") and Chapter 475, the City is authorized to issue its general obligation bonds to fund capital improvements pursuant to an approved capital improvement plan.

1.02 (a) Pursuant to the Act, the City Council has authorized preparation of a capital improvement plan for the years 2015 through 2019 (the "Plan").

(b) The City Council held a public hearing on the proposed Plan on December 8, 2014, and approved the Plan on December 8, 2014.

1.03 (a) Also on December 8, 2014, the City Council held a public hearing on the issuance of bonds in an amount not to exceed \$1,800,000 to provide funds for the following projects: improvements to eligible facilities under the Act (City Hall, libraries, public safety facilities and public works facilities) throughout the City, including furnace replacements and masonry repair, modernization/remodeling, roof replacement, ADA compliance, overhead door replacements, energy conservation measures, upgrades to Firehalls and preparation of a consolidation study for public works facilities (collectively, the "Project"). Each element of the Project is a capital improvement within the meaning of the Act.

(b) Pursuant to a resolution of the City Council adopted on December 8, 2014, the City Council has determined that it is necessary and expedient to issue general obligation capital improvement bonds in an amount not to exceed \$1,800,000 of the City to provide funds to finance the Project and for payment of the costs of issuing such bonds.

(c) A notice of intent to issue such bonds was published in accordance with the Act on November 21, 2014.

(d) No petition calling for a vote on the proposed issuance of such bonds, as permitted by the Act, has been filed with the city clerk.

(e) The City Council has determined that it is necessary and expedient to issue \$1,615,000 General Obligation Capital Improvement Bonds, Series 2015A, of the City (the "Bonds") pursuant to the above-described authority, to provide funds to finance the Project and for payment of the costs of issuing the Bonds.

(f) The maximum amount of principal and interest to become due in any year on the Bonds and all the outstanding bonds issued by the City pursuant to Section 475.521, subd. 4 of the Act will not exceed \$9,118,594, which is an amount equal to 0.16% of estimated market value of property in the City for taxes payable in 2015.

(g) Public Financial Management, Inc., municipal advisor to the City, has given notification by mail, facsimile, electronic data transmission or other form of communication common to the municipal bond trade to at least five firms determined by Public Financial Management, Inc. to be prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds.

1.04 Pursuant to such solicitation for bids for the sale of the Bonds, the City Council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Robert W. Baird & Co., Inc. of Milwaukee, Wisconsin (the "Purchaser"), to purchase the Bonds at a cash price of \$1,631,686.82, and upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder. All actions of the mayor and the city clerk and Public Financial Management, Inc., independent municipal advisor to the City, taken with

regard to the sale of the Bonds are hereby ratified and approved.

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated the date of delivery, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts and shall bear interest at the annual rates stated as follows:

<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>
2017	\$140,000	2.000%
2018	150,000	2.000%
2019	155,000	2.000%
2020	160,000	2.000%
2021	160,000	2.000%
2022	165,000	2.000%
2023	165,000	2.000%
2024	170,000	2.000%
2025	175,000	2.125%
2026	175,000	3.000%

2.02 The Bonds are not subject to optional redemption and prepayment before maturity.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 2016. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the municipal securities rulemaking board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 (a) The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the mayor and attested by the manual or facsimile signature of the city clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office

until delivery.

(b) The city clerk is authorized and directed to obtain a copy of the approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, and cause the opinion to be attached to each Bond.

2.05 The City hereby appoints Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of Exhibit A attached hereto. No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 (a) In order to make the Bonds eligible for the services provided by The Depository Trust Company, Jersey City, New Jersey ("DTC"), the City has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the City and DTC (the "Representation Letter").

(b) Notwithstanding any provision herein to the contrary, so long as the Bonds shall be in Book-Entry Form, the provisions of this Section 2.06 shall govern.

(c) All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

(d) DTC (or its nominees) shall be and remain recorded on the Bond Register as the holder of all Bonds which are in Book-Entry Form. No transfer of any Bond in Book-Entry Form shall be made, except from DTC to another depository (or its nominee) or except to terminate the Book-Entry Form. All Bonds of such stated maturity of any Bonds in

Book-Entry Form shall be issued and remain in a single bond certificate registered in the name of DTC (or its nominee); provided, however, that upon termination of the Book-Entry Form pursuant to the Representation Letter, the City shall, upon delivery of all Bonds of such series from DTC, promptly execute, and the Bond Registrar shall thereupon authenticate and deliver, Bonds of such series to all persons who were beneficial owners thereof immediately prior to such termination; and the Bond Registrar shall register such beneficial owners as holders of the applicable Bonds.

The Bond Registrar shall maintain accurate books and records of the principal balance, if any, of each such outstanding Bond in Book-Entry Form, which shall be conclusive for all purposes whatsoever. Upon the authentication of any new bond in Book-Entry Form in exchange for a previous bond, the Bond Registrar shall designate thereon the principal balance remaining on such bond according to the Bond Registrar's books and records.

No beneficial owner (other than DTC) shall be registered as the holder on the Bond Register for any Bond in Book-Entry Form or entitled to receive any bond certificate. The beneficial ownership interest in any Bond in Book-Entry Form shall be recorded, evidenced and transferred solely in accordance with the Book-Entry System.

Except as expressly provided to the contrary herein, the City and the Bond Registrar may treat and deem DTC to be the absolute owner of all Bonds of each series which are in Book-Entry Form (i) for the purpose of payment of the principal of and interest on such Bond, (ii) for the purpose of giving notices hereunder, and (iii) for all other purposes whatsoever.

(e) The City and the Bond Registrar shall each give notices to DTC of such matters and at such times as are required by the Representation Letter, including the following:

- (i) with respect to notices of redemption; and
- (ii) with respect to any other notice required or permitted under this Bond Resolution to be given to any holder of a Bond.

All notices of any nature required or permitted hereunder to be delivered to a holder of a Bond in Book-Entry Form shall be transmitted to beneficial owners of such Bonds at such times and in such manners as shall be determined by DTC, the participants and indirect participants in accordance with the Book-Entry System and the Representation Letter.

(f) All payments of principal, redemption price of and interest on any Bonds in Book-Entry Form shall be paid to DTC (or Cede & Co.) in accordance with the Book-Entry System and the Representation Letter in

same day funds by wire transfer.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the city council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the mailing of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF MINNESOTA  
COUNTY OF ST. LOUIS  
CITY OF DULUTH

GENERAL OBLIGATION CAPITAL IMPROVEMENT BOND, SERIES  
2015A

R-\_\_\_\_\_ \$\_\_\_\_\_

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
	February 1, _____	November __, 2015	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from the Date of Original Issue, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 2016. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City Council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$1,615,000, all of like date and tenor, except as to number, amount, maturity date, redemption privilege and interest rate, pursuant to the authority contained in Minnesota Statutes, Section 475.521 and Chapter 475, the City's approved Capital Improvement Plan for the years



2015 through 2019 (the "Plan"), the City Charter and all other laws thereunto enabling, and pursuant to an authorizing resolution adopted by the governing body of the City on October 8, 2015 (the "Resolution"). This Bond is issued for the purpose of providing funds for capital improvement projects designated by the City Council and pursuant to the Plan and the costs of issuing the Bonds, as more fully set forth in the Plan and the Resolution and for the payment of part of the interest cost of the Bonds. The City has levied a direct, annual ad valorem tax upon all taxable property within the City which shall be extended upon the tax rolls for the years and in the amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on the Bonds, as such principal and interest respectively come due.

The Bonds are not subject to optional redemption and prepayment before maturity.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and the Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Bond shall not be valid or become obligatory for any purpose or

be entitled to any security or benefit under the Resolution until the Bond Registrar’s Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the City of Duluth, by its City Council, has caused this Bond to be executed in its name by the manual or facsimile signatures of the Mayor and the City Clerk.

Attest:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

Date of Authentication: \_\_\_\_\_

**BOND REGISTRAR’S AUTHENTICATION CERTIFICATE**

The Bond Registrar confirms that the books reflect the ownership of the Bond registered in the name of the owner named above in the principal amount and maturing on the date stated above and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

WELLS FARGO BANK, NATIONAL ASSOCIATION  
Minneapolis, Minnesota

By \_\_\_\_\_

Authorized Representative

**REGISTRATION CERTIFICATE**

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Wells Fargo Bank, National Association of Minneapolis, Minnesota, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner’s attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of Wells Fargo Bank, National Association, as Bond Registrar, in the name of the registered owner last noted below.

Date    Registered Owner    Signature of Bond Registrar

11/\_\_\_/2015    Cede & Co.    \_\_\_\_\_

c/o The Depository Trust Company  
570 Washington Blvd.  
Jersey City, NJ 07310  
Federal Taxpayer I.D. No.: 13-2555119

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto \_\_\_\_

(Name and Address of Assignee)

\_\_\_\_\_  
Social Security or other  
Identifying Number of  
\_\_\_\_\_  
Assignee

the within Bond and all rights thereunder and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: \_\_\_\_\_.

NOTICE: The signature of this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

\_\_\_\_\_  
(Bank, Trust Company, member of  
National Securities Exchange)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an

authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

Section 3. Revenues, Accounts and Covenants.

3.01 The City has created a separate account designated the 2015 Capital Improvement Bonds Construction Account (the "Construction Account") within its Capital Improvement Project Fund 450, Agency 030, to which there shall be credited the proceeds of the Bonds, less discount, together with any additional funds, which may be available and are appropriated for the Project. This account shall be used to pay, or reimburse, expenses duly approved and allowed, which, under generally accepted accounting principles, constitute capital expenditures for the Project and to pay the costs of issuance for the Bonds.

3.02 A separate debt service account is hereby created and designated as the "2015 Capital Improvement Bonds Debt Service Account" (the "Debt Service Fund") within the City's debt service fund. The money in the Debt Service Fund shall be used for no purpose other than the payment of principal and interest on the Bonds; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in the Debt Service Fund, the treasurer shall pay the same from any other funds of the City and said funds shall be reimbursed for such advance out of the proceeds of the taxes hereinafter levied when collected. Into the Debt Service Fund shall be credited the rounding amount of \$3,686.82, the amount of accrued interest paid by the Purchaser upon closing and delivery of the Bonds, if any, and the ad valorem taxes levied pursuant to Section 3.03 hereof.

3.03 (a) The full faith and credit and taxing power of the City are hereby irrevocably pledged for the prompt and full payment of the principal of and interest on the Bonds, as such principal and interest respectively become due. To provide monies for the payment of the principal and interest on the Bonds, there is hereby levied a direct, annual ad valorem tax upon all taxable property within the City which shall be extended upon the tax rolls and collected with and part of the other general property taxes of the City for the years and in the amounts as follows:

<u>Levy Year</u>	<u>Collection Year</u>	<u>Tax Levy</u>
2015 2016	\$191,579	
2016 2017	190,543	
2017 2018	192,643	
2018 2019	194,638	

2019	2020	191,278
2020	2021	193,168
2021	2022	189,703
2022	2023	191,488
2023	2024	193,168
2024	2025	189,263

Said levies are such that if collected in full they will produce at least five percent in excess of the amount needed to meet when due the principal and interest on the Bonds.

Such tax levies shall be irrevocable as long as any of the Bonds issued hereunder are outstanding and unpaid; provided, however, that prior to approval of its budget each year (approximately December 1) while any Bonds issued hereunder remain outstanding, the city council shall reduce or cancel the above levies to the extent of an irrevocable appropriation to the Debt Service Fund of monies actually on hand for payment of the principal and interest payable in the ensuing year and shall direct the county auditor to reduce the levy for such calendar year by that amount.

(b) If the balance in the Debt Service Fund is ever insufficient to pay all principal and interest then due on the Bonds, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balance therein is sufficient.

3.04 Proceeds of the Bonds on deposit in the Construction Account and in the Debt Service Fund may, in the discretion of the city treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the Bonds when due.

#### Section 4. Tax Covenants; Miscellaneous.

4.01 The city council covenants and agrees with the holders of the Bonds that the City will (i) take all action on its part necessary to cause the interest on the Bonds to be excluded from gross income for federal income taxes including, without limitation, restricting, to the extent necessary, the yield on investments made with the proceeds of the Bonds and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where

appropriate, and (ii) refrain from taking any action which would cause interest on the Bonds to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Bonds and investment earnings thereon on certain specified purposes.

4.02 (a) No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued. To this effect, any proceeds of the Bonds and any sums from time to time held in the Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

(b) In addition, the proceeds of the Bonds and money in the Debt Service Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

(c) The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 (a) Pursuant to Section 148(f)(C) of the Code, relating to exception from rebate for certain proceeds to be used to finance construction expenditures, the City hereby covenants that with respect to the available construction proceeds of the Bonds, the following spending requirements will be met: (i) 10% of the available construction proceeds of the Bonds will be spent for the governmental purpose of the Bonds within six months of the date of closing and delivery of the Bonds; (ii) 45% of such proceeds will be spent for such purposes within the one-year period beginning on such date; (iii) 75% of such proceeds will be spent for such purposes within the 18-month period beginning on such date; and (iv) 100% of such proceeds will be spent for such purposes within the two-year period beginning on such date; subject to an exception for reasonable retainage of 5% of the available construction proceeds of the Bonds, and

that 100% of the available construction proceeds of the Bonds will be spent within three years from the date of closing and delivery of the Bonds.

(b) The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

4.04 In addition to the Bonds, the City is selling, pursuant to a single offering document and on the same date, the following tax-exempt obligations: General Obligation Capital Equipment Notes, Series 2015B (the "Notes"), General Obligation Street Improvement Refunding Bonds, Series 2015F (the "Series 2015F Bonds") and General Obligation Utilities Revenue Refunding Bonds, Series 2015G (the "Series 2015G Bonds"). The Bonds and the Notes are expected to be paid from substantially the same source of funds and are an "issue" under Treasury Regulations Section 1.150-1(c). The Series 2015F Bonds and the Series 2015G Bonds will be paid with separate sources of funds.

Section 5. Continuing Disclosure. The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. §240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the mayor and the clerk are hereby authorized and directed to execute a continuing disclosure certificate substantially in the form of Exhibit B attached hereto.

Section 6. Certificate of Proceedings.

6.01 The city clerk is directed to file with the county auditor a certified copy of this resolution and such other information as the county auditor may require, and to obtain from the county auditor a certificate stating that the Bonds herein authorized have been duly entered on his register.

6.02 The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to bond counsel certified copies of all proceedings and records of the City relating to the authorization and issuance of the Bonds and other affidavits and certificates as may reasonably be requested to show the facts relating to the legality and marketability of the Bonds as such facts appear from the official books and records of the officers' custody or otherwise known to them. All of such

certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of facts recited therein and the actions stated therein to have been taken.

6.03 The officers of the

STATEMENT OF PURPOSE: This resolution establishes the terms and form and awards the sale of the City's \$1,615,000 General Obligation Capital Improvement Bonds, Series 2015A, to Robert W. Baird & Co., Inc. at a true interest cost (TIC) of 2.0136%. This resolution must be approved by at least six affirmative votes of the City Councilors.

**Attachments:** [Exhibit A](#)  
[Exhibit B](#)

**A motion was made that this Resolution be adopted. The motion carried by the following vote:**

**Yea:** 7 - Councilors Filipovich, Gardner, Hanson, Julsrud, Russ, Sipress and President Larson

**Nay:** 1 - Councilor Fosle

**Absent:** 1 - Councilor Krug

- 3. 15-0705R** RESOLUTION PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF \$3,325,000 GENERAL OBLIGATION CAPITAL EQUIPMENT NOTES, SERIES 2015B; ESTABLISHING THE TERMS AND FORM THEREOF; CREATING A DEBT SERICE FUND THEREFOR; AND AWARDING THE SALE THEREOF.

#### CITY PROPOSAL:

BE IT RESOLVED, by the City Council of the city of Duluth, Minnesota (the "City"), as follows:

##### Section 1. Notes Purpose and Authorization.

1.01 Under and pursuant to the provisions of Minnesota Statutes, Sections 410.32(g) and 412.301 and Minnesota Statutes, Chapter 475 (collectively, the "Act"), and the City Charter, the City is authorized to issue its general obligation capital equipment notes to provide funds to purchase capital equipment having an expected useful life at least as long as the term of the capital equipment notes.



1.02 The City Council adopted Resolution No. 14-0594R on December 8, 2014 (the "Intent Resolution"), declaring the intention of the City to issue such capital equipment notes in the maximum amount of \$4,416,000 to finance the purchase of capital equipment authorized by the Act plus costs of issuance and discount on such capital equipment notes. It is hereby certified that the amount of the capital equipment notes to be issued by the City pursuant to this resolution is less than 0.25% of the estimated market value of the taxable property of the City.

1.03 The City Council hereby determines that it is necessary and expedient to issue \$3,325,000 General Obligation Capital Equipment Notes, Series 2015B, of the City (the "Notes") to provide funds to purchase capital equipment authorized by the Act, to pay certain expenses incurred in the issuance of the Notes and to pay a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56. The capital equipment to be purchased with the proceeds of the Notes will have a useful life of more than the term of the Notes.

1.04 Public Financial Management, Inc., municipal advisor to the City, has given notification by mail, facsimile or electronic data transmission to at least five firms determined by Public Financial Management, Inc. to be prospective bidders on the Notes at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Notes.

1.05 Pursuant to such solicitation for bids for the sale of the Notes, the City Council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Robert W. Baird & Co., Inc. of Milwaukee, Wisconsin (the "Purchaser"), to purchase the Notes at a cash price of \$3,477,227.20, upon condition that the Notes mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such bid reasonable and proper and the bid of the Purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the City a contract for the sale of the Notes in accordance with the Purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder. All actions of the mayor and the clerk and Public Financial Management, Inc., independent municipal advisor to the City, taken with regard to the sale of the Notes are hereby ratified and approved.

Section 2. Terms, Execution and Delivery of the Notes.

2.01 The Notes to be issued hereunder shall be dated the date of delivery, as the date of original issue, shall be issued in the denomination

of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Notes shall mature on February 1 in the respective years and amounts stated and shall bear interest as follows:

<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>
2017	\$620,000	2.00%
2018	650,000	2.00%
2019	665,000	3.00%
2020	685,000	3.00%
2021	705,000	3.00%

2.02 The Notes are not subject to redemption and prepayment before maturity.

2.03 The interest shall be payable semiannually on February 1 and August 1 and in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 2016. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Notes by check or draft mailed to the registered owners of the Notes shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 The Notes shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the mayor and attested by the manual or facsimile signature of the city clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Notes shall cease to be an officer before delivery of the Notes, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery. The city clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A., Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each Note.

2.05 The City Council hereby appoints Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Notes (such bank or its successor is herein referred to as the "Bond Registrar"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to

execute a bond registrar/paying agent agreement in the form of Exhibit A attached hereto. No Note shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Note, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Notes need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Note shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 (a) In order to make the Notes eligible for the services provided by The Depository Trust Company, Jersey City, New Jersey ("DTC"), the City has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the City and DTC (the "Representation Letter").

(b) Notwithstanding any provision herein to the contrary, so long as the Notes shall be in Book-Entry Form, the provisions of this Section 2.06 shall govern.

(c) All of the Notes shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Note registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

(d) DTC (or its nominees) shall be and remain recorded on the Bond Register as the holder of all Notes which are in Book-Entry Form. No transfer of any Note in Book-Entry Form shall be made, except from DTC to another depository (or its nominee) or except to terminate the Book-Entry Form. All Notes of such stated maturity of any Notes in Book-Entry Form shall be issued and remain in a single note certificate registered in the name of DTC (or its nominee); provided, however, that upon termination of the Book-Entry Form pursuant to the Representation Letter, the City shall, upon delivery of all Notes of such series from DTC, promptly execute, and the Bond Registrar shall thereupon authenticate and deliver, Notes of such series to all persons who were beneficial owners thereof immediately prior to such termination; and the Bond Registrar shall register such beneficial owners as holders of the applicable Notes.

The Bond Registrar shall maintain accurate books and records of the principal balance, if any, of each such outstanding Note in Book-Entry

Form, which shall be conclusive for all purposes whatsoever. Upon the authentication of any new note in Book-Entry Form in exchange for a previous note, the Bond Registrar shall designate thereon the principal balance remaining on such note according to the Bond Registrar's books and records.

No beneficial owner (other than DTC) shall be registered as the holder on the Bond Register for any Note in Book-Entry Form or entitled to receive any note certificate. The beneficial ownership interest in any Note in Book-Entry Form shall be recorded, evidenced and transferred solely in accordance with the Book-Entry System.

Except as expressly provided to the contrary herein, the City and the Bond Registrar may treat and deem DTC to be the absolute owner of all Notes of each series which are in Book-Entry Form (i) for the purpose of payment of the principal of and interest on such Note, (ii) for the purpose of giving notices hereunder, and (iii) for all other purposes whatsoever.

(e) The City and the Bond Registrar shall each give notices to DTC of such matters and at such times as are required by the Representation Letter, including the following:

- (i) with respect to notices of redemption; and
- (ii) with respect to any other notice required or permitted under this Bond Resolution to be given to any holder of a Note.

All notices of any nature required or permitted hereunder to be delivered to a holder of a Note in Book-Entry Form shall be transmitted to beneficial owners of such Notes at such times and in such manners as shall be determined by DTC, the participants and indirect participants in accordance with the Book-Entry System and the Representation Letter.

(f) All payments of principal, redemption price of and interest on any Notes in Book-Entry Form shall be paid to DTC (or Cede & Co.) in accordance with the Book-Entry System and the Representation Letter in same day funds by wire transfer.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Notes and the registration of transfers of the Notes entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council. Upon surrender for transfer of any Note at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required

by law or this resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Notes of the like aggregate principal amount, as requested by the transferor.

2.08 Each Note delivered upon transfer of or in exchange for or in lieu of any other Note shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Note. Each Note shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Notes called for redemption or to make any such exchange or transfer of the Notes during the 15 days next preceding the date of the first publication of the notice of redemption in the case of a proposed redemption of the Notes.

2.09 The City and the Bond Registrar may treat the person in whose name any Note is registered as the owner of such Note for the purpose of receiving payment of principal of and interest on such Note and for all other purposes whatsoever, whether or not such Note be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Notes shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 The Notes shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF MINNESOTA  
COUNTY OF ST. LOUIS

CITY OF DULUTH  
GENERAL OBLIGATION CAPITAL EQUIPMENT NOTE, SERIES 2015B

R- \$ \_\_\_\_\_

Interest Rate      Maturity Date      Date of Original Issue      CUSIP

February 1, \_\_\_\_ November \_\_, 2015

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from the Date of Original Issue, or from the most

recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 2016. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City Council. The Bond Registrar shall make the interest payment with respect to this Note on the Interest Payment Date directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Note, the presentation or surrender of this Note, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Note to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Note is one of a series issued by the City in the aggregate amount of \$3,325,000, all of like date and tenor, except as to number, amount, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Sections 410.32(g) and 412.301 and Chapter 475, the City Charter and all other laws thereunto enabling, and pursuant to an authorizing resolution adopted by the governing body of the City on October 8, 2015 (the "Resolution"), and is issued for the purpose of providing money, together with other available funds, for the purchase of capital equipment. The City has levied a direct, annual ad valorem tax upon all taxable property within the City which shall be extended upon the tax rolls for the years and in the amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on the Notes, as such principal and interest respectively come due. The Notes are not subject to redemption and prepayment before maturity.

The Notes of this series are issued as fully registered obligations without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Note is

transferable by the registered owner hereof upon surrender of this Note for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Note, one or more new fully registered Notes in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Note, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Constitution and laws of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Note in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest thereon when due, without limitation as to rate or amount; and that the issuance of this Note does not cause the indebtedness of the City to exceed any constitutional or statutory limitation.

This Note shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the City of Duluth, by its City Council, has caused this Note to be executed in its name by the facsimile signatures of the mayor and the city clerk.

Attest:

\_\_\_\_\_

City Clerk

Mayor

Date of Authentication: \_\_\_\_\_

**BOND REGISTRAR'S AUTHENTICATION CERTIFICATE**

The Bond Registrar confirms that the books reflect the ownership of a Note registered in the name of the owner named above, in the principal amount stated above, and this Note is one of the Notes of the series issued pursuant to the Resolution hereinabove described.

WELLS FARGO BANK, NATIONAL ASSOCIATION  
 Bond Registrar

By \_\_\_\_\_  
Authorized Representative

REGISTRATION CERTIFICATE

This Note must be registered as to both principal and interest in the name of the owner on the books to be kept by Wells Fargo Bank, National Association, of Minneapolis, Minnesota, as Bond Registrar. No transfer of this Note shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Note and the interest accruing thereon is registered on the books of Wells Fargo Bank, National Association, as Bond Registrar, in the name of the registered owner last noted below.

Date   Registered Owner   Signature of Bond Registrar

11/\_\_\_/2015   Cede & Co. \_\_\_\_\_  
c/o The Depository Trust Company  
570 Washington Blvd.  
Jersey City, NJ 07310  
Federal Taxpayer I.D. No.: 13-2555119

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto \_\_

(Name and Address of Assignee)

\_\_\_\_\_ Social Security or Other  
\_\_\_\_\_ Identifying Number of Assignee

the within Note and all rights thereunder and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to transfer the said Note on the books kept for registration thereof with full power of substitution in the premises.

Dated: \_\_\_\_\_.

NOTICE: The signature to



this assignment must correspond with the name of the registered owner as it appears upon the face of the within Note in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

\_\_\_\_\_  
(Bank, Trust Company, member of  
National Securities Exchange)

Unless this Note is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any Note issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

Section 3. Covenants, Accounts and Representations.

3.01 The City has created a separate acquisition account within the Capital Equipment Fund 250 to which there shall be credited \$3,477,000 from the proceeds for the Notes, together with any additional funds which may be available and are appropriated for the capital equipment purchase program. This account shall be used only to pay or reimburse other City funds or accounts for "capital equipment," as described in Minnesota Statutes, Section 412.301, with an expected useful life of at least the term of the Notes, and costs of issuance of the Notes, as such payments become due. The City's intent is to acquire and finance the capital equipment listed in the Intent Resolution, other than the parking facilities equipment, with the proceeds of the Notes.

3.02 (a) There shall be and is hereby levied a direct, annual, ad valorem tax upon all taxable property within the City, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on the Notes as such principal and interest respectively become due as follows:

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<u>Levy Year</u>	<u>Collection Year</u>	<u>Tax Levy</u>
2015	2016	\$764,238
2016	2017	760,883
2017	2018	762,983
2018	2019	763,035
2019	2020	762,458

(b) A separate debt service account is hereby created and designated as the "2015 G.O. Capital Equipment Notes Debt Service Account" (the "Debt Service Fund") within the City's debt service fund. The money in the Debt Service Fund shall be used for no purpose other than the payment of principal and interest on the Notes; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in the Debt Service Fund, the treasurer shall pay the same from any other funds of the City and said funds shall be reimbursed for such advance out of the proceeds of the taxes hereinafter levied when collected. Into the Debt Service Fund shall be credited the amount of accrued interest, if any, and the rounding amount (\$227.20) paid by the Purchaser upon closing and delivery of the Notes.

3.03 If the balance in the Debt Service Fund is ever insufficient to pay all principal and interest then due on the Notes, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balance therein is sufficient. All proceeds of said taxes will be appropriated and paid when collected into the Debt Service Fund. Said taxes shall be irrevocable until the Notes and interest are fully paid, except that if the City in any year shall make an irrevocable appropriation to said accounts of monies actually on hand, the city clerk shall certify to the county auditor of St. Louis County the fact and the amount thereof, and the county auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared.

3.04 The full faith and credit and taxing power of the City are irrevocably pledged for the prompt and full payment of the Notes and the interest thereon, in accordance with the terms set forth in this resolution.

3.05 Proceeds of the Notes on deposit in the acquisition account created in Section 3.01 and in the Debt Service Fund may, in the discretion of the city treasurer, be invested in securities permitted by Minnesota Statutes, Section 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the

equipment purchases and/or payment of the principal and interest on the Notes when due.

Section 4. Tax Covenants.

4.01 The City covenants and agrees with the holders of the Notes that the City will (i) take all action on its part necessary to assure that the interest on the Notes will be excluded from gross income for federal income taxes including, without limitations, restricting, to the extent necessary, the yield on investments made with the proceeds of the Notes and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Notes to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Notes and investment earnings thereon on certain specified purposes.

4.02 (a) No portion of the proceeds of the Notes shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Notes were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Notes or \$100,000. To this effect, any proceeds of the Notes and any sums from time to time held in the Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Notes) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

(b) In addition, the proceeds of the Notes and money in the Debt Service Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Notes to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

(c) The City hereby covenants not to use the proceeds of the Notes, or to cause or permit them to be used, in such a manner as to cause the Notes to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 (a) Pursuant to Section 1.148-7(d) of the Treasury Regulations,

relating to exception from rebate, the City hereby represents that with respect to the gross proceeds of the Notes, the following schedule is expected to be met: (i) at least 15% of the gross proceeds of the Notes will be allocated to expenditures for the governmental purpose of the Notes within six months of the date of issue of the Notes; (ii) at least 60% of such proceeds will be allocated for such purposes within the one year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18 month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Notes, and that 100% of the available proceeds of the Notes will be allocated within 30 months from the date of issue of the Notes.

(b) The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

4.04 In addition to the Notes, the City is selling, pursuant to a single offering document and on the same date, the following tax-exempt obligations: General Obligation Capital Improvement Bonds, Series 2015A (the "Series 2015A Bonds"), General Obligation Street Improvement Refunding Bonds, Series 2015F (the "Series 2015F Bonds") and the General Obligation Utilities Revenue Refunding Bonds, Series 2015G (the "Series 2015G Bonds"). The Notes and the Series 2015A Bonds are expected to be paid from substantially the same source of funds and are an "issue" under Treasury Regulations Section 1.150-1(c). The Series 2015F Bonds and the Series 2015G Bonds will be paid with separate sources of funds.

Section 5. Continuing Disclosure. The City acknowledges that the Notes are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. §240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Notes. To provide for the public availability of certain information relating to the Notes and the security therefor and to permit underwriters of the Notes to comply with the Rule, which will enhance the marketability of the Notes, the mayor and the clerk are hereby authorized and directed to execute a continuing disclosure certificate in the form of Exhibit B attached hereto.

Section 6. Certificate of Proceedings.

6.01 The city clerk is directed to file in the office of the county auditor of St. Louis County a certified copy of this resolution, and such other

information as the county auditor may require, and to obtain from the county auditor and provide to bond counsel a certificate stating that the Notes herein authorized have been duly entered on the county auditor's register.

6.02 The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to bond counsel certified copies of all proceedings and records of the City pertaining to the authorization, issuance, and sale of the Notes and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the Notes, as such facts appear from the official books and records of the officers' custody or are otherwise known. All such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of facts recited therein and the actions stated therein to have been taken.

6.03 The mayor and the city clerk are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the issuance and sale of the Notes and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as for the date of the official statement.

6.04 In the event of the absence or disability of the mayor or the city clerk, such officers as in the opinion of the City attorney, may act in their behalf, shall without further act or authorization, execute and deliver the Notes, and do all things and execute all instruments and documents required to be done or executed by such absent or disabled officers.

STATEMENT OF PURPOSE: This resolution establishes the terms and form and awards the sale of \$3,325,000 General Obligation Capital Equipment Notes, Series 2015B, to Robert W. Baird & Co., Inc. at a true interest cost (TIC) of 1.3646%.

**Attachments:** [Exhibit A](#)  
[Exhibit B](#)

**A motion was made that this Resolution be adopted. The motion carried by the following vote:**

**Yea:** 7 - Councilors Filipovich, Gardner, Hanson, Julsrud, Russ, Sipress and President Larson

**Nay:** 1 - Councilor Fosle

**Absent:** 1 - Councilor Krug

**4. 15-0706R RESOLUTION PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY**

OF \$2,855,000 TAXABLE GENERAL OBLIGATION AIRPORT IMPROVEMENT BONDS, SERIES 2015C; ESTABLISHING THE TERMS AND FORM THEREOF; CREATING A BOND FUND THEREFOR; AND AWARDING THE SALE THEREOF.

CITY PROPOSAL:

BE IT RESOLVED, by the City Council of the city of Duluth, Minnesota (the "City"), as follows:

Section 1. Bond Purpose and Authorization.

1.01 (a) Under and pursuant to the provisions of Minnesota Statutes, Chapter 475 and Sections 360.011 through 360.076, and all other enabling statutes, the City is authorized to issue its general obligation bonds to finance costs of constructing, improving and equipping airports and the sites therefor, including structures and other property incidental their operation.

(b) The Duluth Airport Authority (the "Authority") operates Hangar 103 located at the Duluth International Airport (the "Airport") and is in the process of improving such Hangar (the "Project"). The Authority has entered into a Lease Agreement dated December 29, 2014, as amended (the "Lease"), between the Authority and the State of Minnesota, By and Through the Board of Trustees of Minnesota State Colleges and Universities on Behalf of Lake Superior College (the "Tenant"). The Authority leases Hangar 103 and adjacent property, as improved by the Project, to the Tenant for the purposes of the Tenant operating as a Specialized Aviation Service Operator that provides one or a combination of commercial aeronautical activities at the Airport.

(c) Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$2,855,000 Taxable General Obligation Airport Improvement Bonds, Series 2015C, to be dated the date of delivery as the date of original issue (the "Bonds") for financing the Project.

1.02 Public Financial Management, Inc., municipal advisor to the City, has given notification to at least five firms determined by Public Financial Management, Inc. to be prospective bidders on the Bonds at

least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds.

1.03 Pursuant to such solicitation for bids for the sale of the Bonds, the City Council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of BOSCO, Inc. of Dallas, Texas (the "Purchaser"), to purchase the Bonds at a cash price of \$2,877,033.02, and upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated the date of delivery as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts stated and shall bear interest as follows:

<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>
2017	\$130,000	3.00%
2018	160,000	3.00%
2019	165,000	3.00%
2020	170,000	3.00%
2021	175,000	3.00%
2022	180,000	3.00%
2023	185,000	3.00%
2024	190,000	3.00%
2025	195,000	3.00%
2026	200,000	3.05%
2027	205,000	3.20%
2028	215,000	3.35%
2029	220,000	3.50%
2030	230,000	3.60%
2031	235,000	3.70%

2.02 (a) The Bonds maturing in the years 2017 through 2026 shall not be subject to optional redemption and prepayment before

maturity, but those maturing in the year 2027 and in subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2026, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City and by lot as to the Bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date.

(b) In the event any of the Bonds are called for redemption, notice thereof identifying the Bonds to be redeemed will be given by the Bond Registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) at least 30 days but not more than 60 days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books kept by the Bond Registrar; provided however, that so long as the Bonds are registered in the name of Cede & Co. as nominee of The Depository Trust Company, Jersey City, New Jersey ("DTC"), notice of redemption shall be given in accordance with the terms of the Representation Letter hereinafter described. Failure to give notice by mail to any registered owner, or any defect therein, will not affect the validity of any proceeding for the redemption of Bonds not affected by such defect or failure. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

(c) If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 2016. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the municipal securities rulemaking board. The Bond Registrar designated below shall make all interest



payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 (a) The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the mayor and attested by the manual or facsimile signature of the city clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

(b) The city clerk is authorized and directed to obtain a copy of the approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, and cause the opinion to be attached to each Bond.

2.05 The City hereby appoints Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of Exhibit A attached hereto. No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 3.01 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 (a) In order to make the Bonds eligible for the services provided by DTC, the City has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the City and DTC (the "Representation Letter").

(b) Notwithstanding any provision herein to the contrary, so long as the Bonds shall be in Book-Entry Form, the provisions of this Section 2.06 shall govern.

(c) All of the Bonds shall be registered in the name of

Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

(d) DTC (or its nominees) shall be and remain recorded on the Bond Register as the holder of all Bonds which are in Book-Entry Form. No transfer of any Bond in Book-Entry Form shall be made, except from DTC to another depository (or its nominee) or except to terminate the Book-Entry Form. All Bonds of such stated maturity of any Bonds in Book-Entry Form shall be issued and remain in a single bond certificate registered in the name of DTC (or its nominee); provided, however, that upon termination of the Book-Entry Form pursuant to the Representation Letter, the City shall, upon delivery of all Bonds of such series from DTC, promptly execute, and the Bond Registrar shall thereupon authenticate and deliver, Bonds of such series to all persons who were beneficial owners thereof immediately prior to such termination; and the Bond Registrar shall register such beneficial owners as holders of the applicable Bonds.

The Bond Registrar shall maintain accurate books and records of the principal balance, if any, of each such outstanding Bond in Book-Entry Form, which shall be conclusive for all purposes whatsoever. Upon the authentication of any new bond in Book-Entry Form in exchange for a previous bond, the Bond Registrar shall designate thereon the principal balance remaining on such bond according to the Bond Registrar's books and records.

No beneficial owner (other than DTC) shall be registered as the holder on the Bond Register for any Bond in Book-Entry Form or entitled to receive any bond certificate. The beneficial ownership interest in any Bond in Book-Entry Form shall be recorded, evidenced and transferred solely in accordance with the Book-Entry System.

Except as expressly provided to the contrary herein, the City and the Bond Registrar may treat and deem DTC to be the absolute owner of all Bonds of each series which are in Book-Entry Form (i) for the purpose of payment of the principal of and interest on such Bond, (ii) for the purpose of giving notices hereunder, and (iii) for all other purposes whatsoever.

(e) The City and the Bond Registrar shall each give notices to DTC of such matters and at such times as are required by the

Representation Letter, including the following:

- (i) with respect to notices of redemption; and
- (ii) with respect to any other notice required or permitted under this Bond Resolution to be given to any holder of a Bond.

All notices of any nature required or permitted hereunder to be delivered to a holder of a Bond in Book-Entry Form shall be transmitted to beneficial owners of such Bonds at such times and in such manners as shall be determined by DTC, the participants and indirect participants in accordance with the Book-Entry System and the Representation Letter.

(f) All payments of principal, redemption price of and interest on any Bonds in Book-Entry Form shall be paid to DTC (or Cede & Co.) in accordance with the Book-Entry System and the Representation Letter in same day funds by wire transfer.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the city council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the mailing of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to

the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

Section 3. Form of the Bonds.

3.01 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF MINNESOTA  
COUNTY OF ST. LOUIS

R- \$ \_\_\_\_\_

CITY OF DULUTH  
TAXABLE GENERAL OBLIGATION AIRPORT IMPROVEMENT BOND,  
SERIES 2015C

Interest Rate      Maturity Date      Date of Original Issue  
CUSIP

February 1, \_\_\_\_ November \_\_, 2015

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above, on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from the Date of Original Issue, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 2016. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City Council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond

registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$2,855,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Chapter 475 and Sections 360.011 through 360.076, and all other laws thereunto enabling, and pursuant to a resolution adopted by the governing body of the City on October 8, 2015 (the "Resolution"), for the purpose of providing funds for improvements to the Duluth International Airport facilities and for payment of part of the interest costs of such bond issue.

The Bonds of this series maturing in the years 2017 through 2026 are not subject to redemption before maturity, but those maturing in the year 2027 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2026, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City, and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Not less than 30 nor more than 60 days prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed; however, that so long as the Bonds are registered in the name of Cede & Co., as nominee for The Depository Trust Company, Jersey City, New Jersey ("DTC"), notice of redemption shall be given in accordance with the terms of the Blanket Issuer Letter of Representations executed by the City and DTC.

If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant

will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond, a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and the Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the City of Duluth, by its City Council, has

caused this Bond to be executed in its name by the manual or facsimile signatures of the Mayor and the City Clerk.

Attest:

\_\_\_\_\_  
City Clerk \_\_\_\_\_ Mayor

Date of Authentication: \_\_\_\_\_

BOND REGISTRAR'S AUTHENTICATION CERTIFICATE

The Bond Registrar confirms that the books reflect the ownership of a Bond registered in the name of the owner named above, in the principal amount stated above, and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

WELLS FARGO BANK, NATIONAL ASSOCIATION  
Bond Registrar

By \_\_\_\_\_  
Authorized Representative

REGISTRATION CERTIFICATE

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Wells Fargo Bank, National Association, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of Wells Fargo Bank, National Association, as Bond Registrar, in the name of the registered owner last noted below.

Date      Registered Owner                                      Signature of Bond Registrar

11/\_\_\_/2015      Cede & Co.                                      \_\_\_\_\_

c/o The Depository Trust Company  
570 Washington Blvd.  
Jersey City, NJ 07310  
Federal Taxpayer I.D. No.: 13-2555119

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto \_\_

(Name and Address of Assignee)

\_\_\_\_\_ Social Security or other  
 \_\_\_\_\_ Identifying Number of  
 \_\_\_\_\_ Assignee

the within Bond and all rights thereunder and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: \_\_\_\_\_.

NOTICE: The signature of this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

\_\_\_\_\_  
 (Bank, Trust Company, member of  
 National Securities Exchange)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

Section 4. Revenues, Accounts and Covenants.

4.01 The City has created the 2015 Project Construction Account



(the "Construction Account") within the Duluth Airport Authority Fund (Fund No. 590), to which there shall be credited \$2,877,000.00 of the proceeds of the Bonds. Monies within the Construction Account shall be used to pay, or reimburse, expenses duly approved and allowed, which, under generally accepted accounting principles, constitute capital expenditures for the Project and to pay the costs of issuance for the Bonds.

4.02 (a) A separate debt service account is hereby created and designated as the "2015C Taxable General Obligation Airport Improvement Bonds Debt Service Account" (the "Debt Service Account") within the City's debt service fund. The money in the Debt Service Account shall be used for no purpose other than the payment of principal and interest on the Bonds; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in the Debt Service Account, the treasurer shall pay the same from any other funds of the City and said funds shall be reimbursed for such advance out of the proceeds of the taxes hereinafter levied when collected.

(b) Into the Debt Service Account shall be credited (i) \$33.02 from the rounding amount; (ii) the amount of accrued interest, if any, paid by the Purchaser upon closing and delivery of the Bonds; (iii) the payments received by the City pursuant to Section 4.02C; (iv) the ad valorem taxes levied pursuant to Section 4.03; and (v) any other funds appropriated by the city council for payment of principal of and interest on the Bonds.

(c) The mayor and city clerk are hereby authorized and directed to execute on behalf of the City a loan agreement (the "Loan Agreement") with the Duluth Airport Authority (the "Authority") in the form of Exhibit B attached hereto. The execution and delivery of the Loan Agreement by the mayor and the city clerk, in the form presented to the city council with such changes, omissions, insertions and revisions as the mayor deems advisable, is hereby approved, and the execution by such officers shall be conclusive evidence of such approval. The City shall deposit the loan repayments by the Authority paid pursuant to the Loan Agreement in the Debt Service Account when received.

4.03 The full faith and credit and taxing power of the City are hereby irrevocably pledged for the prompt and full payment of the principal of and interest on the Bonds, as such principal and interest respectively become due. If the balance in the Debt Service Account is ever insufficient to pay all the principal and interest then due on the Bonds, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be

reimbursed from such Debt Service Account when the balances therein are sufficient. It is estimated that the loan repayments pursuant to the Loan Agreement herein pledged and appropriated to the Debt Service Account will be received at the times and in amounts not less than five percent in excess of the amounts needed to meet when due the principal and interest payments thereon and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Bonds is not limited to the loan repayments so pledged, and the City Council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of principal of and interest on the Bonds, without limitation as to rate or amount.

4.04 Proceeds of the Bonds on deposit in the Construction Account and the Debt Service Account may, in the discretion of the city treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the Project and/or payment of the principal and interest on the Bonds when due.

Section 5. Continuing Disclosure. The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the mayor and the clerk are hereby authorized and directed to execute a continuing disclosure certificate in the form of Exhibit C attached hereto.

Section 6. Certificate of Proceedings.

6.01 The clerk is directed to file with the county auditor a certified copy of this resolution and such other information as the county auditor may require, and to obtain from the county auditor a certificate stating that the Bonds herein authorized have been duly entered on his register.

6.02 The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to bond counsel certified copies of all proceedings and records of the City relating to the authorization and issuance of the Bonds and other affidavits and certificates as may reasonably be requested to show the facts relating to the legality and

marketability of the Bonds as such facts appear from the official books and records of the officers' custody or otherwise known to them. All of such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of facts recited therein and the actions stated therein to have been taken.

6.03 The officers of the City are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the sale of the Bonds and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as of the date of the official statement.

STATEMENT OF PURPOSE: This Resolution establishes the terms and form and awards the sale of \$2,855,000 Taxable General Obligation Airport Improvement Bonds, Series 2015C, to BOSCO, Inc. at a true interest cost of 3.1754%. The proceeds of the Bonds will be used for the purpose of providing funds for the construction of improvements to Hangar 103 at the Duluth International Airport which is being leased to Lake Superior College. This resolution requires approval by an affirmative vote of at least six councilors.

**Attachments:** [Exhibit A](#)  
[Exhibit B](#)  
[Exhibit C](#)

**A motion was made that this Resolution be adopted. The motion carried by the following vote:**

**Yea:** 7 - Councilors Filipovich, Gardner, Hanson, Julsrud, Russ, Sipress and President Larson

**Nay:** 1 - Councilor Fosle

**Absent:** 1 - Councilor Krug

5. **15-0707R** RESOLUTION PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF \$4,015,000 TAXABLE GENERAL OBLIGATION STEAM UTILITY REVENUE BONDS, SERIES 2015D; ESTABLISHING THE TERMS AND FORM THEREOF; CREATING A DEBT SERVICE FUND THEREFOR; AND AWARDING THE SALE THEREOF.

CITY PROPOSAL:

BE IT RESOLVED, by the city council (the "City Council") of the city of Duluth, St. Louis County, Minnesota (the "City"), as follows:

Section 1. Bond purpose and authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Minnesota Laws 1979, Chapter 113, and Minnesota Statutes, Chapter 475, and other pertinent provisions of said Charter and Statutes, the City is authorized to issue general obligation revenue bonds to provide funds for the improvements of the municipal steam plant (including bonds representing part of the interest costs of the issue, within the limitations specified in Minnesota Statutes, Section 475.56), which bonds shall be a specific lien upon such plant and may be payable primarily from net revenues to be derived from service charges pledged for their payment.

1.02 The City Council has, by ordinance No. 10397 adopted August 10, 2015 (the "Ordinance"), ordered the issuance, sale and delivery of general obligation steam utility revenue bonds in a maximum amount of \$4,150,000 of the City (of which \$4,015,000 of such amount shall be issued), for the payment of costs of improvements to the municipal steam utility located in the downtown area of Duluth (the "Municipal Steam Utility"), and for payment of part of the interest costs of the Bonds, as hereinafter defined. The improvements to the Municipal Steam Utility include the (i) capital maintenance improvements; (ii) emergency generator upgrades; (iii) boiler natural gas system upgrades; (iv) DECC piping system repairs and hot water extension to the Great Lakes Aquarium; and (v) biomass co-firing facilities (the "Project").

1.03 The City has heretofore issued and sold Taxable General Obligation Steam Utility Revenue Bonds, Series 2012G, dated November 27, 2012 (the "2012G Bonds"), now outstanding in the amount of \$4,250,000. Under the provisions of the resolution authorizing the 2012G Bonds, the City reserved the privilege of issuing additional bonds payable from said net revenues on a parity with the 2012G Bonds.

As set out in the Ordinance, the City has reserved the right and privilege of issuing additional bonds and of pledging and appropriating the net revenues of the Municipal Steam Utility for payment thereof, all as set out in the Ordinance.

1.04 The City Council hereby determines that it is necessary and expedient that the City issue its \$4,015,000 Taxable General Obligation Steam Utility Revenue Bonds, Series 2015D (the "Bonds"), to finance the Project and to pay for costs of issuance of the Bonds.

1.05 Public Financial Management, Inc., municipal advisor to the City, has given notification by mail, facsimile or electronic data

transmission to at least five firms determined by Public Financial Management, Inc. to be prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds. All actions of the mayor, the clerk and Public Financial Management, Inc. taken with regard to the sale of the Bonds are hereby ratified and approved.

1.06 Pursuant to such solicitation for bids for the sale of the Bonds, the City Council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of BOSCO, Inc. of Dallas, Texas (the "Purchaser"), to purchase the Bonds at a cash price of \$4,032,394.93, upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of the Bonds.

2.01 The Bonds shall be dated as of the date of delivery, as the date of original issue, shall be issued in the denomination of \$5,000, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts and shall bear interest at the annual rates stated as follows:

<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>
2021	\$100,000	3.00%
2022	245,000	3.00%
2023	690,000	3.00%
2024	710,000	3.00%
2025	735,000	3.00%
2026	755,000	3.05%
2027	780,000	3.20%

2.02 (a) The Bonds maturing in the years 2021 through 2026 shall not be subject to optional redemption and prepayment before maturity, but those maturing in the year 2027 shall be subject to redemption and prepayment at the option of the City on February 1, 2026, and on any date thereafter, in whole or in part, and if in part, by lot as to Bonds maturing in the same year, at a price equal to the principal amount thereof

plus accrued interest to the redemption date.

(b) In the event any of the Bonds are called for redemption, notice thereof identifying the Bonds to be redeemed will be given by the Bond Registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) at least 30 days but not more than 60 days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books kept by the Bond Registrar; provided, however, that so long as the Bonds are registered in the name of Cede & Co. as nominee of The Depository Trust Company, Jersey City, New Jersey ("DTC"), notice of redemption shall be given in accordance with the terms of the Representation Letter hereinafter described. Failure to give notice by mail to any registered owner, or any defect therein, will not affect the validity of any proceeding for the redemption of Bonds not affected by such defect or failure. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

(c) If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest.

2.03 The interest shall be payable semiannually on February 1 and August 1 in each year (each herein referred to as an "Interest Payment Date") commencing on August 1, 2016. Interest will be computed upon the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar appointed below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not on a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 (a) The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or

facsimile signature of the mayor and attested by the manual or facsimile signature of the clerk. The corporate seal of the City may be omitted as permitted by law. In case any officer whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

(b) The clerk is authorized to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, and cause the opinion to be attached to each Bond.

2.05 The City hereby appoints Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of Exhibit A attached hereto. No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 3.01 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 (a) In order to make the Bonds eligible for the services provided by DTC, the City has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the City and DTC (the "Representation Letter").

(b) Notwithstanding any provision herein to the contrary, so long as the Bonds shall be in Book-Entry Form, the provisions of this Section 2.06 shall govern.

(c) All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

(d) DTC (or its nominees) shall be and remain recorded

on the Bond Register as the holder of all Bonds which are in Book-Entry Form. No transfer of any Bond in Book-Entry Form shall be made, except from DTC to another depository (or its nominee) or except to terminate the Book-Entry Form. All Bonds of such stated maturity of any Bonds in Book-Entry Form shall be issued and remain in a single Bond certificate registered in the name of DTC (or its nominee); provided, however, that upon termination of the Book-Entry Form pursuant to the Representation Letter, the City shall, upon delivery of all Bonds of such series from DTC, promptly execute, and the Bond Registrar shall thereupon authenticate and delivery, Bonds of such series to all persons who were beneficial owners thereof immediately prior to such termination; and the Bond Registrar shall register such beneficial owners as holders of the applicable Bonds.

The Bond Registrar shall maintain accurate books and records of the principal balance, if any, of each such outstanding Bond in Book-Entry Form, which shall be conclusive for all purposes whatsoever. Upon the authentication of any new Bond in Book-Entry Form in exchange for a previous Bond, the Bond Registrar shall designate thereon the principal balance remaining on such bond according to the Bond Registrar's books and records.

No beneficial owner (other than DTC) shall be registered as the holder on the Bond Register for any Bond in Book-Entry Form or entitled to receive any bond certificate. The beneficial ownership interest in any Bond in Book-Entry Form shall be recorded, evidenced and transferred solely in accordance with the Book-Entry System.

Except as expressly provided to the contrary herein, the City and the Bond Registrar may treat and deem DTC to be the absolute owner of all Bonds of each series which are in Book-Entry Form (i) for the purpose of payment of the principal of and interest on such Bond, (ii) for the purpose of giving notices hereunder, and (iii) for all other purposes whatsoever.

(e) The City and the Bond Registrar shall each give notices to DTC of such matters and at such times as are required by the Representation Letter, including the following:

- (i) with respect to notices of redemption; and
- (ii) with respect to any other notice required or permitted under this Bond Resolution to be given to any holder of a Bond.

All notices of any nature required or permitted hereunder to be delivered to a holder of a Bond in Book-Entry Form shall be transmitted to beneficial owners of such Bonds at such times and in such manners as shall be determined by DTC, the participants and indirect participants in



accordance with the Book-Entry System and the Representation Letter.

(f) All payments of principal, redemption price of and interest on any Bonds in Book-Entry Form shall be paid to DTC (or Cede & Co.) in accordance with the Book-Entry System and the Representation Letter in same day funds by wire transfer.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the mailing of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 Delivery of the Bonds and payment of the purchase price shall be made at a place mutually satisfactory to the City and the

Purchaser. Printed or typewritten and executed Bonds shall be furnished by the City without cost to the Purchaser. The Bonds, when prepared in accordance with this Resolution and executed, shall be delivered by or under the direction of the treasurer to the Purchaser upon receipt of the purchase price plus accrued interest.

Section 3. Form of the Bonds.

3.01 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF MINNESOTA  
COUNTY OF ST. LOUIS

CITY OF DULUTH  
TAXABLE GENERAL OBLIGATION STEAM UTILITY REVENUE BOND  
SERIES 2015G

R-\_\_ \$\_\_\_\_\_  
Interest Rate      Maturity Date      Date of Original Issue      CUSIP  
February 1, \_\_\_\_, November \_\_\_\_, 2015

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above, on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from the Date of Original Issue, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the interest rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 2016. Both principal hereof and interest hereon are payable in lawful money of the United States of America by check or draft at the main office of Wells Fargo Bank, National Association of Minneapolis, Minnesota, as registrar, paying agent, authenticating agent and transfer agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City. The Bond Registrar shall make all interest payments with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month

next preceding the Interest Payment Date (whether or not a business day) at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$4,015,000, all of like original issue date and tenor, except as to number, maturity date, denomination and interest rate, pursuant to: (i) the authority contained in Minnesota Statutes, Chapter 475, and Section 55 of the Home Rule Charter of the City, Minnesota Laws 1979, Chapter 113 and all other laws and Charter provisions thereunto enabling; (ii) Ordinance No. 10397 adopted on August 10, 2015 (the "Ordinance"); and (iii) an authorizing resolution adopted by the governing body of the City on October 8, 2015 (the "Resolution"), for the purpose of providing funds for improvements to the City's municipal steam utility located in the downtown area of Duluth and for payment of part of the interest costs of such bond issue.

The Bonds are payable from the net revenues to be derived from the operation of the municipal steam utility of the City located in the downtown area of Duluth, as set forth in the Ordinance and the Resolution to which reference is made for a full statement of rights and powers thereby conferred. In the Ordinance and the Resolution, the City has pledged and appropriated the revenues to be derived from the operation of such municipal steam utility in excess of normal, reasonable and current costs of the operation and maintenance of the municipal steam utility, for the payment of the principal and interest when due on the Bonds, and has covenanted and agreed that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal steam utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Bonds.

The Bonds of this series maturing in the years 2021 through 2026 are not subject to redemption before maturity, but those maturing in the year 2027 are each subject to redemption and prepayment at the option of the City on February 1, 2026, and on any date thereafter, in whole or in

part, and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Not less than 30 not more than 60 days prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed; however, that so long as the Bonds are registered in the name of Cede & Co., as nominee for The Depository Trust Company, Jersey City, New Jersey ("DTC"), notice of redemption shall be given in accordance with the terms of the Blanket Issuer Letter of Representations executed by the City and DTC.

If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond, a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate and deliver, in exchange for this Bond, one or more new fully registered Bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the principal amount of this Bond, of the same maturity, and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of

the State of Minnesota to be done, and to exist precedent to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the City of Duluth, in St. Louis County, Minnesota, by its City Council, has caused this Bond to be executed in its name by the facsimile signatures of the mayor and the clerk.

ATTEST:

\_\_\_\_\_  
 Clerk \_\_\_\_\_ Mayor

Date of Authentication: \_\_\_\_\_

**BOND REGISTRAR'S AUTHENTICATION CERTIFICATE**

The Bond Registrar confirms that the books reflect the ownership of the Bond registered in the name of the owner named above in the principal amount and maturity date stated above and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

WELLS FARGO BANK, NATIONAL ASSOCIATION  
 Bond Registrar

By \_\_\_\_\_  
 Authorized Representative

**REGISTRATION CERTIFICATE**

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Wells Fargo Bank, National Association, of Minneapolis, Minnesota, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of Wells Fargo Bank, National Association as Bond Registrar, in the name of

the registered owner last noted below.

Date   Registered Owner   Signature of Bond Registrar

11/\_\_/2015   Cede & Co. \_\_\_\_\_

c/o The Depository Trust Company

570 Washington Blvd.

Jersey City, NJ 07310

Federal Taxpayer I.D. No.: 13-2555119

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto

(Name and Address of Assignee)

\_\_\_\_\_ Social Security or other  
\_\_\_\_\_ Identifying Number of  
\_\_\_\_\_ Assignee

the within Bond and all rights thereunder and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: \_\_\_\_\_.

NOTICE: The signature of this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:  
\_\_\_\_\_

(Bank, Trust Company, member of  
National Securities Exchange)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

Section 4. Covenants, revenues, accounts and tax levies.

4.01 (a) The City Council covenants and agrees with the holders of the Bonds and with its taxpayers that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the Municipal Steam Utility located in the downtown area of Duluth at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining the Municipal Steam Utility, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the Bonds and on all other bonds heretofore or hereafter issued and made payable from said net revenues, and will operate the Municipal Steam Utility and segregate and account for the revenues thereof as provided in this section.

The City will place all such charges, when collected, and all money received from the sale of any facilities or equipment of the Municipal Steam Utility in a separate Steam Utility Operating Account within the Public Utility Steam District No. 1 Fund maintained under Section 54 of the City Charter. Except as provided in this section, this account shall be used only to pay claims duly approved and allowed for payment of expenses which, under generally accepted accounting principles, constitute normal, reasonable and current expenses of operating and maintaining the Municipal Steam Utility, and to maintain such reasonable reserves for such expenses as the Chief Financial Officer shall determine to be necessary from time to time in accordance with policies established by the City Council. Sums from time to time on hand in this account, in excess of sums required to make such payments and maintain such reserves, constitute the net revenues which are herein pledged and appropriated first to pay the principal of and interest on all Municipal Steam Utility bonds when due.

(b) The City has created a separate construction account within the Public Utility Steam District No. 1 Fund to which there shall be credited \$4,031,000 from the proceeds of the Bonds, together with any additional funds which may be available and are appropriated for the Project. This account shall be used only to pay expenses duly approved and allowed which, under generally accepted accounting principles, constitute capital expenditures for the completion of improvements to the Municipal Steam Utility and costs of the issuance of the Bonds.

(c) Until the Bonds issued hereunder are fully paid or duly called for redemption, or otherwise discharged, the City will also maintain a separate debt service account (the "Debt Service Fund") in the Public Utility Steam District No. 1 Fund to be used solely for the payment of the principal and interest, as such principal and interest become due and payable, on the Bonds and on any other bonds which have been or may be issued and made payable from said net revenues of the Municipal Steam Utility. The treasurer shall credit to the Debt Service Fund the rounding amount (\$1,394.93) and the amount of accrued interest, if any, on the Bonds. The treasurer shall transfer from the Steam Utility Operating Account to the Debt Service Fund amounts of the net revenues sufficient for the payment of all interest and principal then due on the Bonds, and all charges due to the Bond Registrar. Such transfers shall be made at the times and in the amounts determined by the treasurer, in accordance with policies established by resolutions of the City Council.

(d) Surplus revenues from time to time received in the Steam Utility Operating Account, in excess of payments due from and reserves required to be maintained in the Steam Utility Operating Account and in the Debt Service Fund, may be used for necessary capital expenditures for the improvement of the Municipal Steam Utility, for the prepayment and redemption of bonds constituting a lien on the Municipal Steam Utility, and for any other proper municipal purpose consistent with policies established by resolutions of the City Council.

4.02 If the balances in the Debt Service Fund are ever insufficient to pay all principal and interest then due on the Bonds, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from such Debt Service Fund when the balances therein are sufficient. It is estimated that the net revenues herein pledged and appropriated to said Debt Service Fund will be received at the times and in amounts not less than five percent in excess of the amounts needed to meet when due the principal and interest payments thereon and,



accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Bonds is not limited to the revenues so pledged, and the City Council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

Section 5. Certificate of proceedings.

5.01 The clerk is directed to file with the county auditor a certified copy of this Resolution and such other information as the county auditor may require, and to obtain f

STATEMENT OF PURPOSE: This Resolution establishes the terms and form and awards the sale of the \$4,015,000 Taxable General Obligation Steam Utility Revenue Bonds, Series 2015D, to BOSC, Inc., at a true interest cost of 3.0012%. The proceeds will be used for improvements to the Steam Utility, including (i) capital maintenance improvements; (ii) emergency generator upgrades; (iii) boiler natural gas system upgrades; (iv) DECC piping system repairs and hot water extension to the Great Lakes Aquarium; and (v) biomass co-firing facilities.

Attachments: [Exhibit A](#)

[Exhibit B](#)

**A motion was made that this Resolution be adopted. The motion carried by the following vote:**

**Yea:** 7 - Councilors Filipovich, Gardner, Hanson, Julsrud, Russ, Sipress and President Larson

**Nay:** 1 - Councilor Fosle

**Absent:** 1 - Councilor Krug

6. **15-0708R** RESOLUTION PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF \$13,520,000 TAXABLE GENERAL OBLIGATION TOURISM TAX REVENUE BONDS, SERIES 2015E; ESTABLISHING THE TERMS AND FORM THEREOF; CREATING A DEBT SERVICE FUND THEREFOR; AND AWARDING THE SALE THEREOF.

CITY PROPOSAL:

BE IT RESOLVED, by the City Council of the city of Duluth, Minnesota (the "City"), as follows:

Section 1. Bond Purpose and Authorization.

1.01 (a) Under the provisions of Minnesota Laws 2014, Chapter 308, Article 3, Sections 21 and 22 (the "2014 Act"), the City Council may provide for the issuance and sale of up to \$18,000,000 of general obligation bonds under Minnesota Statutes, Chapter 475, plus additional amounts to pay for costs of issuance and discount, which bonds are to be supported by the full faith and credit of the City and are to be issued subject to the provisions of Minnesota Statutes, Section 475, except no election shall be required unless required by the City Charter and except that the bonds shall not be included in the City's net debt. The proceeds of such general obligation bonds may be used to finance capital improvements to public facilities that support tourism and recreational activities in the portion of the City west of 34th Avenue West, or as otherwise amended by the State legislature (the "2014 Law Projects") and shall be payable primarily from the 0.5% Tourism Tax, as hereinafter defined.

(b) The City has previously issued pursuant to the authority of the 2014 Act (i) its \$2,330,000 Taxable General Obligation Tourism Tax Revenue Bonds, Series 2014C, dated October 30, 2014 (the "2014C Bonds"); and (ii) its \$2,150,000 General Obligation Tourism Tax Revenue Bonds, Series 2014D, dated October 30, 2014 (the "2014D Bonds"). Proceeds of the 2014C Bonds in the amount of \$2,300,000 financed costs of an eligible 2014 Law Project and the balance of the proceeds of the 2014C Bonds financed costs of issuance and discount for the 2014C Bonds. Proceeds of the 2014D Bonds in the amount of \$2,100,000 financed costs of an eligible 2014 Law Project and the balance of the proceeds of the 2014D Bonds financed costs of issuance and discount for the 2014D Bonds. Other than the 2014C Bonds and the 2014D Bonds, the City has not issued any other obligations pursuant to the authority under the 2014 Act; consequently, the City has the authority to issue additional general obligation tourism tax revenue bonds pursuant to the 2014 Act to finance \$13,600,000 for project costs for 2014 Law Projects, plus additional amounts to pay for costs of issuance and discount for such additional bonds.

(c) Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$13,520,000 Taxable General Obligation Tourism Tax Revenue Bonds, Series 2015E, to be dated the date of delivery, as the date of original issue (the "Bonds") to provide funds in the amount of \$13,600,000 for eligible 2014 Law Projects and for costs of

issuance and discount for the Bonds. Net proceeds of the Bonds to be issued by the City in an amount of \$13,600,000 are allocated to pay a portion of the costs of 2014 Law Projects. The balance of the funds (\$184,929.07) are allocated to issuance and discount costs of the Bonds.

(d) Public Financial Management, Inc., municipal advisor to the City, has given notification to at least five firms determined by Public Financial Management, Inc. to be prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds. All actions of the mayor, the clerk and Public Financial Management, Inc. taken with regard to the sale of the Bonds are hereby ratified and approved.

1.02 Pursuant to such solicitation for bids for the sale of the Bonds, the City Council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of BOSC, Inc. of Dallas,, Texas (the "Purchaser"), to purchase the Bonds at a cash price of \$13,668,328.88, and upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated the date of delivery, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts and shall bear interest at the annual rates stated as follows:

<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>
2017	\$1,800,000	3.00%
2018	645,000	3.00%
2019	655,000	3.00%
2020	665,000	3.00%
2021	680,000	3.00%
2022	695,000	3.00%
2023	715,000	3.00%
2024	735,000	3.00%
2025	765,000	3.00%

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2026	790,000	3.05%
2027	815,000	3.20%
2028	840,000	3.35%
2029	870,000	3.50%
2030	910,000	3.60%
2031	950,000	3.70%
2032	990,000	3.80%

2.02 (a) The Bonds maturing in the years 2017 through 2026 shall not be subject to optional redemption and prepayment before maturity, but those maturing in the year 2027 and in subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2026, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City and by lot as to the Bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date.

(b) In the event any of the Bonds are called for redemption, notice thereof identifying the Bonds to be redeemed will be given by the Bond Registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) at least 30 days but not more than 60 days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books kept by the Bond Registrar; provided however, that so long as the Bonds are registered in the name of Cede & Co. as nominee of The Depository Trust Company, Jersey City, New Jersey ("DTC"), notice of redemption shall be given in accordance with the terms of the Representation Letter hereinafter described. Failure to give notice by mail to any registered owner, or any defect therein, will not affect the validity of any proceeding for the redemption of Bonds not affected by such defect or failure. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

(c) If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond

Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 2016. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the municipal securities rulemaking board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 (a) The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the mayor and attested by the manual or facsimile signature of the city clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

(b) The city clerk is authorized to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, and cause the opinion to be attached to each Bond.

2.05 The City hereby appoints Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement in the form of Exhibit A attached hereto. No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 (a) In order to make the Bonds eligible for the services

provided by DTC, the City has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the City and DTC (the "Representation Letter").

(b) Notwithstanding any provision herein to the contrary, so long as the Bonds shall be in Book-Entry Form, the provisions of this Section 2.06 shall govern.

(c) All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

(d) DTC (or its nominees) shall be and remain recorded on the Bond Register as the holder of all Bonds which are in Book-Entry Form. No transfer of any Bond in Book-Entry Form shall be made, except from DTC to another depository (or its nominee) or except to terminate the Book-Entry Form. All Bonds of such stated maturity of any Bonds in Book-Entry Form shall be issued and remain in a single bond certificate registered in the name of DTC (or its nominee); provided, however, that upon termination of the Book-Entry Form pursuant to the Representation Letter, the City shall, upon delivery of all Bonds of such series from DTC, promptly execute, and the Bond Registrar shall thereupon authenticate and deliver, Bonds of such series to all persons who were beneficial owners thereof immediately prior to such termination; and the Bond Registrar shall register such beneficial owners as holders of the applicable Bonds.

The Bond Registrar shall maintain accurate books and records of the principal balance, if any, of each such outstanding Bond in Book-Entry Form, which shall be conclusive for all purposes whatsoever. Upon the authentication of any new bond in Book-Entry Form in exchange for a previous bond, the Bond Registrar shall designate thereon the principal balance remaining on such bond according to the Bond Registrar's books and records.

No beneficial owner (other than DTC) shall be registered as the holder on the Bond Register for any Bond in Book-Entry Form or entitled to receive any bond certificate. The beneficial ownership interest in any Bond in Book-Entry Form shall be recorded, evidenced and transferred solely in accordance with the Book-Entry System.

Except as expressly provided to the contrary herein, the City and the

Bond Registrar may treat and deem DTC to be the absolute owner of all Bonds of each series which are in Book-Entry Form (i) for the purpose of payment of the principal of and interest on such Bond, (ii) for the purpose of giving notices hereunder, and (iii) for all other purposes whatsoever.

(e) The City and the Bond Registrar shall each give notices to DTC of such matters and at such times as are required by the Representation Letter, including the following:

- (i) with respect to notices of redemption; and
- (ii) with respect to any other notice required or permitted under this Bond Resolution to be given to any holder of a Bond.

All notices of any nature required or permitted hereunder to be delivered to a holder of a Bond in Book-Entry Form shall be transmitted to beneficial owners of such Bonds at such times and in such manners as shall be determined by DTC, the participants and indirect participants in accordance with the Book-Entry System and the Representation Letter.

(f) All payments of principal, redemption price of and interest on any Bonds in Book-Entry Form shall be paid to DTC (or Cede & Co.) in accordance with the Book-Entry System and the Representation Letter in same day funds by wire transfer.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the mailing of the notice of redemption in the case of a proposed

redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF MINNESOTA  
COUNTY OF ST. LOUIS

CITY OF DULUTH  
TAXABLE GENERAL OBLIGATION TOURISM TAX REVENUE BOND,  
SERIES 2015E

R-\_\_\_ \$\_\_\_\_\_

Interest Rate Maturity Date Date of Original Issue CUSIP

February 1, \_\_\_\_ November 5, 2015

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from the Date of Original Issue, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 2016. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as the registrar, paying agent,



transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City Council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$13,520,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, and is issued pursuant to Minnesota Laws 2014, Chapter 308, Article 3, Sections 21 and 22, Minnesota Statutes, Chapter 475, the City Charter and other pertinent provisions of said statutes, and a resolution adopted by the governing body of the City on October 8, 2015 (the "Resolution"), for the purpose of financing capital improvements to public facilities that support tourism and recreational activities in the portion of the City west of 34th Avenue West, or as otherwise amended by the State legislature, which obligations and interest thereon are payable from certain tourism taxes as set forth in the Resolution to which reference is made for a full statement of rights and powers therein conferred.

The Bonds of this series maturing in the years 2017 through 2026 are not subject to redemption before maturity, but those maturing in the year 2027 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2026, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City, and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Not less than 30 nor more than 60 days prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed; however, that so long as the Bonds are registered in the name of Cede & Co., as nominee for The Depository Trust Company, Jersey City, New Jersey

("DTC"), notice of redemption shall be given in accordance with the terms of the Blanket Issuer Letter of Representations executed by the City and DTC.

If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall delivery or cause to be delivered to the registered owner of such Bond, a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the City of Duluth, by its City Council, has caused this Bond to be executed in its name by the signatures of the Mayor and the City Clerk.

Attest:

\_\_\_\_\_  
\_\_\_\_\_  
City Clerk                      Mayor

Date of Authentication: \_\_\_\_\_

**BOND REGISTRAR'S AUTHENTICATION CERTIFICATE**

The Bond Registrar confirms that the books reflect the ownership of a Bond registered in the name of the owner named above, in the principal amount stated above, and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

WELLS FARGO BANK, NATIONAL ASSOCIATION  
Bond Registrar

By \_\_\_\_\_  
Authorized Representative

**REGISTRATION CERTIFICATE**

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Wells Fargo Bank, National Association, of Minneapolis, Minnesota, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of Wells Fargo Bank, National Association, as Bond Registrar, in the name of the registered owner last noted below.

Date   Registered Owner   Signature of Bond Registrar

11/\_\_/2015   Cede & Co.   \_\_\_\_\_  
c/o The Depository Trust Company  
570 Washington Blvd.  
Jersey City, NJ 07310  
Federal Taxpayer I.D. No.: 13-2555119

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto \_\_\_\_

(Name and Address of Assignee)

\_\_\_\_\_ Social Security or Other  
\_\_\_\_\_ Identifying Number of Assignee

the within Bond and all rights thereunder and does hereby irrevocably constitute \_\_\_\_\_ and \_\_\_\_\_ appoint

\_\_\_\_\_ attorney to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: \_\_\_\_\_.

NOTICE: The signature of this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

\_\_\_\_\_  
(Bank, Trust Company, member of  
National Securities Exchange)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an

authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

Section 3. Revenues, Accounts and Covenants.

3.01 The City has created a separate construction fund titled "Tourism and Recreational Projects Capital Project Fund 452, Agency 030" (the "Construction Fund"), to which there shall be credited the proceeds of the Bonds in the amount of \$13,600,000, together with any additional funds, including monies from grants, which may be available and are appropriated for the 2014 Law Projects. This fund shall be used to pay, or reimburse, expenses duly approved and allowed, which, under generally accepted accounting principles, constitute capital expenditures for the 2014 Law Projects. An additional \$68,000 shall be credited to such fund to pay the costs of issuance of the Bonds.

3.02 The City imposes sales taxes on certain sales of food and beverages within the City pursuant to Minnesota Laws 1980, Chapter 511, Section 1, Subdivision 2 and Section 3, as amended, including Minnesota Laws 2014, Chapter 308, Article 3, Section 21 authorizing use of certain sales tax for the payment of debt service on general obligation bonds, the proceeds of which will finance costs of the eligible 2014 Law Projects, and Section 42A-2(b) of the Duluth City Code (the "Food and Beverage Tax"). (Revenues received from 0.50% of the Food and Beverage Tax authorized by the 2014 Act and by Section 42A-2(b) of the Duluth City Code are herein referred to as the "0.50% Food and Beverage Tax.") The City also imposes sales taxes on certain lodging for periods of less than 30 days in hotels and motels located within the City pursuant to Minnesota Laws 1980, Chapter 511, Sections 2 and 3, as amended, including Minnesota Laws 2014, Chapter 308, Article 3, Section 22, authorizing use of certain sales taxes for payment of debt service on general obligation bonds, the proceeds of which will finance costs of the eligible 2014 Law Projects and Section 42A-49 of the Duluth City Code (the "Lodging Tax"). (Revenues received from 0.50% of the Lodging Tax authorized by the 2014 Act and Section 42A-49 of the Duluth City Code are herein referred to as the "0.50% Lodging Tax.") (The 0.50% Food and Beverage Tax and the 0.50% Lodging Tax are collectively referred to as the "0.50% Tourism Tax.") Pursuant to Section 42A-44(c)(i) of the Duluth City Code, the tax revenues from the 0.50% Tourism Tax shall be used solely to pay principal of and interest on the general obligation bonds (and any refunding bonds), including the Bonds, the proceeds of which financed the 2014 Law

Projects.

3.03 A separate debt service account is hereby created and designated as the "2015 Tourism Tax Bonds Debt Service Account" (the "Debt Service Fund") within the City's debt service fund. The money in the Debt Service Fund shall be used for no purpose other than the payment of principal and interest on the Bonds; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in the Debt Service Fund, the treasurer shall pay the same from any other funds of the City and said funds shall be reimbursed for such advance out of the proceeds of the taxes hereinafter levied when collected. The 0.50% Tourism Tax shall be periodically deposited into the Debt Service Fund in such amounts sufficient to provide for the payment of all interest and principal when due on the Bonds and all charges due to the Bond Registrar; such transfers shall be made at the times and in the amounts determined by the chief financial officer, in accordance with the policy established by the City Council. In addition to the amounts set forth above, the following amounts shall be credits to the Debt Service Fund: (i) \$328.88 from the rounding amount of the Bonds; (ii) the amount of accrued interest paid by the Purchaser upon closing and delivery of the Bonds, if any; (iii) all investment earnings on amounts in the Debt Service Fund; and (iv) any collection of ad valorem taxes hereafter levied, if any, for payment of the Bonds. The money in the Debt Service Fund shall be used for no purpose other than the payment of principal and interest on the Bonds; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in the Debt Service Fund, the city treasurer shall pay the same from any other funds of the City and said funds shall be reimbursed for such advance out of the Debt Service Fund.

3.04 It is estimated that the 0.50% Tourism Tax pledged and appropriated to said Debt Service Fund will be received at the times and in amounts not less than 5% in excess of the amounts needed to meet when due the principal and interest payments on the Bonds, the 2014C Bonds and the 2014D Bonds, and, accordingly, no tax is presently levied for this purpose. It is recognized, however, that the City's liability on the Bonds is not limited to the revenues so pledged, and the City Council covenants and agrees that it will levy upon all taxable property within the City, and cause to be extended, levied and collected, any taxes found necessary for full payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

3.05 The full faith and credit and taxing power of the City are hereby irrevocably pledged for the prompt and full payment of the principal

of and interest on the Bonds, as such principal and interest respectively become due in accordance with the terms of this Resolution.

3.06 Proceeds of the Bonds on deposit in the Construction Fund and in the Debt Service Fund may, in the discretion of the city treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the Bonds when due.

Section 4. Continuing Disclosure. The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. §240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to prov

STATEMENT OF PURPOSE: This Resolution establishes the terms and form and awards the sale of the \$13,520,000 Taxable General Obligation Tourism Tax Revenue Bonds, Series 2015E, to BOSC, Inc. at a true interest cost of 3.1913%. The proceeds of the Bonds will be used to provide funds to finance capital improvements to public facilities that support tourism and recreational activities in the portion of the City west of 34th Avenue West, or as otherwise amended by the State legislature.

Attachments: [Exhibit A](#)

[Exhibit B](#)

**A motion was made that this Resolution be adopted. The motion carried unanimously.**

**Yea:** 8 - Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Russ, Sipress and President Larson

7. **15-0709R** RESOLUTION PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF \$2,630,000 GENERAL OBLIGATION STREET IMPROVEMENT REFUNDING BONDS, SERIES 2015F; ESTABLISHING THE TERMS AND FORM THEREOF; CREATING A DEBT SERVICE ACCOUNT THEREFOR; AND AWARDING THE SALE THEREOF.

## CITY PROPOSAL:

BE IT RESOLVED, by the City Council of the city of Duluth, Minnesota (the "City"), as follows:

Section 1. Bond Purpose and Authorization.

1.01 Pursuant to Chapter 475 of Minnesota Statutes and the home rule charter of the City, the City previously issued (i) \$3,355,000 General Obligation Street Improvement Bonds, Series 2006C, dated September 7, 2006 (the "2006 Bonds"), and (ii) \$2,285,000 General Obligation Street Improvement Bonds, Series 2007A, dated December 13, 2007 (the "2007 Bonds"), for the purpose of financing local public improvements consisting of street improvements. The 2006 Bonds and the 2007 Bonds are herein referred to as the "Prior Bonds."

1.02 Under and pursuant to the provisions of Minnesota Statutes, Chapter 475 (the "Act") and, specifically, Section 475.67, Subdivisions 1 through 4 of the Act, the City is authorized to issue and sell its general obligation bonds to refund obligations and the interest thereto six months or less before the due date or the redemption date of the obligations, if consistent with covenants made with the holders thereof, when determined by the City to be necessary or desirable for the reduction of debt service cost to the City or for the extension or adjustment of maturities in relation to the resources available for their payment.

1.03 The City Council hereby determines that it is necessary, expedient and in the best interest of the City's residents that the City issue, sell and deliver its \$2,630,000 General Obligation Street Improvement Refunding Bonds, Series 2015F (the "Bonds"), to refund (i) the outstanding 2006 Bonds maturing on and after February 1, 2016, of which \$1,850,000 in principal amount is outstanding (the "2006 Refunded Bonds"); and (ii) to refund the outstanding 2007 Bonds maturing on and after February 1, 2017, of which \$1,235,000 in principal amount is outstanding (the "2007 Refunded Bonds"). The 2006 Bonds maturing on and after February 1, 2016, are subject to prepayment and redemption, and the 2006 Refunded Bonds are called for prepayment and redemption on December 7, 2015 (December 7, 2015 is herein referred to as the "2006 Bonds Redemption Date"). The 2007 Bonds maturing on and after February 1, 2017, are subject to prepayment and redemption on February 1, 2016, and on any date thereafter and the 2007 Refunded Bonds are called for prepayment and redemption on February 1, 2016 (February 1, 2016 is herein referred



to as the "2007 Bonds Redemption Date").

1.04 The City's plan of finance for the payment and prepayment of the 2006 Bonds and the 2007 Bonds is as follows:

(a) The City will provide funds from the debt service account for the 2006 Bonds in an amount equal to the principal and interest due on the 2006 Bonds on February 1, 2016, plus proceeds of the Bonds will provide the funds to prepay and redeem the 2006 Bonds maturing on and after February 1, 2016, and interest due on the 2006 Bonds Redemption Date; such funds shall be deposited in the Escrow Account held under the Escrow Agreement described in Section 4 and Section 5.01(b).

(b) The City will provide funds from the debt service account for the 2007 Bonds to pay the principal of and interest due on the 2007 Bonds on February 1, 2016, and proceeds of the Bonds will provide the funds to prepay and redeem the 2007 Bonds maturing on and after February 1, 2017 on the 2007 Bonds Redemption Date. Funds shall be deposited in the Escrow Account held under the Escrow Agreement described in Section 4 and Section 5.01(b).

1.5 Public Financial Management, Inc., municipal advisor to the City, has given notification by mail, facsimile, electronic data transmission or other form of communication common to the municipal bond trade to at least five firms determined by Public Financial Management, Inc. to be prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds. All actions of the mayor, the clerk and Public Financial Management, Inc. taken with regard to the sale of the Bonds are hereby ratified and approved.

1.6 Pursuant to such solicitation for bids for the sale of the Bonds, the City Council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Robert W. Baird & Co., Inc. of Milwaukee, Wisconsin (the "Purchaser"), to purchase the Bonds at a cash price of \$2,878,177.24, upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of Bonds.

2.01 The Bonds shall be dated the date of delivery, as the date of

original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts and shall bear interest at the annual rates stated as follows:

<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>
2017	\$345,000	4.00%
2018	385,000	4.00%
2019	400,000	4.00%
2020	420,000	4.00%
2021	435,000	4.00%
2022	460,000	4.00%
2023	185,000	4.00%

2.02. The Bonds are not subject to optional redemption and prepayment prior to maturity.

2.03 The interest shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing on August 1, 2016. Interest will be computed upon the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar appointed below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 (a) The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the mayor and attested by the manual or facsimile signature of the clerk. The corporate seal of the City may be omitted as permitted by law. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

(b) The clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, and cause the opinion to be attached to each Bond.

2.05 The City hereby appoints Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement in the form attached as Exhibit A hereto. No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 3.01 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 (a) In order to make the Bonds eligible for the services provided by The Depository Trust Company, Jersey City, New Jersey ("DTC"), the City has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the City and DTC (the "Representation Letter").

(b) Notwithstanding any provisions herein to the contrary, so long as the Bonds shall be in Book-Entry Form, the provisions of this Section 2.06 shall govern.

(c) All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

(d) DTC (or its nominees) shall be and remain recorded on the Bond Register as the holder of all Bonds which are in Book-Entry Form. No transfer of any Bond in Book-Entry Form shall be made, except from DTC to another depository (or its nominee) or except to terminate the Book-Entry Form. All Bonds of such stated maturity of any Bonds in Book-Entry Form shall be issued and remain in a single bond certificate registered in the name of DTC (or its nominee); provided, however, that upon termination of the Book-Entry Form pursuant to the Representation Letter, the City shall, upon delivery of all Bonds of such series from DTC, promptly execute and the Bond Registrar shall thereupon authenticate and

deliver, Bonds of such series to all persons who were beneficial owners thereof immediately prior to such termination; and the Bond Registrar shall register such beneficial owners as holders of the applicable Bonds.

The Bond Registrar shall maintain accurate books and records of the principal balance, if any, of each such outstanding Bond in Book-Entry Form, which shall be conclusive for all purposes whatsoever. Upon the authentication of any new Bond in Book-Entry Form in exchange for a previous Bond, the Bond Registrar shall designate thereon the principal balance remaining on such bond according to the Bond Registrar's books and records.

No beneficial owner (other than DTC) shall be registered as the holder on the Bond Register for any Bond in Book-Entry Form or entitled to receive any bond certificate. The beneficial ownership interest in any Bond in Book-Entry Form shall be recorded, evidenced and transferred solely in accordance with the Book-Entry System.

Except as expressly provided to the contrary herein, the City and the Bond Registrar may treat and deem DTC to be the absolute owner of all Bonds of each series which are in Book-Entry Form (i) for the purpose of payment of the principal of and interest on such Bond, (ii) for the purpose of giving notices hereunder, and (iii) for all other purposes whatsoever.

(e) The City and the Bond Registrar shall each give notices to DTC of such matters and at such times as are required by the Representation Letter, including the following:

- (i) with respect to notices of redemption; and
- (ii) with respect to any other notice required or permitted under this Bond Resolution to be given to any holder of a Bond.

All notices of any nature required or permitted hereunder to be delivered to a holder of a Bond in Book-Entry Form shall be transmitted to beneficial owners of such Bonds at such times and in such manners as shall be determined by DTC, the participants and indirect participants in accordance with the Book-Entry System and the Representation Letter.

(f) All payments of principal, redemption price of and interest on any Bonds in Book-Entry Form shall be paid to DTC (or Cede & Co.) in accordance with the Book-Entry System and the Representation letter in same day funds by wire transfer.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation

or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the mailing of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

Section 3. Form of the Bonds.

3.01 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF MINNESOTA  
COUNTY OF ST. LOUIS

CITY OF DULUTH  
GENERAL OBLIGATION STREET IMPROVEMENT REFUNDING BOND,  
SERIES 2015F

R- \$ \_\_\_\_\_  
Interest Rate      Maturity Date      Date of Original Issue      CUSIP

February 1, \_\_\_\_ November 5, 2015

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above, on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from the Date of Original Issue, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 2016. Both principal hereof and interest hereon are payable in lawful money of the United States of America by check or draft at the main office of Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$2,630,000, all of like original issue date and tenor, except as to number, maturity date, denomination and interest rate, pursuant to the authority contained in Minnesota Statutes, Chapter 475, Section 475.67, Subdivisions 1 through 4, the City Charter and all other laws thereunto enabling, and an authorizing resolution adopted by the governing body of the City on October 8, 2015 (the "Resolution"), for the purpose of providing money to refund, on a current refunding basis, the outstanding principal and interest of (i) the City's General Obligation Street Improvement Bonds,

Series 2006C, dated September 7, 2006, and (ii) the City's General Obligation Street Improvement Bonds, Series 2007A, dated December 13, 2007. The Bonds and interest thereon will be payable in part from special assessments levied against property specially benefitted by local improvements and the balance from annual ad valorem taxes, as described in the Resolution.

The Bonds are not subject to redemption and prepayment prior to maturity.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the City of Duluth, in St. Louis County, Minnesota, by its City Council, has caused this Bond to be executed in its name by the manual or facsimile signatures of the mayor and the clerk.





\_\_\_\_\_ Social Security or Other  
 \_\_\_\_\_ Identifying Number of Assignee

the within Bond and all rights thereunder and does hereby irrevocably constitute \_\_\_\_\_ and \_\_\_\_\_ appoint \_\_\_\_\_ attorney to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: \_\_\_\_\_

NOTICE: The signature of this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

\_\_\_\_\_  
 (Bank, Trust Company, member of  
 National Securities Exchange)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

Section 4. Escrow Agreement; Escrow Agent.

4.01 Wells Fargo Bank, National Association of Minneapolis, Minnesota, which is a suitable financing institution within the State of Minnesota whose deposits are insured by the Federal Deposit Insurance Corporation whose combined capital and surplus is not less than \$500,000, is hereby designated escrow agent (the "Escrow Agent") with

respect to the February 1, 2016 maturity of the 2007 Bonds, the 2007 Refunded Bonds and the 2006 Refunded Bonds.

4.02 On or prior to the delivery of the Bonds, the mayor and the clerk are hereby authorized and directed to execute on behalf of the City an escrow agreement (the "Escrow Agreement") with the Escrow Agent in substantially the form attached hereto as Exhibit B, which Escrow Agreement shall also provide for the refunding of the City's general obligation bonds being refunded by the Series 2015G Bonds, as hereinafter defined. The execution and delivery of the Escrow Agreement by the mayor and the clerk, in the form presented to the City Council with such changes, omissions, insertions and revisions as the mayor and the clerk deem advisable is hereby approved, and the execution by such officers shall be conclusive evidence of such approval. All essential terms and conditions of the Escrow Agreement, including payment by the City of reasonable charges for the services of the Escrow Agent, are hereby approved and adopted and made a part of this Resolution, and the City covenants that it will promptly enforce all provisions thereof in the event of default thereunder by the Escrow Agent.

Section 5. Covenants, Revenues, Accounts and Tax Levies.

5.01 (a) Debt Service Fund. For the convenience and proper administration of the monies to be borrowed and repaid on the Bonds and to provide adequate and specific security for the Purchaser and holders from time to time of the Bonds, there is hereby created a separate account within the special assessment debt service fund to be designated the 2015F Street Improvement Refunding Bonds Debt Service Account (the "Debt Service Fund"), to be administered and maintained by the treasurer as a bookkeeping account, separate and apart from all other accounts maintained in the official financial records of the City. The Debt Service Fund shall be maintained in the manner herein specified until all of the Bonds and interest thereon have been fully paid. To the Debt Service Fund there is hereby pledged and irrevocably appropriated and there shall be credited: (i) any balance remaining on the 2007 Bonds Redemption Date, in the debt service accounts created in the City's resolutions authorizing the issuance and sale of the 2006 Bonds (Resolution No 06-0560) and the 2007 Bonds (Resolution No. 07-0739) (the "Prior Resolutions") after payment of principal and interest on the 2006 Refunded Bonds on the 2006 Bonds Redemption Date and the payment, prepayment and redemption of the 2007 Bonds on the 2007 Bonds Redemption Date, (ii) all unpaid special assessments levied for the projects listed in Section 1.01 of the Prior Resolutions, (iii) any collections of ad valorem taxes hereafter levied

for the payment of the Bonds and interest thereon; (iv) all investment earnings on funds in the Debt Service Fund; (v) accrued interest, if any, received from the Purchaser upon delivery of the Bonds (the "Accrued Interest"); (vi) the rounding amount of \$5,277.24, (vii) all taxes pledged to repayment of the 2006 Bonds and the 2007 Bonds in the Prior Resolutions hereafter collected pursuant to levies made in the Prior Resolutions; and (viii) any and all other monies which are properly available and are appropriated by the City to the Debt Service Fund including taxes levied in Section 5.03 hereof. The amount of any surplus remaining in the Debt Service Fund when the Bonds and interest thereon are paid shall be used as provided in Section 475.67, Subdivision 4 of the Act.

(b) Escrow Account.

(i) The City hereby creates an Escrow Account for payment of the 2006 Refunded Bonds, the February 1, 2016 maturity of the 2007 Bonds and the 2007 Refunded Bonds. To the Escrow Account there is hereby pledged and irrevocably appropriated and there shall be credited: (a) the proceeds of the Bonds received from the Purchaser in the amount of \$2,843,900, and (b) funds of the City in the amount of \$267,000 from the debt service account for the 2006 Bonds and funds of the City in the amount of \$177,943.75 from the debt service account for the 2007 Bonds (the "Funds"); for (A) the prepayment and redemption of the principal and interest on the 2006 Refunded Bonds on the 2006 Bonds Redemption Date, and (B) the payment of principal and interest due on the 2007 Bonds on February 1, 2016, and the prepayment and redemption of the principal of the 2007 Refunded Bonds called for redemption and prepayment on the 2007 Bonds Redemption Date (collectively, the "Escrow Account Obligations").

(ii) The Escrow Account shall be maintained with the Escrow Agent pursuant to the Escrow Agreement and this Resolution. The Escrow Account shall be invested in accordance with the Act, the Escrow Agreement and this Section, in securities specified in Section 475.67, Subdivision 8(a) of the Act.

(iii) From the Escrow Account there shall be paid the Escrow Account Obligations on the dates set forth in subparagraph (i) above.

(iv) The Escrow Account (a) for the 2006 Refunded Bonds as set forth above is irrevocably appropriated to the prepayment and redemption of the principal of and interest on the 2006 Refunded Bonds on the 2006 Bonds Redemption Date; and (b) for the 2007 Bonds as set forth above for the payment of principal of and interest on the 2007 Bonds due on February 1, 2016, and for the prepayment and redemption of the 2007

Refunded Bonds due by reason of redemption and prepayment on the 2007 Bonds Redemption Date. The monies in the Escrow Account shall be used solely for the purposes herein set forth and for no other purpose, except that any surplus in the Escrow Account may be remitted to the City all in accordance with the Escrow Agreement. Any monies remitted to the City upon termination of the Escrow Agreement shall be deposited in the Debt Service Fund.

(v) Securities purchased for the Escrow Account shall be purchased simultaneously with the delivery of and payment for the Bonds. The mayor and clerk or their designee are authorized and directed to purchase such securities.

(c) The construction funds created for the 2006 Bonds and the 2007 Bonds have previously been terminated and all bond proceeds therein have been expended.

(d) The city treasurer is authorized to pay the costs of issuance of the Bonds in the amount of \$29,000.

5.02 The City Council hereby declares that it has assessed against benefited property not less than 20% of the cost of the projects financed by each of the 2006 Bonds and the 2007 Bonds. The City further declares that it has completed the special assessment process, including any and all supplemental assessments or reassessments that were required to lawfully assess the benefited property.

5.03 (a) The full faith and credit and taxing power of the City are hereby irrevocably pledged for the prompt and full payment of the principal of and interest on the Bonds, as such principal and interest respectively become due. To provide monies for the payment of the principal and interest on the Bonds, there is hereby levied a direct, annual ad valorem tax upon all taxable property within the City which shall be extended upon the tax rolls and collected with and as part of the other general property taxes of the City for the years and in the amounts as follows:

<u>Levy</u>	<u>Collection</u>	<u>Estimated Special</u>		<u>Net</u>	<u>Tax</u>
<u>Year</u>	<u>Year</u>	<u>Gross Tax Levy</u>	<u>Assessment Revenue</u>		
<u>Levy</u>					
2015	2016	\$499,097.67	\$56,274.19	\$442,824	
2016	2017	500,220.00	56,274.19	443,946	
2017	2018	499,800.00	56,274.19	443,526	
2018	2019	504,000.00	56,274.19	447,726	
2019	2020	502,110.00	56,274.19	445,836	
2020	2021	510,090.00	56,274.19	453,816	
2021	2022	202,020.00	24,473.74	177,547	

Said levies are such that if collected in full they, together with the estimated receipts of special assessments pledged for payment of principal and interest on the Bonds, will produce at least 5% in excess of the amounts needed to meet when due the principal and interest on the Bonds.

Such tax levies shall be irrevocable as long as any of the Bonds issued hereunder are outstanding and unpaid; provided, however, that in each year while any Bonds issued hereunder remain outstanding, the City Council shall reduce or cancel the above levies to the extent of an irrevocable appropriation to the Debt Service Fund of monies actually on hand for payment of the principal and interest payable in the ensuing year and shall direct the county auditor to reduce the levy for such calendar year by that amount.

(b) All proceeds of the special assessments from the properties described in Section 1.01 of each of the Prior Resolutions and said taxes are hereby appropriated and shall be paid when collected into the Debt Service Fund. If the balance in the Debt Service Fund is ever insufficient to pay all principal and interest then due on the Bonds, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balance therein is sufficient.

5.04 Proceeds of the Bonds on deposit in the Debt Service Fund may, in the discretion of the city treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investment shall mature at such

STATEMENT OF PURPOSE: This Resolution establishes the terms and form and awards the sale of the \$2,630,000 General Obligation Street Improvement Refunding Bonds, Series 2015F, to Robert W. Baird & Co., Inc. at a true interest cost of 1.6106%. The proceeds of the Bonds will be used to provide funds to refund two series of general obligation street improvement bonds. The refunding will provide a net present value savings of \$231,671.76.

**Attachments:** [Exhibit A](#)  
[Exhibit B](#)  
[Exhibit C](#)

**A motion was made that this Resolution be adopted. The motion carried unanimously**

**Yea:** 8 - Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Russ, Sipress and President Larson

- 8. 15-0710R** RESOLUTION PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF \$2,765,000 GENERAL OBLIGATION UTILITIES REVENUE REFUNDING BONDS, SERIES 2015G; ESTABLISHING THE TERMS AND FORM THEREOF; AND AWARDING THE SALE THEREOF.

CITY PROPOSAL:

BE IT RESOLVED, by the City Council (the "City Council") of the city of Duluth, St. Louis County, Minnesota (the "City"), as follows:

Section 1. Bond Purpose and Authorization.

1.01 The City has previously issued its \$1,705,000 General Obligation Stormwater Utility Revenue Bonds, Series 2006B, dated September 7, 2006 (the "2006B Bonds"), its \$3,255,000 General Obligation Utilities Revenue Bonds, Series 2006F, dated December 19, 2006 (the "2006F Bonds"), and its \$2,120,000 General Obligation Sewer Utility Revenue Bonds, Series 2007B, dated December 13, 2007 (the "2007B Bonds") (the 2006B Bonds, the 2006F Bonds and the 2007B Bonds are collectively, the "Prior Bonds"). The Prior Bonds were authorized and issued pursuant to the City Charter, Minnesota Statutes, Chapter 475 and other pertinent provisions of Minnesota Statutes.

1.02 Under and pursuant to the provisions of Minnesota Statutes, Chapter 475 (the "Act") and Section 475.67, Subdivisions 1 through 4 of the Act, the City is authorized to issue and sell its general obligation bonds to refund obligations and the interest thereon six months or less before the due date or the redemption date of the obligations, if consistent with covenants made with the holders thereof, when determined by the City to be necessary or desirable for the reduction of debt service cost to the City or for the extension or adjustment of maturities in relation to the resources available for their payment.

1.03 It is necessary and desirable that the City issue \$2,765,000 General Obligation Utilities Revenue Refunding Bonds, Series 2015G (the "Bonds"), in order to (i) reduce debt service costs to refund (i) the

outstanding 2006B Bonds maturing on and after February 1, 2016, of which \$935,000 in principal amount is outstanding (the “2006B Refunded Bonds”); (ii) the outstanding 2006F Bonds maturing on and after February 1, 2016, of which \$1,760,000 in principal amount is outstanding (the “2006F Refunded Bonds”); and (iii) the outstanding 2007B Bonds maturing on and after February 1, 2017, of which \$1,145,000 in principal amount is outstanding (the “2007B Refunded Bonds”). The 2006B Bonds and the 2006F Bonds maturing on and after February 1, 2016, are subject to prepayment and redemption, and the 2006B Refunded Bonds and the 2006F Refunded Bonds are called for prepayment and redemption on December 7, 2015 (December 7, 2015 is herein referred to as the “2006 Bonds Redemption Date”). The 2007B Bonds maturing on and after February 1, 2017, are subject to prepayment and redemption on February 1, 2016, and on any date thereafter, and the 2007B Refunded Bonds are called for prepayment and redemption on February 1, 2016 (February 1, 2016 is herein referred to as the “2007 Bonds Redemption Date”).

1.04 (a) The 2006F Bonds were issued as combined municipal utilities bonds in a single issue consisting of (i) general obligation sewer utility revenue bonds (Sewer Utility Bonds”); (ii) general obligation gas utility revenue bonds (“Gas Utility Bonds”); and (iii) general obligation water utility revenue bonds (“Water Utility Bonds”). The portion of the 2006F Refunded Bonds allocable to each type of utility bonds included within the 2006F Bonds are as follows:

Sewer Utility Bonds	\$ 510,000
Gas Utility Bonds	645,000
Water Utility Bonds	<u>605,000</u>
 Total	 \$1,760,000

(b) The City’s plan of finance for the payment, prepayment and redemption of the Prior Bonds is that (i) the revenues of the respective utility will pay the principal maturity due on February 1, 2016, and interest on the respective utility’s bonds due on the 2006 Bonds Redemption Date and the 2007 Bond Redemption Date; (ii) the municipal gas utility revenues and excess cash will be used to prepay the portion of the 2006F Refunded Bonds allocable to the Gas Utility Bonds (\$645,000); (iii) the municipal sewer utility revenues and excess cash will be used to prepay a portion of the 2006F Refunded Bonds allocable to the Sewer Utility Bonds (\$96,900); and (iv) the proceeds of the Bonds will be used to prepay the portion of the Prior Bonds allocable to the Sewer Utility Bonds (\$1,502,976.26), the

Water Utility Bonds (\$526,377.13) and the Stormwater Utility Bonds (\$814,390.00).

1.05 (a) The City has heretofore issued and sold the following Sewer Utility Bonds: general obligation sewer utility revenue note dated December 12, 2003, authorized in the amount of \$1,179,115; general obligation sewer utility revenue bonds dated December 1, 2004, now outstanding in the amount of \$2,935,000; general obligation utilities revenue bonds dated December 19, 2006, the sewer utility portion of such bonds now outstanding in the amount of \$510,000; general obligation sewer utility revenue note dated July 12, 2007, authorized in the amount of \$2,042,350; general obligation sewer utility revenue bonds dated December 13, 2007, now outstanding in the amount of \$1,285,000; general obligation water and sewer utility revenue refunding bonds dated December 13, 2007, the sewer utility portion of such bonds now outstanding in the amount of \$52,250; general obligation utilities revenue bonds dated February 19, 2009, the sewer utility portion of such bonds now outstanding in the amount of \$947,000; general obligation sewer utility revenue note dated August 3, 2009, authorized in the amount of \$796,835; general obligation sewer utility revenue note dated December 16, 2009, authorized in the amount of \$2,414,150; general obligation utilities revenue bonds dated December 17, 2009, the sewer utility portion of such bonds now outstanding in the amount of \$862,114; general obligation sewer utility revenue note dated September 14, 2010, authorized in the amount of \$9,087,385; general obligation sewer utility revenue note dated September 14, 2010, authorized in the amount of \$3,753,059; general obligation utilities revenue refunding bonds dated November 23, 2010, the sewer utility portion of such bonds now outstanding in the amount of \$910,000; general obligation sewer utility revenue refunding bonds dated November 29, 2011, now outstanding in the amount of \$1,635,000; general obligation sewer utility revenue note dated November 29, 2011, authorized in the amount of \$278,149; general obligation sewer utility revenue note dated November 29, 2011, authorized in the amount of \$354,551; general obligation sewer utility revenue note dated December 21, 2011, authorized in the amount of \$282,620; general obligation sewer utility revenue note dated September 20, 2012, authorized in the amount of \$600,175; general obligation sewer utility revenue refunding bonds dated November 27, 2012, now outstanding in the amount of \$1,735,000; and general obligation sewer utility revenue note dated October 22, 2014, authorized in the amount of \$1,255,464. Under the provisions of the ordinances authorizing said bonds, the City reserved the privilege of issuing additional bonds



payable from said net revenues on a parity with the bonds and notes dated December 12, 2003, December 1, 2004, December 19, 2006, July 12, 2007, December 13, 2007, February 19, 2009, August 3, 2009, December 16, 2009, December 17, 2009, September 14, 2010, November 23, 2010, November 29, 2011, December 21, 2011, September 20, 2012, November 27, 2012, and October 22, 2014.

The City reserves the right and privilege of issuing additional bonds and of pledging and appropriating the net revenues of the municipal sewer utility for the payment thereof, when authorized in accordance with law and the City Charter and determined by the City Council to be necessary for the improvement of the municipal sewer utility or for the refunding of indebtedness payable from said net revenues, provided that no such pledge shall constitute a lien upon the net revenues superior to the pledge thereof for the payment of the bonds issued hereunder.

(b) The City has heretofore issued and sold the following Water Utility Bonds: general obligation water utility revenue note dated August 25, 2003, authorized in the amount of \$970,000; general obligation water utility revenue note dated July 23, 2004, authorized in the amount of \$2,485,231; general obligation utilities revenue bonds dated December 19, 2006, the water utility portion of such bonds now outstanding in the amount of \$605,000; general obligation water and sewer utility revenue refunding bonds dated December 13, 2007, the water utility portion of such bonds now outstanding in the amount of \$137,750; general obligation utilities revenue bonds dated February 19, 2009, the water utility portion of such bonds now outstanding in the amount of \$128,000; general obligation water utility revenue note dated November 23, 2009, authorized in the amount of \$1,698,450; general obligation water utility revenue note dated September 14, 2010, authorized in the amount of \$1,371,653; general obligation utilities revenue refunding bonds dated November 23, 2010, the water utility portion of such bonds now outstanding in the amount of \$730,000; general obligation water utility revenue note dated December 14, 2010, authorized in the amount of \$3,534,265; general obligation water utility revenue note dated November 29, 2011, authorized in the amount of \$1,605,655; and general obligation water utility revenue note dated March 24, 2014, authorized in the amount of \$5,108,910. Under the provisions of the ordinances authorizing said bonds, the City reserved the privilege of issuing additional bonds payable from said net revenues on a parity with the bonds and notes dated August 25, 2003, July 23, 2004, December 19, 2006, December 13, 2007, February 19, 2009, November 23, 2009, September 14, 2010, November 23, 2010, December 14, 2010,

November 29, 2011, and March 24, 2014.

The City reserves the right and privilege of issuing additional bonds and of pledging and appropriating the net revenues of the municipal water utility for the payment thereof, when authorized in accordance with law and the City Charter and determined by the City Council to be necessary for the improvement of the municipal water utility or for the refunding of indebtedness payable from said net revenues, provided that no such pledge shall constitute a lien upon the net revenues superior to the pledge thereof for the payment of the bonds issued hereunder.

(c) The City has heretofore issued and sold the following Stormwater Utility Bonds: general obligation stormwater utility revenue bonds dated September 7, 2006, now outstanding in the amount of \$935,000; and general obligation utilities revenue refunding bonds dated November 23, 2010, the stormwater utility portion of such bonds now outstanding in the amount of \$340,000. Under the provisions of the ordinance authorizing said bonds, the City reserved the privilege of issuing additional bonds payable from said net revenues on a parity with the bonds dated September 7, 2006, and November 23, 2010.

The City reserves the right and privilege of issuing additional bonds and of pledging and appropriating the net revenues of the municipal stormwater utility for the payment thereof, when authorized in accordance with law and the City Charter and determined by the City Council to be necessary for the improvement of the municipal stormwater utility or for the refunding of indebtedness payable from said net revenues, provided that no such pledge shall constitute a lien upon the net revenues superior to the pledge thereof for the payment of the bonds issued hereunder.

1.06 Public Financial Management, Inc., municipal advisor to the City, has given notification by mail, facsimile, electronic data transmission or other form of communication common to the municipal bond trade to at least five firms determined by Public Financial Management, Inc. to be prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds. All actions of the mayor, the clerk and Public Financial Management, Inc. taken with regard to the sale of the Bonds are hereby ratified and approved.

1.07 Pursuant to such solicitation for bids for the sale of the Bonds, the City Council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Robert W. Baird & Co., Inc. of Milwaukee, Wisconsin (the "Purchaser"), to purchase the Bonds at a cash price of

\$2,887,202.26, upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated the date of delivery, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form, and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts and shall bear interest at the annual rates stated as follows:

Year	Water Utility Portion	Sewer Utility Portion	Stormwater Utility Portion	Total	Interest Rate
2017	\$80,000	\$195,000	\$115,000	\$390,000	2.00%
2018	85,000	205,000	125,000	415,000	2.00%
2019	85,000	215,000	130,000	430,000	2.00%
2020	85,000	220,000	135,000	440,000	3.00%
2021	90,000	225,000	140,000	455,000	3.00%
2022	90,000	225,000	145,000	460,000	3.00%
2023	0	175,000	0	175,000	3.00%
Total	\$515,000	\$1,460,000	\$790,000	\$2,765,000	

2.02 The Bonds are not subject to optional redemption and prepayment before maturity.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 2016. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the municipal securities rulemaking board. The Bond Registrar designated below shall make all interest

payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 (a) The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the mayor and attested by the manual or facsimile signature of the city clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

(b) The city clerk is authorized and directed to obtain a copy of the approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, and cause the opinion to be attached to each Bond.

2.05 The City hereby appoints Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement in the form of Exhibit A attached hereto. No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.12 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 (a) In order to make the Bonds eligible for the services provided by The Depository Trust Company, Jersey City, New Jersey ("DTC"), the City has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the City and DTC (the "Representation Letter").

(b) Notwithstanding any provision herein to the contrary, so long as the Bonds shall be in Book-Entry Form, the provisions of this Section 2.06 shall govern.

(c) All of the Bonds shall be registered in the name of Cede & Co.,

as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

(d) DTC (or its nominees) shall be and remain recorded on the Bond Register as the holder of all Bonds which are in Book-Entry Form. No transfer of any Bond in Book-Entry Form shall be made, except from DTC to another depository (or its nominee) or except to terminate the Book-Entry Form. All Bonds of such stated maturity of any Bonds in Book-Entry Form shall be issued and remain in a single Bond certificate registered in the name of DTC (or its nominee); provided, however, that upon termination of the Book-Entry Form pursuant to the Representation Letter, the City shall, upon delivery of all Bonds of such series from DTC, promptly execute, and the Bond Registrar shall thereupon authenticate and delivery, Bonds of such series to all persons who were beneficial owners thereof immediately prior to such termination; and the Bond Registrar shall register such beneficial owners as holders of the applicable Bonds.

The Bond Registrar shall maintain accurate books and records of the principal balance, if any, of each such outstanding Bond in Book-Entry Form, which shall be conclusive for all purposes whatsoever. Upon the authentication of any new Bond in Book-Entry Form in exchange for a previous Bond, the Bond Registrar shall designate thereon the principal balance remaining on such bond according to the Bond Registrar's books and records.

No beneficial owner (other than DTC) shall be registered as the holder on the Bond Register for any Bond in Book-Entry Form or entitled to receive any bond certificate. The beneficial ownership interest in any Bond in Book-Entry Form shall be recorded, evidenced and transferred solely in accordance with the Book-Entry System.

Except as expressly provided to the contrary herein, the City and the Bond Registrar may treat and deem DTC to be the absolute owner of all Bonds of each series which are in Book-Entry Form (i) for the purpose of payment of the principal of and interest on such Bond, (ii) for the purpose of giving notices hereunder, and (iii) for all other purposes whatsoever.

(e) The City and the Bond Registrar shall each give notices to DTC of such matters and at such times as are required by the Representation Letter, including the following:

- (i) with respect to notices of redemption; and
- (ii) with respect to any other notice required or permitted under this Bond Resolution to be given to any holder of a Bond.

All notices of any nature required or permitted hereunder to be delivered to a holder of a Bond in Book-Entry Form shall be transmitted to beneficial owners of such Bonds at such times and in such manners as shall be determined by DTC, the participants and indirect participants in accordance with the Book-Entry System and the Representation Letter.

(f) All payments of principal, redemption price of and interest on any Bonds in Book-Entry Form shall be paid to DTC (or Cede & Co.) in accordance with the Book-Entry System and the Representation Letter in same day funds by wire transfer.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the City Council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the mailing of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 Delivery of the Bonds and payment of the purchase price shall be made at a place mutually satisfactory to the City and the Purchaser. Printed or typewritten and executed Bonds shall be furnished by the City without cost to the Purchaser. The Bonds, when prepared in accordance with this Resolution and executed, shall be delivered by or under the direction of the treasurer to the Purchaser upon receipt of the purchase price plus accrued interest.

2.12 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF MINNESOTA  
COUNTY OF ST. LOUIS

CITY OF DULUTH  
GENERAL OBLIGATION UTILITIES REVENUE BOND, SERIES 2015G

R-\_\_ \$\_\_\_\_\_

Interest Rate Maturity Date Date of Original Issue CUSIP

February 1, \_\_\_\_ November 5, 2015

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The city of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from the Date of Original Issue, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 2016. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as the registrar, paying agent,

transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City Council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$2,765,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Chapter 475, and Sections 115.46, 444.075 and 475.67, Subdivisions 1 through 4, and Section 55 of the Home Rule Charter of the City, and all other laws and charter provisions thereto enabling and pursuant to a resolution adopted on October 8, 2015, by the governing body of the City (the "Resolution"), and is issued to refund on a current refunding basis the outstanding principal amount of the City's \$1,705,000 General Obligation Stormwater Utility Revenue Bonds, Series 2006B, dated September 7, 2006, the \$3,255,000 General Obligation Utilities Revenue Bonds, Series 2006F, dated December 19, 2006, and the \$2,120,000 General Obligation Sewer Utility Revenue Bonds, Series 2007B, dated December 13, 2007.

That portion of the Bonds issued for the municipal water utility are payable from the net revenues to be derived from the operation of the municipal water utility of the City, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred. In the Resolution, the City has pledged and appropriated the net revenues to be derived from the operation of the municipal water utility in excess of normal, reasonable and current costs of the operation and maintenance of the utility, for the payment of the principal and interest when due on the portion of the Bonds issued for the water utility, and has covenanted and agreed that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal water utility at the times and in the amounts required to pay the normal,



reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the portion of the Bonds issued for the water utility.

That portion of the Bonds issued for the municipal sewer utility are payable from the net revenues to be derived from the operation of the municipal sewer utility of the City, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred. In the Resolution, the City has pledged and appropriated the net revenues to be derived from the operation of the municipal sewer utility in excess of normal, reasonable and current costs of the operation and maintenance of the utility, for the payment of the principal and interest when due on the portion of the Bonds issued for the sewer utility, and has covenanted and agreed that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal sewer utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the portion of the Bonds issued for the sewer utility.

That portion of the Bonds issued for the municipal stormwater utility are payable from the net revenues to be derived from the operation of the municipal stormwater utility of the City, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred. In the Resolution, the City has pledged and appropriated the net revenues to be derived from the operation of the municipal stormwater utility in excess of normal, reasonable and current costs of the operation and maintenance of the utility, for the payment of the principal and interest when due on the portion of the Bonds issued for the stormwater utility, and has covenanted and agreed that it will impose and collect just and equitable charges for all use and for the availability of all facilities of the municipal stormwater utility at the times and in the amounts required to pay the normal, reasonable and current expenses of operating and maintaining such facilities, and also to produce net revenues at least adequate at all times to pay the principal and interest due on the portion of the Bonds issued for the stormwater utility.

The Bonds are not subject to optional redemption and prepayment before maturity.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof.

Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and the Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done and to exist precedent to and in the issuance of this Bond, in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the City of Duluth, by its City Council, has caused this Bond to be executed in its name by the facsimile signatures of the Mayor and the City Clerk.

Attest:

\_\_\_\_\_

Clerk \_\_\_\_\_ Mayor \_\_\_\_\_

Date of Authentication: \_\_\_\_\_

**BOND REGISTRAR'S AUTHENTICATION CERTIFICATE**

The Bond Registrar confirms that the books reflect the ownership of a Bond registered in the name of the owner named above, in the principal amount stated above, and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

WELLS FARGO BANK, NATIONAL ASSOCIATION  
Bond Registrar

By \_\_\_\_\_  
Authorized Representative

REGISTRATION CERTIFICATE

This Bond must be registered as to both principal and i

STATEMENT OF PURPOSE: This resolution establishes the terms and form and awards the sale of the \$2,765,000 General Obligation Utilities Revenue Refunding Bonds, Series 2015G, to Robert W. Baird & Co., Inc., at a true interest cost of 1.604197%. The proceeds of the Bonds will be used to refinance three outstanding City bond issues. The Bonds are payable primarily from net revenues of the water, sewer and stormwater utilities. The refunding will provide a net present value savings of \$296,117.37.

**Attachments:** [Exhibit A](#)  
[Exhibit B](#)  
[Exhibit C](#)

**A motion was made that this Resolution be adopted. The motion carried unanimously.**

**Yea:** 8 - Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Russ, Sipress and President Larson

**The meeting was adjourned at 5:07 p.m.**



City of Duluth

411 West First Street  
Duluth, Minnesota  
55802

Minutes

City Council

**MISSION STATEMENT:** *The mission of the Duluth City Council is to develop effective public policy rooted in citizen involvement that results in excellent municipal services and creates a thriving community prepared for the challenges of the future.*

**TOOLS OF CIVILITY:** *The Duluth City Council promotes the use and adherence of the tools of civility in conducting the business of the council. The tools of civility will provide increased opportunities for civil discourse in order to find positive resolutions to the issues that face the city. These tools include: pay attention, listen, be inclusive, do not gossip, show*

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Monday, October 12, 2015

7:00 PM

Council Chamber

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**ROLL CALL**

**Present:** 9 - Councilors Zach Filipovich, Jay Fosle, Sharla Gardner, Howie Hanson, Jennifer Julsrud, Linda Krug, Barb Russ, Joel Sipress and President Emily Larson.

**PUBLIC HEARING - 7 PM - Proposed Assessment Roll for the Extension of the Watermain on North 85th Avenue West.**

At this time, 7:02 p.m. the public hearing began for the Proposed Assessment Roll for the Extension of the Watermain on North 85th Avenue West.

No one appeared at this time, 7:03 p.m. the public hearing was declared

**PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS**

1. **15-066** Communications regarding the proposed rezoning of the Morgan Park School site (15-079-O).

**Attachments** [Dixon R. and Tammera A. Bastie](#)  
[Lucille Kolberg](#)  
[SDH&M, LLC, developer](#)

**This Petition/Other Communication was received.**

**REPORTS FROM THE ADMINISTRATION**

**REPORTS FROM OTHER OFFICERS**

2.     **15-064**     Clerk application for exempt permit to the Minnesota gambling control board from Holy Family Catholic Church on November 8, 2015 (bingo).

**Attachments**   [Application](#)

**This Report was received.**

#### REPORTS OF BOARDS AND COMMISSIONS

3.     **15-068**     Duluth transit authority minutes of June 25, 2015, meeting and June 2015 financial statement.

**Attachments**   [Minutes](#)  
                          [Financial Statement](#)

**This Board or Commission Report was received.**

4.     **15-069**     Library board minutes of August 25, 2015, meeting.

**Attachments**   [Minutes](#)

**This Board or Commission Report was received.**

5.     **15-070**     Entertainment and convention center authority minutes of April 28, May 26 and June 30, 2015, meetings.

**Attachments**   [April 28, 2015](#)  
                          [May 26, 2015](#)  
                          [June 30, 2015](#)

**This Board or Commission Report was received.**

#### REPORTS OF COUNCIL COMMITTEES

#### REPORTS OF COUNCIL OPEN ISSUES

#### OPPORTUNITY FOR CITIZENS TO BE HEARD

Gerald Schlafer commented on examples of "nothing is free and someone is paying for it".

Chuck Davis commented on bike routes through downtown Duluth.

**MOTIONS AND RESOLUTIONS**

**CONSENT AGENDA**

**COMMITTEE 1**

**BY COUNCILOR FILIPOVICH (FINANCE)**

6.      **15-0693R**      RESOLUTION CONFIRMING ASSESSMENT ROLL LEVIED TO DEFRAY THE ASSESSABLE PORTION OF THE EXTENSION OF THE WATER MAIN ON NORTH 85TH AVENUE WEST.

CITY PROPOSAL:

RESOLVED, that the assessment roll levied to defray the assessable portion of the following is hereby confirmed:

Water Main Extension on North 85th Avenue West.

Contract 2014012 - total assessable amount of \$94,198.52 to be deposited in Fund 510. Assessment roll attached as Exhibit A.

STATEMENT OF PURPOSE: This resolution confirms the assessable portion of the above-related projects.

**Attachments**   [Exhibit A](#)

**This Resolution was adopted unanimously.**

**BY COUNCILOR HANSON (PURCHASING & LICENSING)**

7.      **15-0694R**      RESOLUTION AUTHORIZING A CONTRACT WITH BEDROCK FLINT, INC., FOR TUCKPOINTING THE FACILITY MAINTENANCE BUILDING IN THE AMOUNT OF \$102,718.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Bedrock Flint, Inc., for the tuckpointing of the east and west walls of the facility maintenance building, in the amount of \$102,718, payable from Capital Improvements 450; Finance 030; Buildings and Structures 5520; Project: CP2015-1502b - 2015 capital projects, citywide CIP eligible building improvements.

STATEMENT OF PURPOSE: This resolution authorizes a contract with

Bedrock Flint, Inc., for tuckpointing the walls of the facility maintenance building in the amount of \$102,718.

The project entails tuckpointing the east and west exterior walls of Property and Facilities Maintenance building. The work includes grinding out the failing mortar, tuckpointing in new mortar, and cleaning and sealing the identified masonry surfaces. Water is currently infiltrating the building through failed mortar joints. This project would stop the leaks and associated degradation of the facility.

The facilities management division requested quotes from the following companies: Harbor City, Bedrock Flint, and Stretar Masonry. Harbor City did not provide a quote; Stretar quoted \$115,000; and Bedrock Flint quoted \$102,718. The project was awarded to Bedrock Flint based on being the lowest, complete quote.

Requisition No. 15-0613

**This Resolution was adopted unanimously.**

8.      **15-0696R**      RESOLUTION AUTHORIZING AN AMENDMENT TO AGREEMENT 22491 WITH HOISINGTON KOEGLER GROUP, INC., FOR ADDITIONAL SERVICES FOR A CROSS CITY TRAIL MASTER PLAN, AN INCREASE OF \$14,000, FOR A TOTAL AMOUNT NOT TO EXCEED \$51,800.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to amend Agreement 22491, attached as Exhibit A, with Hoisington Koegler Group, Inc. (HKGi) for additional services in preparing a master plan for the Cross City Trail from Sister Cities Park to Becks Road, for an additional amount of \$14,000, for a total amount not to exceed \$51,800, payable from Parks Fund 205; Community Resources 130; Parks Capital 1220; Improvements Other than Buildings 5530; Project: CM205-mstrpl Cap Mtce Fund 205, master plans.

STATEMENT OF PURPOSE: This resolution authorizes an amendment to Agreement 22491 with HKGi. The amendment will allow for the completion of the Cross City Trail Mini-Master Plan by adding to HKGi's scope of work to include incorporation of additional evaluations and assessments, organization and facilitation of three additional public meetings, and wrap up of the Mini-Master Plan process for an increase of \$14,000, and a total amount not to exceed \$51,800.

Costs based on hourly fees including all coordination with staff, meeting agendas, meeting preparation, meeting summaries and expenses (travel, mileage, plotting/ printing). The amended HKGi proposal is attached as Exhibit B.

Requisition No. 15-0397

**Attachments** [Exhibit A](#)  
[Exhibit B](#)

**This Resolution was adopted unanimously.**

9.      **15-0704R**      RESOLUTION AUTHORIZING A SINGLE SOURCE PURCHASE FROM NOVASPECT, INC., FOR REGULATOR AND RELIEF PRODUCTS IN THE AMOUNT OF \$40,617.35.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to purchase Fisher regulator and relief products from Novaspect, Inc., in the amount of \$40,617.35, payable from Gas Fund 520, Public Works and Utilities 500, Customer Services 1940, Service 2410, Utility System Mtc Supplies 5227.

STATEMENT OF PURPOSE: This resolution authorizes the single source purchase of Fisher regulator and relief products in the amount of \$40,617.35 from Novaspect, Inc. These parts are necessary for direct maintenance, repair and replacement of existing equipment. These items are kept in stock to prevent any interruption of gas to our customers.

Novaspect is the sole regional source of Fisher products. Fisher products are the only regulator and reliefs used in the natural gas system. All of these items must be of the same manufacturing and compatible with the extensive training employees have received on the repair and maintenance of these items.

Requisition No. 15-0622

**This Resolution was adopted unanimously.**

10.     **15-0716R**     RESOLUTION AUTHORIZING A PURCHASE FROM SHI, INC. FOR DESKTOP AND LAPTOP PERSONAL COMPUTER REPLACEMENTS UNDER THE CITY'S FOUR YEAR REPLACEMENT PLAN IN THE TOTAL AMOUNT OF \$255,000.



## CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to purchase desktop and laptop personal computer replacements from SHI, Inc. under the city's four year replacement plan in the total amount of \$255,000, with \$78,104.53 payable from 250-015-2014-5580-CE250-1401, \$92,582.02 from 250-015-2014-5580-CE250-1402 and \$84,313.45 from 250-015-2015-5580-CE250-1501. This annual purchase will cover replacements for desktop and laptop personal computers for various city departments.

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize the city to purchase desktop and laptop personal computer replacements from SHI, Inc. under the city's four year replacement plan in the total amount of \$255,000. This annual purchase will cover replacements for the various city departments. SHI, Inc. is a Minnesota state contract vendor that offers very competitive pricing.

**This Resolution was adopted unanimously.**

11. 15-0731R RESOLUTION ISSUING A 3.2 PERCENT MALT LIQUOR LICENSE AND APPROVING ISSUANCE OF AN ON SALE WINE LICENSE TO LARK O' THE LAKE, LLC (LARK O' THE LAKE CAFÉ), 231 EAST SUPERIOR STREET.

## CITY PROPOSAL:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale 3.2 percent malt liquor license for the period ending April 30, 2016, and approves issuance of the following on sale wine license for the period ending August 31, 2016, subject to departmental approvals, the payment of sales and property taxes, and further subject to approval of the Liquor Control Commissioner;

Lark O' the Lake, LLC (Lark O' the Lake Café), 231 East Superior Street, #100-101, main floor, with Don Monaco, 33.34 percent, Mark Marino, 33.33 percent, and Sandra Etestad, 33.33 percent owners.

STATEMENT OF PURPOSE: The applications of Lark O' the Lake Cafe for a 3.2% beer license and wine license were reviewed by the Alcohol, Gambling and Tobacco Commission at their meeting on October 7th and

were unanimously approved.

**This Resolution was adopted unanimously.**

12. 15-0732R RESOLUTION APPROVING ISSUANCE OF A TEMPORARY ON SALE INTOXICATING LIQUOR LICENSE TO CHURCHES UNITED IN MINISTRY.

CITY PROPOSAL:

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor license subject to departmental approvals and further subject to approval of the liquor control commissioner:

Churches United in Ministry, (CHUM International Dinner), 1111 North 11th Avenue East, on October 24, 2015, from 5:00 p.m. to 8:00 p.m., with Mary Schmitz, manager.

STATEMENT OF PURPOSE: The application of CHUM for a temporary on sale liquor license was approved by the police department and was reviewed by the Alcohol, Gambling and Tobacco Commission at their meeting on October 7th and was unanimously approved.

**This Resolution was adopted unanimously.**

**COMMITTEE 2**

**BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)**

13. 15-0711R RESOLUTION AUTHORIZING A SUBLEASE AGREEMENT WITH THE STATE OF MINNESOTA, DEPARTMENT OF ADMINISTRATION, ACTING FOR THE BENEFIT OF THE COUNCIL FOR MINNESOTANS OF AFRICAN HERITAGE, FOR SUBLEASE OF SPACE IN THE DULUTH ATHLETIC CLUB BUILDING.

CITY PROPOSAL:

RESOLVED, that the proper city officials are authorized to enter into a sublease agreement, substantially in the form of that attached hereto as Exhibit A, with the state of Minnesota, department of administration, acting on behalf of the Council for Minnesotans of African Heritage, for the subleasing of space in the Duluth Athletic Club building at 402 West First Street in Duluth, Minnesota, sublease payment to be deposited in Fund 268-031-6251-4622 (Workforce Development Fund, Grants Division, Office Support, Rent of Building).

STATEMENT OF PURPOSE: This resolution authorizes the city to enter into a sublease with the state of Minnesota, department of administration, acting on behalf of the Council for Minnesotans of African Heritage for the subleasing of approximately sixty-four (64) square feet of office space in the Duluth Athletic Club building. The term of the agreement is from October 12, 2015 through June 30, 2017 and provides that city will receive a total of \$7,530.28 in rent payments during the term of the agreement

**Attachments** [Exhibit A - Resolution 15-0711](#)

**This Resolution was adopted unanimously.**

### COMMITTEE 3

#### BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)

14.     **15-0625R**     RESOLUTION AWARDING A CONTRACT TO NORTHLAND CONSTRUCTORS OF DULUTH, LLC FOR AIRPORT ROAD SANITARY SEWER RELOCATION BETWEEN RALSTON DRIVE AND VANDENBERG DRIVE IN THE AMOUNT OF \$103,652.50.

#### CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Northland Constructors of Duluth, LLC for Airport Road sanitary sewer relocation between Ralston Drive and Vandenberg Drive in the amount of \$103,652.50, payable from Cirrus Building Fund 412, Department 030 (finance), Object 5520 (buildings and structures), City Project No. 1486.

STATEMENT OF PURPOSE: This resolution will authorize relocation of the sanitary sewer in Airport Road between Ralston Drive and Vandenberg Drive by Northland Constructors of Duluth, LLC in the amount of \$103,652.50. Northland Constructors was the lowest responsible bidder of the four companies that responded. The engineer's estimate was \$173,065. The sanitary sewer needs to be relocated prior to construction

of the new Cirrus building. Payable from Cirrus Building Fund 412, Department 030 (Finance), Object 5520 (Buildings and Structures), city project no. 1486, requisition no. 15-0530.

TABULATION OF BIDS RECEIVED SEPTEMBER 3, 2015

Iorthland Constructors of Duluth, LLC Duluth, MN \$103,652.50  
Jtility Systems of America, Inc. Eveleth, MN \$108,421.00  
Jlland Brothers, Inc. Carlton, MN \$112,826.00  
JGM Contracting, Inc. Angora, MN \$193,076.00

**Attachments** [15-0625R Map](#)

**This Resolution was adopted unanimously.**

15. **15-0645R** RESOLUTION ACCEPTING THE CONVEYANCE OF A GAS UTILITY EASEMENT FROM PLB MILLER HILL, LLC FOR PUBLIC PURPOSES.

CITY PROPOSAL:

RESOLVED, that the city of Duluth does hereby accept the conveyance of a gas utility easement from PLB Miller Hill, LLC for public utility purposes and attached as Exhibit 1 hereto over property legally described in said Exhibit 1 in connection with serving the existing building at 1408 Maple Grove Road.

STATEMENT OF PURPOSE: This resolution authorizes the acceptance of a gas utility easement from PLB Miller Hill, LLC in order to provide service to 1408 Maple Grove Road.

**Attachments** [15-0645R Exhibit 1](#)

[15-0645 Exhibit A](#)

**This Resolution was adopted unanimously.**

16. **15-0713R** RESOLUTION AUTHORIZING AN AGREEMENT WITH INFOR, INC. FOR PROFESSIONAL SERVICES PERTAINING TO THE MODIFICATION AND ENHANCEMENT OF THE CITY'S ENTERPRISE ASSET MANAGEMENT SYSTEM FOR AN AMOUNT NOT TO EXCEED \$160,000.

## CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Infor, Inc., substantially in the form of that attached as Exhibit A, to provide professional services pertaining to the modification and enhancement of the city's Enterprise Asset Management (EAM) system for an amount not to exceed \$160,000, payable as follows:

\$40,000 Water Fund 510, Public Works & Utilities 500, Utility General Expense 1915, Contract Services 5310;

\$40,000 Gas Fund 520, Public Works & Utilities 500, Utility General Expense 1915, Contract Services 5310;

\$40,000 Sewer Fund 530, Public Works & Utilities 500, Utility General Expense 1915, Contract Services 5310;

\$40,000 Stormwater Fund 535, Public Works & Utilities 500, Utility General Expense 1915, Contract Services 5310.

STATEMENT OF PURPOSE: The purpose of this resolution is to serve as a Master Agreement between the city and Infor, Inc., for professional services to assist the city in modifications and enhancements to the city's Enterprise Asset Management (EAM) application which contains all utility based infrastructure assets not to exceed \$160,000. The city has utilized the EAM application for the past four years and this agreement will allow us to utilize the expertise of Infor professional services to complete a multi-phased plan to modify and enhance the application to improve operational efficiencies as well as allow for further integration of data throughout other utility systems.

**Attachments** [Exhibit A](#)

**This Resolution was adopted unanimously.**

**BY COUNCILOR FOSLE (PUBLIC SAFETY)**

17.     **15-0700R**     RESOLUTION AUTHORIZING THE ACCEPTANCE OF A GRANT FROM THE MINNESOTA DEPARTMENT OF PUBLIC SAFETY IN THE AMOUNT OF \$281,800 FOR THE 2016 TOWARDS ZERO DEATHS PROJECT.

## CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to accept an award from the state of Minnesota, department of public safety, in the amount of \$281,800. Such funds are to be used to reimburse the Duluth police department and other Lake Superior traffic enforcement team participants for overtime salary/fringe benefits reimbursement for traffic enforcement of speed, distracted and impaired driving and passenger safety, St. Louis County 9-1-1 dispatch support, grant management administration, and travel to the TZD Conference. Funds to be deposited in Fund No. 215-200-2209-4210-02 (Duluth police grant programs, police, 2016 TZD grant, pass thru federal grants operating).

FURTHER RESOLVED, that the proper city officials are authorized to execute a grant agreement, substantially the same as the attached Exhibit A, from the state of Minnesota, department of public safety.

STATEMENT OF PURPOSE: The Duluth Police Department is the designated recipient and fiscal agent of a 2016 Toward Zero Deaths Law Enforcement Grant from the Minnesota Department of Public Safety in the total amount of \$281,800. This is a recurring grant that provides additional pass-through federal funding for the Lake Superior Traffic Enforcement Team. This resolution authorizes the proper city officials to accept the grant. The grant monies will be used to support over time reimbursement for traffic enforcement. The grant period is October 1, 2015 through September 30, 2016.

**Attachments** [Exhibit A](#)

**This Resolution was adopted unanimously.**

18. **15-0714R** RESOLUTION AUTHORIZING AN AGREEMENT WITH PUBLIC SAFETY CORPORATION TO ASSIST IN THE ENFORCEMENT OF THE FALSE ALARM ORDINANCE.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that attached hereto as Exhibit A, with Public Safety Corporation ("PSC") to assist the city of Duluth ("city") in enforcement of the False Alarm Ordinance, Chapter 29B of the Duluth City Code. Fees and penalties collected under the agreement are payable into Fund 110, Department 160, Organization 1610, Revenue Source 4329 (general fund, police department, administration & investigations, false alarm fees and penalties).

STATEMENT OF PURPOSE: This resolution authorizes the renewal of an

agreement with PSC to provide false alarm services to the city. The goal of the False Alarm Ordinance is to encourage more responsible use of alarm systems and to reduce the number of false alarms to which peace officers must respond. PSC utilizes a software system which is designed to assist in accessing information relevant to false alarms. Net revenues will be split 65 percent to the city and 35 percent to PSC. PSC has provided false alarm services to the city since 2010. In 2014 the city's share of net revenues was \$20,797.51. The term of the new contract is five years.

**Attachments** [Exhibit A - 15-0714r](#)

**This Resolution was adopted unanimously.**

**BY COUNCILOR SIPRESS (RECREATION, LIBRARIES & AUTHORITIES)**

19.     **15-0715R**     RESOLUTION AUTHORIZING AN AMENDMENT TO AGREEMENT 22490 WITH BARR ENGINEERING, FOR ADDITIONAL SERVICES FOR THE SPIRIT MOUNTAIN ENVIRONMENTAL ASSESSMENT WORKSHEET (EAW), AN INCREASE OF \$17,352, FOR A TOTAL AMOUNT NOT TO EXCEED \$49,670.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to amend Agreement 22490, attached as Exhibit A, with BARR Engineering for additional services in preparing the environmental assessment worksheet (EAW) for the Spirit Mountain Recreation Area, proposal email is attached as Exhibit B, for an additional amount of \$17,352, for a total amount not to exceed \$49,670, payable from Tourism and Recreational Projects 452; Finance 030; Improvements Other than Buildings 5530; Project: HANDHTAX-1506 - half and half tax projects, Lower Spirit Nordic.

STATEMENT OF PURPOSE: This resolution authorizes an amendment to Agreement 22490 with BARR Engineering, for additional services in preparing the Environmental Assessment Worksheet (EAW) for improvements to the Spirit Mountain Recreation Area including Nordic trails, downhill bike trails, and changes to the disc golf course, an increase of \$17,352, and a total amount not to exceed \$49,670.

Estimated costs are based on hourly fees. The increase is due, in part, to additional work to assess and reduce potential adverse project impacts on adjacent residents. Estimated task hours remaining are 132 hours.

Additional work scope tasks and tasks remaining are included in Exhibit B.

**Attachments** [EXHIBIT A - BARR C22490.pdf](#)  
[EXHIBIT B - BARR PROJECT PROPOSAL INCREASE.pdf](#)

**This Resolution was adopted unanimously.**

21. 15-0725R RESOLUTION AGREEING TO MAKE IMPROVEMENTS TO THE DEDA PORTION OF THE SLIP 2 DOCK FACE AND TO IMPOSE DECLARATION RESTRICTIONS

CITY PROPOSAL:

RESOLVED, that, pursuant to the authorization contained in Resolution No. 15D-45 of the Duluth Economic Development Authority ("DEDA"), city hereby agrees that it will cause to be made those improvements to the portion of the dock face of Slip No. 2 in BAYFRONT DIVISON on the face of DEDA-owned property, which improvements are described in the plans therefore approved pursuant to that certain development agreement between DEDA and Pier B Holding LLC for "The Silos at Pier B Project", to be constructed by the developer on said DEDA portion of the dock face, all in accordance with the requirements of Minnesota State Department of Employment and Economic Development and the Commissioner of Minnesota Management and Budget pursuant to that certain Construction Grant for the Pier B Bayfront Development Project under Redevelopment Grant Program RDGP-12-0044-o-FY12 and to execute a Declaration in the form attached to said Grant imposing restrictions on the property upon which said construction work is performed.

STATEMENT OF PURPOSE: The purpose of this resolution is to document for the benefit of the State of Minnesota that the City is authorized to use grant proceeds from Redevelopment Grant Program RDGP-12-0044-o-FY12 to reconstruct the DEDA-owned portion of the east dock face of Slip No. 2 along with the City-owned portion and committing the City to impose the state required restrictions on the property in the form of a Declaration as part of the Pier B Project.

As part of the financing structure of the Project, the City had secured a redevelopment grant, a portion of which was programed to use for the reconstruction of the east dock face of the slip (adjacent to Bayfront Festival Park). A portion of the property upon which the dock face exists is owned by DEDA and therefore the State is requiring that the City pass a resolution accepting authorization from DEDA to do the work and committing to put the normal, state-required restrictions on the property in



the form of a Declaration. The Declaration essentially prohibits the City from selling the property without the State's consent for the useful life of the improvements.

This resolution will allow the City to comply with the State's requests.

**This Resolution was adopted unanimously.**

- 22. 15-0726R** RESOLUTION AUTHORIZING CITY OFFICIALS TO EXECUTE LEASE AND SERVICE AGREEMENT WITH CASSIE HAMLIN AND BRIAN ENGBRETSON FOR RESIDENTIAL DWELLING UNIT LOCATED WITHIN THE WHEELER FIELDHOUSE BUILDING.

CITY PROPOSAL:

RESOLVED, that the proper city officers are authorized to enter into a lease and service agreement with Cassie Hamlin and Brian Engebretson for the residential dwelling unit located within the Wheeler Fieldhouse Building, said agreement to be substantially in the form of the lease agreement attached as Exhibit A. Monthly rental payments shall be deposited into Fund 110, Public Administration 121, Property and Facilities Management 1222, Rent for Buildings 4622.

STATEMENT OF PURPOSE: This resolution authorizes a lease and service agreement with Cassie Hamlin and Brian Engebretson for the residential dwelling unit located within the Wheeler Fieldhouse Building located at 3501 Grand Avenue.

The lease is month-to-month effective October 1, 2015. Rent is \$450 per month. At least \$100 of the \$450 must be paid in cash. The lessees are eligible for up to \$350 in rent when they provide the on-site maintenance services specified in the agreement. On-site services will be recorded by the lessees and verified by the city park maintenance supervisor.

**Attachments** [Wheeler Rental Agreement](#)

**This Resolution was adopted unanimously.**

**END OF CONSENT AGENDA**

**The following entitled resolutions were also to be considered:**

**COMMITTEE 3****BY COUNCILOR SIPRESS (RECREATION, LIBRARIES & AUTHORITIES)**

20.     **15-0717R**     RESOLUTION OF SUPPORT FOR THE INSTALLATION OF A TRAFFIC SIGNAL FOR THE KENWOOD VILLAGE PROJECT, CITY PROJECT NO. 1468, AT THE INTERSECTION OF KENWOOD AVENUE AND CLEVELAND STREET, AND SIGNAL AND INTERSECTION IMPROVEMENTS TO ARROWHEAD ROAD AND KENWOOD AVENUE.

## CITY PROPOSAL/BY COUNCILOR SIPRESS:

RESOLVED, that the city of Duluth intends to install a traffic signal at the intersection of Cleveland Street and Kenwood Avenue, and to make improvements to the existing signalized intersection of Arrowhead Road and Kenwood Avenue, City Project No. 1468.

General improvements may include the following:

1. Installation of a traffic signal at Cleveland Street and Kenwood Avenue.
2. Dedicated left turn arrows and lanes for all legs of Arrowhead Road and Kenwood Avenue.
3. Replacement of existing signalized equipment with new mast arms, signal heads, pedestrian countdown heads, hand holes and wiring.
4. Replace loop detection system with a camera system and add EVP capability.
5. Interconnection of existing and proposed signal systems, and adjustment and coordination of signal timing.
6. Where feasible, combination and/or elimination of driveway accesses in close proximity of the intersection improvements.

STATEMENT OF PURPOSE: This resolution states the intent to proceed with signal improvements at both Kenwood Avenue and Arrowhead Road, and Kenwood Avenue and Cleveland Street. The engineering division will issue a request for proposals to complete the improvements. St. Louis County, as a contributing partner for its leg of the intersection, will participate on the selection committee. Depending upon funding and upon how quickly the design can be completed, the signal work should be complete by early 2017.

**Sponsors:** Sipress

**Attachments** [15-0717 Map](#)

Councilor Sipress moved to suspend the rules to hear a speaker on the resolution, which motion was seconded and unanimously carried.

Chad Ronchetti expressed support for the resolution.

**A motion was made that this Resolution be adopted. The motion carried by a unanimous vote.**

## COMMITTEE 1

### BY COUNCILOR HANSON (PURCHASING & LICENSING)

23.     **15-0730R**     RESOLUTION ISSUING A 3.2 PERCENT MALT LIQUOR LICENSE AND APPROVING ISSUANCE OF AN ON SALE WINE LICENSE TO NORTHERN WATERS SMOKEHAUS, (NORTHERN WATERS), 1608 WOODLAND AVENUE.

#### CITY PROPOSAL:

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale 3.2 percent malt liquor license for the period ending April 30, 2016, and approves issuance of the following on sale wine license for the period ending August 31, 2016, subject to departmental approvals, the payment of sales and property taxes, and further subject to approval of the Liquor Control Commissioner;

Northern Waters Smokehaus, (Northern Waters), 1608 Woodland Avenue, main floor, with Eric Goerd, president and 75 percent owner, and Lynn Goerd, 25 percent owner.

STATEMENT OF PURPOSE: The applications of Northern Waters for a 3.2% beer license and wine license were reviewed by the Alcohol, Gambling and Tobacco Commission at their meeting on October 7th and were unanimously approved.

President Larson noted that she would be abstaining on discussion or voting on this resolution due to a family conflict.

**A motion was made that this Resolution be adopted. The motion carried by the following vote:**

**Yea:** 8 - Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ and Sipress.

**Abstain:** 1 - President Larson

## **INTRODUCTION AND CONSIDERATION OF ORDINANCES**

**The following entitled ordinance is to be read for the first time:**

### **COMMITTEE 3**

#### **BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)**

- 24. 15-087-O** AN ORDINANCE GRANTING ST. LOUIS COUNTY TEMPORARY EASEMENTS OVER VACATED 20TH AVE. E AND HERITAGE PARK.

#### **CITY PROPOSAL:**

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to enter into an agreement, a copy of which is attached hereto as Exhibit A, with St. Louis County granting said county a temporary easement over the following-described property in St. Louis County, Minnesota for street and utility purposes and for construction related thereto, said easements to terminate upon the sooner of the completion of reconstruction of 4th Street by said county or December 31, 2017:

That portion of vacated 20th Avenue East bounded on the Southeast by the Northwesterly line of 4th Street, and on the Northeast by a line lying 103.86 feet Northwesterly of and parallel with the Northwesterly line of platted 4th street: and

A 10.00 foot wide temporary construction easement in Lots 9 and 10 of Block 10, Highland Park Addition to Duluth, according to the recorded plat thereof, described as follows:

Beginning at the intersection of the northeast line of said Lot 9 with the east line of Woodland Avenue; thence southerly along the east line of Woodland Avenue 43.80 feet; thence southeasterly 75.00 feet to a point on the southeast line of said Lot 10, said point being 60.00 feet southwest of the east corner of said Lot 9, hereinafter described as Line A; thence northeast 60.0 feet along southeast line of said Lots 9 and 10 to the east corner of Lot 9; thence northwest along the northeast line of said Lot 9 to the intersection with a

t is parallel with and distant 10.00 feet northwest of southeast line of said Lots 9 and 10; thence southwest along said line parallel with southeast line of Lots 9 and 10 to the intersection with a line that is parallel with and distant 10.00 feet northeasterly of said Line A; thence northwesterly along said line parallel with Line A to the intersection with a line that is parallel with and distant 10.00 feet east of said east line of Woodland Avenue; thence north along said line parallel with said east line of Woodland Avenue to the northeast line of said Lot 9; thence northwest along northeast line of said Lot 9 to the Point of Beginning.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

STATEMENT OF PURPOSE: The purpose of this ordinance is to approve an agreement granting to St. Louis County a temporary easement to allow them to keep 20th Avenue East open between Woodland 4th Street until construction of the 4th Street reconstruction project is started, to allow the County to demolish that road when appropriate and to allow them to perform necessary construction work on Heritage Park property.

The Council had previously approved an agreement for the work related to the 20th Avenue East right-of-way but further discussion with the County revealed that they needed additional temporary easements to perform all of the work anticipated for the Project. This agreement grants them temporary easements to cover all of the necessary work.

**Attachments** [Exhibit A](#)

**This Ordinance was read for the first time.**

**The following entitled ordinances are to be read for the second time:**

**COMMITTEE 2**

**BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)**

25.     15-079-O     AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-2 AND MU-N, PROPERTY AT 1243 88th AVENUE WEST (SDH&M, LLC)

## CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That approximately 6.44 acres of land located on the eastern portion of 1243 88th Avenue West and as more particularly described as follows:

That part of Block 13, MORGAN PARK OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, bounded as follows:

On the South by the center line of Hilton Street as dedicated on said MORGAN PARK OF DULUTH.

On the West by the center line of 90th Avenue West as dedicated on said MORGAN PARK OF DULUTH.

On the North by the center line of Falcon Street as dedicated on said MORGAN PARK OF DULUTH.

On the East by a line 295.91 feet Easterly and parallel with the West line of Block 13, said MORGAN PARK OF DULUTH;

be reclassified from Residential-Traditional (R-1) to Residential-Urban (R-2), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as shown in the attached document.

Section 2. That approximately 5.58 acres of land located on the western portion of 1243 88th Avenue West and as more particularly described as follows:

That part of Block 13, MORGAN PARK OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, bounded as follows:

On the South by the center line of Hilton Street as dedicated on said MORGAN PARK OF DULUTH.

On the West by a line 295.91 feet Easterly and parallel with the West line of Block 13, said MORGAN PARK OF DULUTH.

On the North by the center line of Falcon Street as dedicated on said MORGAN PARK OF DULUTH.

On the East by the center line of 88th Avenue West as dedicated on said MORGAN PARK OF DULUTH;

be reclassified from Residential-Traditional (R-1) to Mixed Use-Neighborhood (MU-N), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as shown in the attached document.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

STATEMENT OF PURPOSE: This amendment provides a zoning change from R-1 to R-2 and MU-N at 1243 88th Avenue West.

On September 8, 2015, the Duluth city planning commission held a public hearing on the proposal and voted 7 yeas, 0 nays and 1 abstention to recommend that the city council approve the rezoning requested.

The applicant did not submit written consent of 2/3 of property owners within 100 feet of the property to be rezoned. The motion to approve the rezoning must prevail with an affirmative vote of 2/3 by the city council.

Petition received: August 5, 2015  
Action deadline: December 3, 2015

Petitioner:  
Aaron Schweiger  
SDH&M, LLC  
1115 W Michigan Street  
Duluth, MN 55806  
Schweiger.aaron@gmail.com

PL 15-124

**Attachments** [Map](#)  
[Staff Report](#)  
[Comments received after staff report](#)

Councilor Russ moved to remove the ordinance from the agenda and return it to the administration, which motion was seconded and unanimously carried.

**This Ordinance was withdrawn.**

26.     **15-080-O**     AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RR-1 TO MU-C, PROPERTY AT 4258 HAINES ROAD (HAINES ROAD, LLC)

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That approximately 2.96 acres of land located at 4258 Haines Road and as more particularly described as follows:

That part of the Southwest Quarter of the Northwest Quarter of the Northwest Quarter of Section 18, Township 50 North, Range 14 West of the Fourth Principal Meridian, St. Louis County, Minnesota, described as follows:

Commencing at the West Quarter corner of said Section 18; thence on an assumed bearing of North 00 degrees 14 minutes 33 seconds West, along the West line of said Section 18, a distance of 1321.17 feet to the South line of said Southwest Quarter of the Northwest Quarter of the Northwest Quarter; thence South 89 degrees 48 minutes 39 seconds East, along said South line, a distance of 300.00 feet to the intersection with a line 300 feet Easterly and parallel with the said West line of Section 18; thence South 89 degrees 48 minutes 39 seconds East, along said South line, a distance of 405.28 feet to the East line of said Southwest Quarter of Northwest Quarter of Northwest Quarter; thence North 00 degrees 22 minutes 22 seconds West, along said East line, a distance of 144.68 feet to the center line of Sundby Road as traveled; thence North 49 degrees 13 minutes 07 seconds West, along said center line, a distance of 508.04 feet; thence South 40 degrees 46 minutes 53 seconds West, a distance of 33.00 feet to the Southwesterly right of way line of said Sundby Road and the intersection with a line 300 feet Easterly and parallel with the said West line of Section 18; thence South 00 degrees 14 minutes 33 seconds East, along said parallel line, a distance of 450.19 feet to the Point of Beginning;

be reclassified from Rural Residential-1 (RR-1) to Mixed Use-Commercial (MU-C), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as shown in the attached document.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

STATEMENT OF PURPOSE: This amendment provides a zoning change from RR-1 to MU-C at 4258 Haines Road.

On September 8, 2015, the Duluth city planning commission held a public hearing on the proposal and voted 7 yeas, 0 nays and 0 abstentions to recommend that the city council approve the rezoning requested.

The applicant did not submit written consent of 2/3 of property owners within 100 feet of the property to be rezoned. The motion to approve the rezoning must prevail with an affirmative vote of 2/3 by the city council.

Petition received: August 7, 2015  
Action deadline: December 5, 2015

Petitioner:  
Haines Road, LLC  
4258 Haines Road



Duluth, MN 55811  
Rwmertz29@gmail.com

PL 15-129

**Attachments** [Attachment 1](#)  
[Attachment 2](#)

**A motion was made that this Ordinance be adopted The motion carried unanimously**

**Yea:** 9 - Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson

- 27. 15-081-O** AN ORDINANCE GRANTING A CONCURRENT USE PERMIT FOR A PARKING LOT DRIVE AISLE IN THE RIGHT-OF-WAY OF ELIZABETH STREET.

CITY PROPOSAL:

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 granted to Mark Lambert and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) A private drive aisle and sidewalk servicing the adjacent BlueStone Flats building, as shown in the exhibits.

Section 2. Before this ordinance shall be effective for any purpose whatsoever, the permittee shall file with the planning division a certification of insurance approved as to form by the city attorney evidencing that the permittee has in force a policy of insurance meeting the following requirements:

(a) Comprehensive general liability insurance in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage; and

(b) Insurance coverage shall include all permittee's activities occurring upon or within public right of way or easement occupied pursuant to this ordinance whether said activities are performed by the permittee or its

agents or representatives; and

(c) The insurance policy shall be approved by the city attorney; and

(d) The policy shall contain a condition that it may not be canceled without 30 days written notice to the city of Duluth and directed to the attention of the city attorney; and

(e) The city of Duluth shall be named as an additional insured; and

(f) The certificate shall also reference this ordinance by its ordinance number.

Section 3. The permit granted by this ordinance may be terminated at any time by the city official exercising departmental authority of the public easement if the city of Duluth determines to use the area occupied by the permittee for any public purpose in accordance with the duly dedicated public easement or other lawful use.

Unless a shorter notice period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance, giving the permittee 30 days written notice delivered to the last known electronic address, facsimile number, or mailing address of the permittee shall be sufficient notice of termination.

Upon termination permittee shall cause all private improvements to be removed by the deadline provided in termination notice. Permittee shall be responsible for all costs incurred to remove the private improvements, including any costs associated with repairing damage caused to the public easement by the removal and without right to claim from the city of Duluth, or any of its officers, agents or servants, any compensation or reimbursement for damages of any kind whatsoever.

Section 4. By accepting the terms of this ordinance, the permittee agrees to hold harmless and defend and indemnify the city of Duluth against claims or demand which may arise against the city of Duluth by reason of the existence of private improvements, or any act or omission of the permittee, its employees, agents, and assigns. The permittee agrees that the city of Duluth shall not be liable for damage caused to the private improvements while the city engages in the repair and maintenance to, or replacement of, the public improvements or public utilities, including any snow removal operations. The permittee agrees to pay to the city of Duluth all extra costs of installation of any public improvements or public utilities made necessary by the presence of the private improvements.

Section 5. The permittee shall, at its expense, protect, support,

temporarily disconnect, or remove from the public easement, the private improvements when required by city officials by reason of snow removal, traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines and tracks, the installation or repair of any type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

Section 6. Upon the sale or transfer of permittee's interest in the permit granted by this ordinance, the permittee shall provide written notice to the planning division within five days of such transfer. The permittee's successor in interest shall file with the planning division within ten days of such transfer a duly executed and acknowledged written acceptance of the terms of this ordinance and the certificate of insurance required in Section 2 above.

Section 7. The permit granted by this ordinance is subject to termination by the city of Duluth upon permittee's failure to comply with any of the terms and conditions of this permit. Ten days written notice, delivered as provided in Section 3 above shall be sufficient notice of termination. Upon termination, permittee shall remove the private improvements as provided in Section 3.

Section 8. The permittee shall observe the following conditions:

(a) Permittee's use of the public right of way or easement shall be limited to the designated area described in Section 1 above and further shown on the exhibits; and

(b) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as in no way interfere with or damage any portion of any public improvement, or other public utilities now or to hereinafter located in any part of said public easement.

Section 9. The following events shall automatically cause the termination of the term of this ordinance:

(a) The failure by the permittee to file the required insurance certificate as specified in Section 2 30 days after this ordinance takes effect; or

(b) The failure of the permittee to commence the improvements authorized by this ordinance within 180 days after this ordinance takes effect.

Section 10. That this ordinance shall take effect and be in force 30

days from and after its passage and publication.

(Effective Date: November 11, 2015)

STATEMENT OF PURPOSE: This ordinance grants Mark Lambert a concurrent use permit for installation of a parking lot drive aisle and sidewalk in the right-of-way of Elizabeth Street.

On September 8, 2015, the planning commission held a public hearing on the proposal, and voted 7 yeas, 1 nay and 0 abstentions to recommend that the city council approve the request for a concurrent use of streets.

Petition received: August 21, 2015

Action deadline: December 19, 2015

Applicant

Mr. Mark Lambert

333 North Main Street, Suite 110

Stillwater, MN 55082

[mlambert@summitre.net](mailto:mlambert@summitre.net)

PL 15-084

***Attachments*** [Attachment 1](#)

Councilor Hanson noted that he would be abstaining on discussion or voting on this ordinance due to a business interest.

**A motion was made that this Ordinance be adopted. The motion carried by the following vote:**

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

**Abstain:** 1 - Councilor Hanson

- 28. 15-082-O** AN ORDINANCE GRANTING A CONCURRENT USE PERMIT FOR A PARKING RAMP CANOPY IN THE RIGHT OF WAY OF THE 400 BLOCK OF EAST SECOND STREET (ESSENTIA HEALTH)

CITY PROPOSAL:

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 granted to Essentia Health, and its successor(s) in interests, referred to herein as the

permittee, to construct and maintain the following:

(a) A canopy, with a minimum clear space of 10' 6", over the parking ramp entrance on East Second Street in a 10' x 43' area, as shown in the exhibits.

Section 2. Before this ordinance shall be effective for any purpose whatsoever, the permittee shall file with the planning division a certification of insurance approved as to form by the city attorney evidencing that the permittee has in force a policy of insurance meeting the following requirements:

(a) Comprehensive general liability insurance in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage; and

(b) Insurance coverage shall include all permittee's activities occurring upon or within public right of way or easement occupied pursuant to this ordinance whether said activities are performed by the permittee or its agents or representatives; and

(c) The insurance policy shall be approved by the city attorney; and

(d) The policy shall contain a condition that it may not be canceled without 30 days written notice to the city of Duluth and directed to the attention of the city attorney; and

(e) The city of Duluth shall be named as an additional insured; and

(f) The certificate shall also reference this ordinance by its ordinance number.

Section 3. The permit granted by this ordinance may be terminated at any time by the city official exercising departmental authority of the public easement if the city of Duluth determines to use the area occupied by the permittee for any public purpose in accordance with the duly dedicated public easement or other lawful use.

Unless a shorter notice period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance, giving the permittee 30 days written notice delivered to the last known electronic address, facsimile number, or mailing address of the permittee shall be sufficient notice of termination.

Upon termination permittee shall cause all private improvements to be removed by the deadline provided in termination notice. Permittee shall be

responsible for all costs incurred to remove the private improvements, including any costs associated with repairing damage caused to the public easement by the removal and without right to claim from the city of Duluth, or any of its officers, agents or servants, any compensation or reimbursement for damages of any kind whatsoever.

Section 4. By accepting the terms of this ordinance, the permittee agrees to hold harmless and defend and indemnify the city of Duluth against claims or demand which may arise against the city of Duluth by reason of the existence of private improvements, or any act or omission of the permittee, its employees, agents, and assigns. The permittee agrees that the city of Duluth shall not be liable for damage caused to the private improvements while the city engages in the repair and maintenance to, or replacement of, the public improvements or public utilities, including any snow removal operations. The permittee agrees to pay to the city of Duluth all extra costs of installation of any public improvements or public utilities made necessary by the presence of the private improvements.

Section 5. The permittee shall, at its expense, protect, support, temporarily disconnect, or remove from the public easement, the private improvements when required by city officials by reason of snow removal, traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines and tracks, the installation or repair of any type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

Section 6. Upon the sale or transfer of permittee's interest in the permit granted by this ordinance, the permittee shall provide written notice to the planning division within five days of such transfer. The permittee's successor in interest shall file with the planning division within ten days of such transfer a duly executed and acknowledged written acceptance of the terms of this ordinance and the certificate of insurance required in Section 2 above.

Section 7. The permit granted by this ordinance is subject to termination by the city of Duluth upon permittee's failure to comply with any of the terms and conditions of this permit. Ten days written notice, delivered as provided in Section 3 above shall be sufficient notice of termination. Upon termination, permittee shall remove the private improvements as provided in Section 3.

Section 8. The permittee shall observe the following conditions:

(a) Permittee's use of the public right of way or easement shall be

limited to the designated area described in Section 1 above and further shown on the exhibits; and

(b) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as in no way interfere with or damage any portion of any public improvement, or other public utilities now or to hereinafter located in any part of said public easement.

Section 9. The following events shall automatically cause the termination of the term of this ordinance:

(a) The failure by the permittee to file the required insurance certificate as specified in Section 2 30 days after this ordinance takes effect; or

(b) The failure of the permittee to commence the improvements authorized by this ordinance within 180 days after this ordinance takes effect.

Section 10. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective Date: November 11, 2015)

STATEMENT OF PURPOSE: This ordinance grants Essentia Health a concurrent use permit for installation of a parking ramp entrance canopy in the right of way of East Second Street.

On September 8, 2015, the planning commission held a public hearing on the proposal, and voted 8 yeas, 0 nays and 0 abstentions to recommend that the city council approve the request for a concurrent use of streets.

Petition received: July 7, 2015

Action deadline: November 4, 2015

Applicant  
Essentia Health  
Attn: Harvey Anderson  
502 E 2nd Street  
Duluth, MN 55805  
Harveyj.anderson@essentiahealth.org

PL 15-104

**Attachments** [Attachment 1](#)

Councilor Hanson noted that he would be abstaining on discussion or voting due to a business interest.

**A motion was made that this Ordinance be adopted. The motion carried by the following vote:**

**Yea:** 8 - Councilors Filipovich, Fosle, Gardner, Julsrud, Krug, Russ, Sipress and President Larson.

**Abstain:** 1 - Councilor Hanson

Enactment No: 10412

- 29. 15-083-O** AN ORDINANCE AMENDING SECTION 50-37.12 TEMPORARY OR SIDEWALK USE PERMIT, AND 50-37.13 ZONING PERMIT, RELATED TO SIDEWALK CAFES AND ENSURING ADEQUATE PEDESTRIAN ACCESS ON PUBLIC SIDEWALKS

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 50-37.12 of the Duluth City Code, 1959, as amended, be amended as follows:

50-37.12 ~~Temporary or~~ Sidewalk use permit.

This Section applies to ~~temporary~~ uses or proposals to use a portion of a public sidewalk for a café, eating area, transit shelter or bench, bicycle rack, temporary display or other purpose that does not involve the permanent vacation of any part of the street.

Application.

An application for a ~~temporary or~~ sidewalk use permit shall be filed pursuant to Section 50-37.1.B;

Procedure.

The land use supervisor shall refer the application to the city engineer for a recommendation as to whether the proposed design and location of the ~~temporary or~~ sidewalk use will provide for and not hinder the safety of pedestrians, bicyclists and motor vehicle drivers near the proposed use or structure. The land use supervisor shall then review and make a decision on an application based on the criteria in subsection 50-37.12.C. The land use supervisor may refer the application to any city, county or other public or quasi-public agency deemed necessary to confirm whether the criteria in subsection C have been met;

Criteria.

The land use supervisor shall approve the application, or approve it with modifications, if the supervisor determines that the following criteria have been met:

The city engineer has confirmed that the proposed



or structure will not hinder the safety of pedestrians, bicyclists and motor vehicle drivers near the proposed use or structure;

The proposed use or structure will not encroach into drive aisles, loading zones, fire lanes or parking lots;

The proposed use or structure will not encroach into any area located directly between any operating building entrance and the street curb (other than a building entrance intended only to serve patrons of an outside eating area);

The proposed use or structure will be set back at least ~~5~~ seven feet from the curb and at least ~~five~~ six feet from all parking meters, street trees, and street furniture in order to allow for the free passage of pedestrians;

The applicant has signed an agreement with the city (a) to keep the sidewalk and street within 20 feet of the proposed use or structure free from any litter generated by the use or activity, (b) accepting all liability resulting from the proposed use or structure and holding the city harmless for any and all such liability, (c) providing liability insurance meeting city standards, and (d) determining the period of use.

Section 2. That Section 50-37.13 of the Duluth City Code, 1959, as amended, be amended as follows:

50-37.13 Zoning permit.

This Section applies to a variety of permits covering development, redevelopment, and natural resources protection where the land use is a permitted use and the city must confirm whether the application complies with all other applicable provisions of this Chapter. The specific permits included in this Section are summarized in Table 50-37.13-1 below. *[See Attachment 1, Table 50-37.13-1, Zoning Permits]*

Application.

An application for a zoning permit shall be filed pursuant to Section 50-37.1.B; Procedure.

The building official shall review and make a decision on an application for a zoning permit based on the criteria in subsection C below. The building official may refer the application to any city, county or other public or quasi-public agency deemed necessary to confirm whether the criteria in subsection C have

n met;

All buildings, structures and improvements must be constructed and maintained, and all land uses must be operated, in accordance with the terms and conditions of this Chapter and any zoning permit issued pursuant to this Section 50-37.13;

General criteria.

The building official shall approve the application, or approve it with modifications, if the building official determines that the application complies with all applicable provisions of this Chapter;

Additional provisions for specific areas and types of permits.

Shoreland permit.

No building or zoning permit for land within any shoreland shown on the Natural Resources Overlay map in Section 50-18.1 may be issued until the building official has confirmed that the application complies with all applicable requirements of Section 50-18.1.D;

Erosion and sediment control permit (ESCP).

No land disturbance activity that requires an erosion and sediment control permit (ESCP) as indicated in Table 50-18.1.E-1 may be begin until a permit has been obtained. The building official shall refer the application to the city engineer, who shall review the plan to ensure that it complies with the requirements of Section 50-18.1.E. The city engineer may require additional information and may require that any information submitted be verified by a licensed engineer, licensed surveyor or other technical professional. If the application is denied, the applicant shall be given a summary of the plan's deficiencies. The ESCP permit shall be considered expired only after all construction activities are completed and the entire site is fully stabilized with 70 percent successful establishment of vegetation;

Airport environs permit.

No airport environs permit shall be issued unless all of the requirements of Section 50-18.2 have been met. A permit for a tree or structure of less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway except when such tree or structure, because of terrain, land contour

or topographic features, would violate the provisions of Section 50-18.2; Flood plain permit.

No building or zoning permit for land within any flood plain shown on the Natural Resources Overlay map in Section 50-18.1 may be issued until the building official has confirmed that the application complies with all applicable requirements of Section 50-18.1.C.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective Date: November 11, 2015)

STATEMENT OF PURPOSE: This ordinance implements two minor text amendments to Chapter 50 of the City Code, known as the Unified Development Chapter (UDC).

The proposed ordinance clarifies the approval process for temporary permits, as the language currently directs these types of permits, incorrectly, to the section for sidewalk use permits.

The proposed ordinance also increases the required distances for sidewalk cafes, and similar uses, on public sidewalks. Planning staff believe that the current minimum requirement (five feet from the curb and five feet from all street furniture) does not leave sufficient space for adequate pedestrian flow on the sidewalks, around the cafes. Proposing increasing the minimum required distance to seven feet from the curb, and six feet from all street furniture, meters, trees, etc.

The proposed changes were discussed at a published public hearing on September 8, 2015. After the public hearing was closed, the Duluth planning commission made a motion to recommend that the city council approve the recommended amendments to UDC. The vote passed with a vote of 8 yeas, 0 nays and 0 abstentions, with 1 planning commission member being absent from the meeting.

Action deadline: Not applicable

PL: 15-146

**Attachments** [Attachment 1](#)  
[Attachment 2](#)

**A motion was made that this Ordinance be adopted. The motion carried unanimously**

30. 15-084-O AN ORDINANCE AMENDING SECTION 50-20.4 INDUSTRIAL USES, 50-20.6 TEMPORARY USES, 50-26.4 FENCES AND WALLS, AND 50-41 DEFINITIONS, TO ALLOW FOR CRAFT MANUFACTURING.

The city of Duluth does ordain:

Section 1. That Section 50-19.8 of the Duluth City Code, 1959, as amended, be amended as per Attachment A, Table 50-19.8 Use Table and Table 50-19.1 Use Table Legend.

Section 2. That Section 50-20.4 of the Duluth City Code, 1959, as amended, be amended as follows:

50-20.4 Industrial uses.

Airport and related facilities.

In the R-C district, airport and related facilities are permitted only on land owned by the public or airport authority that is used for the exclusive purpose as an airport and only on land on which an airport was established on November 19, 2010;

In the I-G district, airport and related facilities are permitted only on land owned by the public or airport authority that is used for the exclusive purpose as an airport;

Contractor's shop and storage yard.

In the F-5 zone, this use is permitted only in the West Superior study area;

Electric power transmission line or substation.

The following standards shall apply, in addition to regular requirements of the special use permit process:

General corridor criteria:

The public need for the route and facility as specifically proposed shall be demonstrated;

Where possible, lines shall avoid existing and potential urban density residential neighborhoods;

The applicant shall provide an evaluation of the future needs for additional transmission lines in the same general area as the proposed route and the advisability of utilizing structures capable of expansion of transmission capacity through multiple circuiting or design modification;

When routing transmission lines, the following shall be avoided unless no reasonable alternative exists: slopes of 20 percent grade or greater; intrusions into scenic areas such as streams, open water, valleys, overviews, ridge crests and high points; wetlands; forests, by running along the fringe rather than through the forests, and by utilizing open areas in order to minimize cutting, although leaving a strip at the outside for screening purposes; soils susceptible to erosion that would create sedimentation and pollution problems; areas of unstable soils that would be subject to extensive slippages; areas with high water tables, especially if construction requires excavation; open space recreation areas, including parks, golf courses, etc.; long views of lines parallel to highways and trails; airports; and parkways;

Routes shall utilize or parallel existing railroads and highway rights-of-way if possible. If such highway rights-of-way are developed the line and structures shall be sufficiently set back and screened in order to minimize view of the line and structures from the highway;

Design criteria:

If a proposal would unduly harm adjacent property or property values, alternatives must be evaluated to determine whether a feasible alternative to the proposal exists. Such consideration of alternatives shall include the underground placement of the line. Any consideration of feasibility of such underground lines shall include economic, technological or land characteristic factors. Economic considerations alone shall not render underground placement not feasible;

All structures shall be located and designed in such a way that they are compatible with surrounding land uses, scenic views and existing transmission structures with regard to height, scale, material, color and design;

Lines shall meet or exceed the National Electric Safety Code;

Electromagnetic noise and interference with radio and television reception, as well as audible hum outside the line right of way, shall be minimized;

The cleared portion of the right-of-way shall be

t to a minimum and where vegetation will be removed, new vegetation consisting of native grasses, shrubs and low growing trees shall be planted and maintained. Vegetative screening shall be utilized to the maximum extent consistent with safety requirements;

Junk and salvage services.

Junk and salvage service operations and facilities shall comply with all state and Western Lake Superior Sanitary District requirements;

No junk or salvage service facilities, shall be permitted in a designated shoreland or flood plain zone nor in an identified wetland as these are defined or shown in Section 50-18.1, *Natural Resources Overlay*;

There shall be no burning of materials;

Major utility or wireless telecommunications facility.

Policy.

Overall policy and desired goals for special use permits for wireless telecommunications facilities. In order to ensure that the placement, construction and modification of wireless telecommunications facilities protects the city's health, safety, public welfare, environmental features, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in this Section 50-20.4.E, the city has adopted an overall policy with respect to a special use permit for wireless telecommunications facilities for the express purpose of achieving the following goals:

Requiring a special use permit for any new, co-location or modification of a wireless telecommunications facility;

Implementing an application process for person(s) seeking a special use permit for wireless telecommunications facilities;

Establishing a policy for examining an application for and issuing a special use permit for wireless telecommunications facilities that is both fair and consistent;

Promoting and encouraging, wherever possible, the sharing and co-location of wireless telecommunications facilities among service providers;

Promoting and encouraging, wherever possible, the placement, height and quantity of wireless

communications facilities in such a manner, including but not limited to the use of stealth technology, to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances;

That in granting a special use permit, the city has found that the facility shall be the most appropriate site as regards being the least visually intrusive among those available in the city;

Applicability and exemptions.

Except as otherwise provided by subsection (b) below, no person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of, wireless telecommunications facilities after July 25, 2010, without having first obtained a special use permit for wireless telecommunications facilities. All legally permitted wireless tele-commun-i-ca-tions facilities, constructed as permitted, existing on or before July 25, 2010, shall be allowed to continue as they presently exist, provided however, that any visible modification of an existing wireless telecommunications facility will require the complete facility and any new installation to comply with this Section 50-20.4.E. Any repair and maintenance of a wireless facility does not require an application for a special use permit;

The following shall be exempt from the requirements of this Section 50-20.4.E:

The city's fire, police, department of transportation or other public service facilities owned and operated by the city or those owned and operated by county, the state or federal government;

Any facilities expressly exempt from the city's siting, building and permitting authority;

Over-the-air reception devices including the reception antennas for direct broadcast satellites (DBS), multichannel multipoint distribution (wireless cable) providers

)S), television broadcast stations (TVBS) and other customer-end antennas that receive and transmit fixed wireless signals that are primarily used for reception;

Facilities exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial telecommunications;

Facilities exclusively for providing unlicensed spread spectrum technologies (such as IEEE 802.11a, b, g (Wi-Fi) and Bluetooth) where the facility does not require a new tower;

Location standards.

Wireless telecommunications facilities shall be located, sited and erected in accordance with the following priorities, (i) being the highest priority and (vii) being the lowest priority:

On existing towers or other structures on city owned properties;

On existing towers or other structures on other property in the city;

A new tower on city owned properties, other than property designated for park use, or in the Park and Open Space (P-1) District;

A new tower on city owned properties designated for park use, or in the Park and Open Space (P-1) District;

A new tower on properties in Industrial-General (I-G) and Industrial-Waterfront (I-W) districts;

A new tower on properties in form districts or mixed use districts, other than the Mixed-Use Neighborhood (MU-N) District;

A new tower on properties in residential, Mixed-Use Neighborhood (MU-N) and Airport (AP) districts;

If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site;

An applicant may not by-pass sites of higher



rity by stating the site proposed is the only site leased or selected. An application shall address co-location as an option. If such option is not proposed, the applicant must explain to the reasonable satisfaction of the city why co-location is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of commercial impracticability or hardship;

The applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application;

The city may approve any site located within an area in the above list of priorities, provided that the city finds that the proposed site is in the best interest of the health, safety and welfare of the city and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood;

Other standards and requirements.

The following requirements are applicable to all wireless telecommunications facilities.

To the extent that the holder of a special use permit for wireless telecommunications facilities has not received relief, or is otherwise exempt from appropriate state or federal agency rules or regulations, then the holder of such special use permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any state or federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards;

To the extent that applicable rules, regulations, standards and provisions of any state or federal agency, including but not limited to the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting and security are changed or are modified during the duration of

pecial use permit for wireless telecommunications facilities, then the holder of such special use permit shall conform the permitted wireless telecommunications facilities to the applicable changed or modified rule, regulation, standard or provision within a maximum of 24 months of the effective date of the applicable changed or modified rule, regulation, standard or provision, or sooner as may be required by the issuing entity;

The wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and to harmonize with the natural surroundings; this shall include the utilization of stealth or concealment technology as may be required by the city. Facilities located within the migratory bird flight path shall utilize stealth or concealment technology;

All utilities at a wireless telecommunications facilities site shall be installed underground whenever possible and in compliance with all laws, ordinances, rules and regulations of the city, including specifically, but not limited to, the city and state building and electrical codes, where appropriate;

At a telecommunications site, an access road, turn-around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion;

All wireless telecommunications facilities shall be constructed, operated, maintained, repaired, provided for removal of, modified or restored in strict compliance with all current applicable technical, safety and safety-related codes adopted by the city, state, or federal government, including but not limited to the most recent editions of the ANSI Code, as well as accepted and responsible workmanlike industry practices and recommended

actices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health and land use codes. In the event of a conflict between or among any of the preceding, the more stringent shall apply;

A holder of a special use permit granted under this Section 50-20.4.E shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the city or other governmental entity or agency having jurisdiction over the applicant;

The holder of a special use permit shall notify the city of any intended modification of a wireless telecommunication facility and shall apply to the city to modify, relocate or rebuild a wireless telecommunications facility;

All new towers shall be structurally designed to accommodate at least four additional antenna arrays equal to those of the applicant, and located as close to the applicant's antenna as possible without causing interference. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower is not technologically feasible, is commercially impracticable or creates an unnecessary and unreasonable burden, based upon:

The foreseeable number of FCC licenses available for the area;

The kind of wireless telecommunications facilities site and structure proposed;

The number of existing and potential licenses without wireless telecommunications facilities spaces/sites;

Available space on existing and approved towers;

New guyed towers are prohibited;

Tower condition inspections shall be conducted every three years for a guyed tower and five years for monopoles and self-supporting towers. All inspections shall be documented in a report such as an ANSI report as per Annex E, Tower Maintenance and Inspection Procedures,

SI/TIA/EIA-222F or most recent version. The inspection report shall be provided to the building official within two days of a request by the city for such records;

The owner of a proposed new tower, and the owner's successors in interest, shall negotiate in good faith for the shared use of the proposed tower by other wireless service providers in the future, and shall:

Respond within 60 days to a request for information from a potential shared-use applicant;

Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers;

Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference;

No tower constructed after July 25, 2010, including allowing for all attachments, shall exceed a height that shall permit operation without required artificial lighting of any kind in accordance with city, state or federal statute, law, code, rule or regulation;

No tower constructed after July 25, 2010, including allowing for all attachments, shall exceed 75 feet in height within the migratory bird flight path;

Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by law;

Towers shall be galvanized or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Section 50-20.4.E;

Wireless telecommunications facilities and antennas shall be located, fenced or otherwise

ured in a manner that prevents unauthorized access. All antennas, towers and other supporting structures, including guy anchor points and wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with. Transmitters and telecommu-nications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them;

Wireless telecommunications facilities shall contain a sign no larger than four square feet in order to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. A sign of the same size is also to be installed to contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC registration sign as applicable is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted;

All proposed towers and any other proposed wireless telecommunications facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the following distances: A distance equal to the height of the proposed tower or wireless telecommunications facility structure plus ten percent of the height of the tower or structure, or the existing setback requirement of the underlying zone district, whichever is greater. Any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated;

The applicant and the owner of record of any proposed wireless telecommunications facilities property site shall, at its cost and expense, be jointly required to execute and file with the city a bond, or other form of security acceptable to the

as to type of security and the form and manner of execution, in an amount that shall be set in accordance with Section 31-6(a) of the City Code, and with such sureties as are deemed sufficient by the city to assure the faithful performance of the terms and conditions of this Section 50-20.4.E and conditions of any special use permit issued. The full amount of the bond or security shall remain in full force and effect throughout the term of the special use permit and until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original special use permit;

A holder of a special use permit for wireless telecommunications facilities shall secure and at all times maintain for the duration of the special use permit commercial general liability insurance for personal injuries, death and property damage, and umbrella insurance coverage in the following amounts: \$1,000,000 per occurrence/\$2,000,000 aggregate;

For a wireless telecommunications facility on city property, the policy shall specifically include the city and its officers, employees, agents and consultants as additional insureds. The amounts of such coverage shall be established as a condition of the special use permit and shall be consistent with the liability limits provided in MSA 466.04;

The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with a Best's rating of at least A;

The insurance policies shall contain an endorsement obligating the insurance company to furnish the building official with at least 30 days prior written notice in advance of the cancellation of the insurance;

Renewal or replacement policies or certificates shall be delivered to the building official at least 15 days before the expiration of the insurance that such policies are to renew or replace;

No permit necessary to the site preparation or construction of a permitted wireless

ommunications facilities may be issued until the holder of the special use permit shall file with the city building official a copy of the required policies or certificates representing the insurance in the required amounts;

Notwithstanding the requirements noted in this subsection no insurance shall be required in those instances where the city, county, state or a federal agency applies for and secures a special use permit for wireless telecommunications facilities.

All special use permits approved for wireless telecommunication facilities located on city property after July 25, 2010, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the city, and its officers, employees, agents and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal or restoration of said facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the city, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the city. An indemnification provision will not be required in those instances where the city itself applies for and secures a special use permit for wireless telecommunications facilities;

Additional provisions for special use permit review.

In addition to those standards and criteria in Section 50-37.1 *Common procedures* and Section 50-37.10

*Special and interim use permits*, each application for a special use permit for a wireless telecommunications facility shall comply with the following additional standards:

(a) The city may hire any consultant or expert necessary to assist the city in reviewing and evaluating an application for a special use permit for a wireless telecommunications facility, including the construction and modification of the site, once permitted, and any site inspections. An applicant shall deposit with the city funds sufficient to reimburse the city for all reasonable costs of consultant and expert evaluation and consultation to the city in connection with the review of any application including where applicable, the lease negotiation, the pre-approval evaluation, and the construction and modification of the site, once permitted. The initial deposit shall be set in accordance with Section 31-6(a) of the City Code;

(b) The placement of the deposit with the city shall precede the pre-application meeting. The city will maintain a separate escrow account for all such funds. The city's consultants shall invoice the city for its services related to the application. The total amount of the funds needed for the review of the application may vary depending on the scope and complexity of the project, the completeness of the application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification. If at any time during the process this escrow account has a balance less than \$2,500, the applicant shall immediately, upon notification by the city, replenish said escrow account so that it has a balance of at least \$5,000. Such additional escrow funds shall be deposited with the city before any further action or consideration is taken on the application. In the event that the amount held in escrow by the city is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall, upon request of the applicant, be refunded to the applicant;

(c) The land use supervisor will administratively approve an application to collocate on an existing wireless telecommunication facility upon receiving



a complete application, if the application meets all the requirements of the Chapter and would not substantially change the physical dimensions of the wireless telecommunication facility. Substantial changes shall mean:

- (i) The mounting of the proposed antenna on the tower would increase the existing height of the tower by more than ten percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas; or
- (ii) The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or
- (ii) The mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or
- (iv) The mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property; or
- (v) The mounting of the proposed antenna would defeat the concealment elements of the eligible support structure; or
- (vi) The mounting of the proposed antenna would not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment;

- (d) At any stage prior to issuing a special use permit the city may require such additional information as it deems necessary to confirm compliance with this UDC;
- (e) The city may refer any application or part of an application to any advisory, other committee or commission for a non-binding recommendation;
- (f) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the city may disapprove an application for any of the following reasons:
- (i) Conflict with safety and safety-related codes and requirements;
  - (ii) Conflict with the historic nature or character of a neighborhood or historical district;
  - (iii) The use or construction of wireless telecommunications facilities that is contrary to an already stated purpose of a specific zoning or land use designation;
  - (iv) The placement and location of wireless telecommunications facilities that would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the city or employees of the service provider or other service providers;
  - (v) Conflicts with the provisions of this Section 50-20.4.E;
  - (vi) The failure of the applicant to provide additional requested information in sufficient time for the city to comply with the requirements of MSA 15.99;
  - (g) Except for necessary building permits, once a special use permit has been granted, no additional zoning approvals shall be required by the city for the wireless telecommunications facilities covered by the special use permit;
  - (h) In order to verify that the holder of a special use permit for wireless telecommunications facilities and any and all lessees, renters and licensees of wireless telecommunications facilities, place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building and zoning codes, laws, ordinances and regulations and other

applicable requirements, the city may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, towers, antennas and buildings or other structures constructed or located on the permitted site;

6. Relief and appeal.

Any applicant desiring relief, waiver or exemption from any aspect or requirement of this Section 50-20.4.E may request relief, waiver or exemption in the submitted application for either a special use permit, or in the case of an existing or previously granted special use permit a request for modification of its tower and/or facilities. The requested relief, and any relief granted by the city, may be temporary or permanent, partial or complete. The burden of proving the need for the requested relief, waiver or exemption is solely on the applicant to prove. The applicant shall bear all costs of the city in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that if granted, the relief, waiver or exemption will have no significant effect on the health, safety and welfare of the city, its residents and other service providers;

(Effective Date: November 11, 2015)

Manufacturing, craft.

Manufacturing, craft, artisan production shop.

(a) In the F-5 and F-7 districts, the use shall not exceed 5,000 sq. ft. in gross floor area;

(b) In the F-5 and F-7 districts, the use is permitted in all building types and on all floors;

(c) Artisan production shops shall maintain at least ten percent of the gross floor area of the facility for retail purposes;

Manufacturing, craft, artisan studio.

(a) In the F-5 and F-7 districts, the use shall not exceed 3,000 sq. ft. in gross floor area;

(b) In the F-5 and F-7 districts, this use is permitted in all building types and on all floors;

(c) Artisan studio's shall maintain at least ten percent of the gross floor area of the facility for retail purposes;

3 Manufacturing, craft, brewery or distillery.

- (a) No outdoor storage is permitted;  
(b) Access and loading areas facing any street, adjacent residential use or residential zoning district, shall have the doors closed at all times, except during movement of raw material, other supplies and finished

STATEMENT OF PURPOSE: This ordinance implements a text amendment to chapter 50 of the City Code, known as the Unified Development Chapter (UDC).

The proposed ordinance creates new land use definitions for “craft, artisan production shop”, “craft, artisan studio”, and “craft, brewery or distillery”, and use specific development standards (industrial). These new land uses are allowed as permitted uses only in the F-5 and F-7 zone districts, and the MU-B district (as recommend by the Planning Commission). It also relaxes the restriction on fences in the front yard; the current rules restrict fences to four feet in the front yard, whereas the proposed change would allow fences up to six feet in height, with some restrictions.

The proposed changes were discussed at a published public hearing on September 8, 2015. After the public hearing was closed, the Duluth planning commission made a motion to recommend that the city council approve the recommended amendments to UDC. The planning commission recommended a minor text change to the language related to allowing craft manufacturing in the MU-B zone district, which has been incorporated in this ordinance. The vote passed with a vote of 8 yeas, 0 nays and 0 abstentions, with 1 planning commission member being absent from the meeting.

PL: 15-133

**Attachments** [Attachment A](#)  
[Ordinance Cover Letter](#)  
[Motion to Split Ordinance 15-084 Larson](#)

**A motion was made that this Ordinance be adopted. The motion carried unanimously.**

31.     **15-086-O**     AN ORDINANCE AMENDING SECTIONS 50-20.3 COMMERCIAL USES, 50.20.5 ACCESSORY USES, AND 50-41 DEFINITIONS TO ALLOW FOR URBAN AGRICULTURE LAND USES.

## CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 50-20.3 of the Duluth City Code, 1959, as amended, be amended as follows:

Sec. 50-20.3. Same--Commercial uses.

Adult entertainment establishment.

All adult entertainment establishments shall comply with MSA 617.242 and Chapter 5 of this Code;

Agriculture, community garden, farmers market, general and urban.

~~No killing or dressing of poultry, rabbits or other small or large animals, fish or creatures shall be permitted, other than the animals, fish or creatures raised on the premises and that such killing or dressing is done in an accessory building located not less than 200 feet from any lot line;~~

~~All buildings and enclosures, including fences, for the feeding, breeding or milking of large livestock or small animals, such as poultry, rabbits, fish and other similar animals, but not including pasturing and grazing, of such animals, must be located not less than 200 feet from any lot line;~~

Agriculture, community garden.

(a) Compost bins, water tanks, and other containers shall be controlled for odors and pests and shall be screened from view by adjacent properties and any public right-of-way with a fence at least as tall as the container, or with shrubs, trees, and/or perennials planted so that at maturity they will provide at least 75 percent opacity to the height of the container. If not visible from a public right-of-way or adjacent property, this screening is not required;

(b) If a primary structure is present, accessory structures shall follow requirements in Section 50-21. If no primary structure is present, structures shall be allowed no closer than 20 feet from the front property line, three feet from any side property line, and five feet from the rear property line. No accessory structure shall exceed 20 feet in height;

(c) Fences must adhere to restrictions in Section 50-26.4;

(d) No sale of produce or other goods is allowed;

(e) Events such as weddings, parties and other activities normally associated with an event center, religious assembly, or other use that typically holds large events,

are not allowed unless permitted within the zone district;

(f) For outdoor growing operations, mechanized equipment similar in scale to that designed for household use shall be permitted. Use of larger mechanized farm equipment is generally prohibited; provided, however, that during the initial preparation of the land, heavy equipment may be used;

(g) Keeping of bees is permitted, as regulated by Chapter 6 of the City Code. Keeping of all other animals is prohibited;

(h) All tools and equipment shall be stored in an enclosed, secured structure; Agriculture, farmers market.

(a) Farmers markets are only allowed between the hours of 7:00 a.m. to 7:00 p.m.;

(b) As part of the special use permit process, planning commission shall determine that the farmer's market will provide adequate on-site parking, or that sufficient public parking exists nearby;

(c) Sales shall be limited to no more than three days per week; Agriculture, general.

(a) No killing or dressing of poultry, rabbits or other small or large animals, fish or creatures shall be permitted, other than the animals, fish or creatures raised on the premises and that such killing or dressing is done in an accessory building located not less than 200 feet from any lot line;

(b) All buildings and enclosures, including fences, for the feeding, breeding or milking of large livestock or small animals, such as poultry, rabbits, fish and other similar animals, but not including pasturing and grazing, of such animals, must be located not less than 200 feet from any lot line;

(c) Any production or processing of cheese, honey or other products raised on the farm must be done inside a building and in accordance with all state regulations;

Agriculture, urban.

(a) Compost bins, water tanks, and other containers shall be controlled for odors and pests and shall be screened from view by adjacent properties and any public right-of-way with a fence at least as tall as the container, or with shrubs, trees, and/or perennials planted so that at maturity they will provide at least 75 percent opacity to the height of the container. If not visible from a public right-of-way or adjacent property, this screening is not required;

(b) If a primary structure is present, accessory structures, including ones of a temporary nature such as hoop houses, shall follow requirements in Section 50-21;

(c) For urban agriculture uses where operations are

primarily conducted within a building, such as a greenhouse or hydroponic operation, such building shall be considered the primary building and not an accessory building. For urban agriculture uses where operations are primarily conducted outside, structures (including ones of a temporary nature such as hoop houses) shall be allowed no closer than 20 feet from the front property line, three feet from any side property line, and five feet from the rear property line. No accessory structure shall exceed 20 feet in height, and accessory structures shall not exceed more than 30 percent of the lot area;

(d) Fences must adhere to restrictions in Section 50-26.4;

(e) No sale of produce or other goods is allowed;

(f) Events such as weddings, parties and other activities normally associated with an event center, religious assembly, or other use that typically holds large events, are not allowed unless permitted within the zone district;

(g) For outdoor growing operations, mechanized equipment similar in scale to that designed for household use shall be permitted. Use of larger mechanized farm equipment is generally prohibited; provided, however, that during the initial preparation of the land, heavy equipment may be used;

(h) Keeping of fish for aquaculture or aquaponics is allowed, subject to any conditions of the special use permit. Keeping of chickens, rabbits and bees is permitted, as regulated by Chapter 6 of the City Code. Keeping of all other animals is prohibited unless specifically approved in the City Code;

(i) All tools and equipment shall be stored in an enclosed, secured structure;

Automobile and light vehicle repair and service.

No displays or storage of merchandise, parts or refuse may be located closer than 20 feet from any public right-of-way;

A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district;

All areas for outdoor storage of automobiles or light vehicles shall be screened from adjacent properties by a dense urban screen regardless of the use on the adjacent property;

Automobile or light vehicle sales, rental or storage.

In the MU-C district, the use is permitted when located at least 100 feet from any R district;

Bank.

When in the MU-N district, the following standards apply:

The speaker box and drive-through window must be at least 50 feet from any property line containing a

tial structure;

Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend;

Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing or a dense urban screen;

The land use supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;

Banks are limited to no more than two drive-through windows and one drive-through lane for ATM services on the premises;

Any drive-through lane that is located between a bank and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open past 10:00 p.m.;

Banks in the R-P, F-1, F-3, F-5, F-6, F-7, F-8 or F-9 districts may not have drive-through facilities;

Drive-through lanes shall allow for stacking space for three cars;

Bed and breakfast.

This is a primary use of land, and the owner need not reside in the use. The use shall:

Have no more than 12 habitable units;

If located in a residential zone district, the use shall appear outwardly to be a one-family dwelling, giving no appearance of a business use other than allowed signs;

If located in a residential zone district, the use shall have no greater impact on surrounding public areas or infrastructure or natural resources than a fully occupied private home with house guests;

Be located on a lot or tract containing a minimum of 0.6 acre;

Contain a minimum of 1,500 square feet of area on the first floor of the main building;

Dining areas shall not exceed five seats per habitable unit. In addition to resident guests, only guests of resident guests shall be permitted to dine in a bed and breakfast, or guests participating in meetings or other private events hosted by the facility when other overnight guests are not present, not to exceed the approved seating capacity of the facility. For-profit events on the premises that involve a total number of participants in excess of the approved dining area seating capacity shall be limited to six days per year and shall be restricted to the period of October 15 through June 15;

Shall not have signage exceeding 12 square feet in size,



any signage shall complement the architecture of the structure;  
Shall limit each guest stay to a maximum of 21 consecutive days;  
Building materials sales.

Outdoor storage is limited to ten percent of the parcel's land area, and shall not be permitted in any required front yard area;

Each such area shall be screened from view from any ground floor window or door on any adjacent property, and from all adjacent rights-of-way, by an opaque fence or wall between six feet and eight feet in height. The fence may exceed eight feet in height where the difference in grade between the property line or right-of-way and the outdoor storage area makes a taller fence necessary to effectively screen the area;

A landscaped earth berm may be used instead or in combination with a required fence or wall;

Convention center.

A convention center may not exceed 50,000 square feet if it is within 500 feet of a multi-family use, or 15,000 square feet if it is within 500 feet of a one or two family use;

Daycare facility, small and large.

In the RR-1 and RR-2 districts this use and related parking facilities and structures other than driveways are limited to no more than 20 percent of the lot or parcel area;

Filling station.

No displays or storage of merchandise, parts or refuse may be located closer than ten feet from any public right-of-way;

A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district;

Grocery store, small and large.

Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas;

Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock;

Mini-storage facility.

This use shall comply with the following standards:

The use shall be contained within an enclosed building or buildings;

If the use abuts a residential zone district on any property line, building architecture shall employ sloped roofs and shall display wall relief features and colors commonly found in residential construction;

The use shall be designed so that doors to individual storage units do not face any abutting street frontage;

At least 50 percent of the wall surface area of any wall facing an abutting public street shall be faced with brick or split-block materials. Exposed concrete masonry unit (CMU) construction is not permitted on those facades;

Hours of public access to mini-storage units abutting one or more residential zone districts shall be restricted to the period from 6:00 a.m. to 10:00 p.m.;

Signage shall be limited to one 40 square foot illuminated pole and 20 square feet of non-illuminated wall signage. Signs shall not be located closer than ten feet to the front property line and no closer than 50 feet to any side property line;

Mini-storage facilities are only allowed on properties within the RR-1 district that are also within the Airport Overlay District Safety Zone B. There shall be a minimum of 50 feet of landscaped or naturally vegetated buffer from all property lines;

In the R districts a dense urban screen shall be installed along all side and rear property lines;

Office.

In the MU-I district, offices are limited to those in support of the permitted institutional uses in the district; general offices unrelated to the activities of those institutions are not permitted;

In the MU-B district, offices are limited to those in support of the permitted industrial uses in that zone district; general offices unrelated to the activities of those institutions are not permitted;

In the F-6 district, offices may not have drive-through facilities;

Other outdoor entertainment or recreation use not listed.

No circus ground, carnival ground, event ground, or amusement park shall be approved within 300 feet of an R-C, RR-2 or R district;

Parking lot or parking structure (primary use).

In the MU-C district, any parking structure shall be located at least 50 feet from any RC, RR or R district;

In F-1, F-2, F-3, F-4, F-6, F-8 and F-9 districts, only parking lots are allowed as primary uses. In F-7, only parking structures are allowed as primary uses. In F-5, parking lots and parking structures are allowed as primary uses;

Parking lots (primary use) are stand alone and self-contained, separate and distinct from other adjacent land uses. They need to conform to UDC requirements, such as lot frontage and drive aisle width, independent of adjacent properties;

Recreational vehicle (RV) park.

Within any flood plain district, recreational vehicles that

not meet the exemption criteria specified in Subsection 2 below shall be subject to the elevation and anchoring provisions of Section 50-18.1.C for new structures;

Criteria for exempt recreational vehicles:

- (a) The vehicle must have a current license required for highway use;
- (b) The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks;
- (c) No permanent structural type additions may be attached to the vehicle;
- (d) The vehicle and associated use must be permissible in any pre-existing, underlying zoning district;
- (e) Accessory structures are not permitted within the floodway district. Any accessory structure in the flood fringe district must be constructed of flood-resistant materials and be securely anchored as specified in Section 50-18.1.C.3.v;
- (f) Cost of an accessory structure must not exceed \$500;

Recreational vehicles that are exempt in Section 50-20.3.P.2 lose this exemption when development occurs on the site exceeding \$500 for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as a new structure and shall be subject to the elevation/floodproofing requirements and the land use standards specified in Section 50-18.1.C.3(C) of this ordinance [Chapter]. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle to a flood-free location;

New commercial recreational vehicle parks or campgrounds, subdivisions or condominium associations, and the expansion of any similar existing use exceeding five units or dwelling sites may be allowed subject to the following:

On any new or replacement recreational vehicle site in the flood fringe district, the recreational vehicle and its contents must be placed on fill above the regulatory flood protection elevation and adequate road access to the site must be provided in accordance with Section 50-18.1.C.5(d). No fill placed in the floodway to meet the requirements of this section shall increase the flood stage of the regional flood;

Any new or replacement recreational vehicle site located in the floodway district, or as an alternative to

) above in the flood fringe district, may be allowed as a special use in accordance with the following provisions and the provisions of Section 50-37.10;

The applicant must submit an emergency plan for the safe evacuation of all vehicles and people acceptable to the city council as specified in Section 50-18.1.C.5(d). The plan shall demonstrate that adequate time and personnel exist to carry out an evacuation, and that all vehicles will meet the exemption criteria specified in Section 50-20.Q.2 above; and

All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding;

Restaurant.

In the R-2 and MU-N district, no use shall exceed 5,000 sq. ft. in gross floor area;

Drive-ins and drive-throughs for restaurants are only allowed in the MU-N, MU-C, MU-B, MU-P, F-2, F-3, F-4, and F-5 zone districts;

Drive-through lanes shall allow for stacking space for 5 cars;

When in the MU-N district, the following additional standards apply:

The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;

Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend;

Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing, or a dense urban screen;

The land use supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;

Restaurants are limited to one drive through lane and one speaker box;

When in the F-3 and F-5 districts, the following additional standards apply;

Access to and from the drive-through must be through the alley, if alley exists;

Restaurants are limited to one drive through lane;

Retail sales, small and large.

Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas;

Outdoor display is for the temporary display of

merchandise and not for the permanent storage of stock;  
Retail stores are limited to one drive-through window;  
Any drive-through lane that is located between a retail store and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open past 10:00 p.m.;  
Drive-through lanes shall allow for stacking space for three cars;  
When in the MU-N district, the following standards apply:  
The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;  
Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend;  
Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing, or a dense urban screen;  
The land use supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;  
Seasonal camp or cabin.  
In the R-C and RR-1 districts, buildings shall be located not less than 200 feet from any R district;  
In the R-C district, the design of the site shall preserve the rural character by:  
Separating each camp or cabin site by at least 50 feet, measured from the closest points on each tent or cabin area;  
Preserving all natural vegetation not required to be removed for access roads, trails or public safety;  
Using gravel or pervious paving, rather than impervious materials, for all access road and driveways serving fewer than 25 camp or cabin sites;  
Veterinarian or animal hospital.  
In the R-C and RR-1 districts, this use is permitted provided that service is limited to large livestock/large animal care and any building or enclosure so used shall be located not less than 100 feet from any lot line;  
In the R-2, R-P, MU-N and MU-C districts, this use is permitted provided that practice is limited to the treatment of small animals (household pets, i.e. dogs, cats, birds, that are ordinarily permitted in the house for company) and that all aspects of the facility are totally contained (including kennel runs and exercise areas) within a soundproof building with adequate ventilation;  
Vacation dwelling unit.

The minimum rental period shall as follows:

For properties zoned RR-1, RR-2, R-1 and R-P the minimum rental period shall not be less than two nights except for the period from June 15 to September 15 when the minimum rental period shall not be less than five nights;

For properties zoned R-2, MU-N and F-5 the minimum rental period shall not be less than two nights except for the period from June 15 to September 15 when the minimum rental period shall not be less than three nights;

The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two;

Off street parking shall be provided at the following rate:

1-2 bedroom unit, one space;

3-4 bedroom unit, two spaces;

5+ bedroom unit, three spaces;

Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street;

The property owner must obtain all licenses and permits from the city of Duluth and state of Minnesota required for guest occupancy on the property for three to 21 days;

The property owner must provide required documents and adhere to additional requirements listed in the city of Duluth's UDC application manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures;

The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first.

Section 2. That Section 50-20.5 of the Duluth City Code, 1959, as amended, be amended as follows:

50-20.5 Accessory uses.

Accessory agriculture roadside stand.

Only one stand offering for sale farm products produced on the premises is permitted provided that such stand does not exceed an area of 200 square feet and that it is located not nearer than 25 feet to any street or highway;

Accessory bed and breakfast.

The owner and operator of an accessory bed and breakfast shall be required to live in the establishment. In addition, the use shall:

Have no more than five habitable units;

Appear outwardly to be a one-family dwelling, giving no appearance of a business use other than allowed signs;

Have no greater impact on surrounding public areas, infrastructure or natural resources than a fully occupied private home with house guests;

Be located on a lot or tract containing a minimum of 0.6 acre;

Contain a minimum of 1,500 square feet of area on the first floor of the main building;

Dining areas shall not exceed three seats per habitable unit in bed and breakfast inns. In addition to resident guests, only guests of resident guests shall be permitted to dine in a bed and breakfast, or guests participating in meetings or other private events hosted by the facility when other overnight guests are not present, not to exceed the approved seating capacity of the facility. For profit events on the premises that involve a total number of participants in excess of the approved dining area seating capacity shall be limited to six days per year and shall be restricted to the period of October 15 through June 15;

Shall not have signage exceeding 12 square feet in size, and any signage shall complement the architecture of the structure;

Shall limit each guest stay to a maximum of 21 consecutive days;

May be subject to other conditions deemed necessary by the city to ensure the use complies with the purpose of this subsection;

Accessory boat dock, residential.

This use shall comply with the following standards:

Dockage of boats owned and primarily used by a resident of the property is a permitted accessory use to the primary residential use and shall not be limited in number;

If there is a residential structure on the property and the property has frontage on an improved street, the owner of the residential structure may rent out boat dockage to a maximum of two boats owned by others. If the property does not have frontage on an improved street, the owner of the residential structure may not rent dockage space to others. Boat dockage use on a property that is not residentially developed is permitted as a principal use provided that the use is limited to one boat for each lot or group of contiguous lots in the same ownership, and the boat is owned and primarily used by the owner of the property;

For each new rental boat dock space created or made legal after April 14, 1974, one off street parking space shall be provided in addition to all other off street parking

ces required by other legal uses of the property, such spaces to be constructed in accordance with Section 50-24;

At the request of the building official, the owner of property shall provide boat registration or other documentary evidence to prove compliance with these standards;

No buildings other than residential or residential accessory structures, no winter storage of boats other than those owned by a resident of the property in question, no repair facilities, fuel sales, food or refreshment sales, rentals of boats, boat or parts sales or displays or other commercial uses shall be permitted;

Accessory dwelling unit.

An accessory dwelling unit may be created within, or detached from, any one-family dwelling, as a subordinate use, in those districts shown in Table 50-19.8, provided the following standards are met:

Only one accessory dwelling unit may be created per lot;

No variances shall be granted for an accessory dwelling unit;

Only the property owner, which shall include title holders and contract purchasers, may apply for an accessory dwelling unit;

One off-street parking space shall be provided in addition to off-street parking that is required for the primary dwelling;

Accessory dwelling units shall contain no more than 800 square feet of floor space and shall be consistent in character and design with the primary dwelling;

If a separate outside entrance is necessary for an accessory dwelling unit located within the primary dwelling, that entrance must be located either on the rear or side of the building;

Accessory heliport.

All accessory heliports shall have and maintain in effect at all times all required permits and approvals, if any, for the facility and operation required by the FAA, and shall design and maintain the facility and conduct operations in compliance with those permits and approvals;

In the R-C and I-G districts, this use shall be permitted only when it is accessory to an airport as a primary use;

Accessory home occupation.

All home occupations not listed separately in Table 50-19.8 must comply with the following standards:

The use must be conducted entirely in the residence or accessory buildings and not on outdoor portions of the lot, except that the growing of food crops or ornamental crops, to be sold or donated off-site, shall be exempt from this provision;



No business involving retail sales of goods from the premises is permitted;  
No person not a member of the family residing on the premises shall work on the premises;

Not more than 25 percent of the floor area of one story of the dwelling shall be devoted to such home occupation and not more than 50 percent of an accessory structure may be devoted to such home occupation;

The home occupation shall not require external alterations that would change the residential character of the property;

No display pertaining to such occupation shall be visible from the street;

The use of the property for a home occupation shall not result in the number of client appointments at the property in excess of two appointments per hour and appointments shall be limited to the hours of 8 a.m. to 7 p.m. and not more than four clients shall be on site at the same time;

No equipment shall be used that creates offensive noise, vibration, sound, smoke, dust, odors, heat, glare, X-ray or electrical disturbance to radio or television or that otherwise constitutes a nuisance;

All home occupations that require a license from the state shall maintain a valid license at all times and shall operate in compliance with the terms of that license and all applicable regulations of the state at all times;

. No motor vehicle repair is permitted as an accessory home occupation and repair of motor vehicles not registered to the owner or leaseholder of the property is prohibited regardless of whether the repair is being made for compensation;

Accessory sidewalk dining area.

In all districts, this use requires approval of a sidewalk use permit pursuant to Section 50-37.12;

Accessory solar or geothermal power equipment.

In all districts, other than building integrated solar collection systems, solar collection systems shall comply with the following requirements:

Ground-mounted solar system.

Solar collectors shall not be located in the front yard between the principal structure and the public right-of-way;

Solar collectors shall be located a minimum of six feet from all property lines and other structures;

Solar collector areas in any residential district shall not exceed the greater of one-half the footprint of the principal structure or 600 square feet, whichever is greater. The size of solar collector areas in all

ripts except residential districts shall not exceed one-half of the footprint of the principal structure;

Free-standing or ground-mounted solar installations shall not exceed 20 feet in height, when the system is oriented at its maximum design pitch;

Roof-mounted or wall-mounted solar system.

A solar collection system shall be located a minimum of six feet from all property lines and other structures except the structure on which it is mounted;

Notwithstanding the height limitations of the zoning district, building-mounted solar energy systems shall not extend higher than three feet above the ridge level of a roof on a structure with a gable, hip or gambrel roof and shall not extend higher than ten feet above the surface of the roof when installed on a flat or shed roof;

The solar collector surface and mounting devices for building-mounted solar energy systems shall be set back not less than one foot from the exterior perimeter of a roof for every one foot that the system extends above the parapet wall or roof surface, if no parapet wall exists, on which the system is mounted. Solar energy systems that extend less than three feet above the roof surface shall be exempt from this provision;

A solar collection system may be located on an accessory structure;

Solar easements.

A property owner who has installed or intends to install a solar collection system shall be responsible for negotiating with other property owners in the vicinity for any necessary solar easement and shall record the easement with the county recorder. If no such easement is negotiated and recorded, the owner of the solar collector shall have no right to prevent the construction of structures permitted by this Chapter on nearby properties on grounds that the construction would cast shadows on the solar collection system;

Accessory uses or structures not listed elsewhere.

In any residential district, any accessory building that is erected prior to the construction of the principal building shall comply with the following conditions:

The construction of the principal building shall be completed and the certificate of occupancy for such principal use issued within two years of issuance of the building permit for the accessory building;

Prior to issuance of a building per

STATEMENT OF PURPOSE: This ordinance implements a text amendment to Chapter 50 of the City Code, known as the Unified

Development Chapter (UDC). The proposed ordinance clarifies use specific development standards for urban agriculture and general agriculture. The proposed changes were discussed at a published public hearing on September 8, 2015. After the public hearing was closed, the Duluth planning commission made a motion to recommend that the city council approve the recommended amendments to UDC. The vote passed with a vote of 8 yeas, 0 nays and 0 abstentions, with 1 planning commission member being absent from the meeting.

President Larson moved to table the ordinance, which motion was seconded and unanimously carried.

**This Ordinance was tabled.**

32. 15-085-O AN ORDINANCE AMENDING SECTIONS 50-19.8 USE TABLE, AND 50-20.3 COMMERCIAL USES, RELATED TO DRIVE-THROUGHS FOR BANKS, RESTAURANTS AND RETAIL STORES, AND PRIMARY USE PARKING LOTS, IN THE MU-N ZONE DISTRICT

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 50-19.8 of the Duluth City Code, 1959, as amended, be amended as follows:

*[See Attachment 1, Table 50-19.8 Use Table and Table 50-19.1 Use Table Legend]*

Section 2. That Section 50-20.3 of the Duluth City Code, 1959, as amended, be amended as follows:

Sec. 50-20.3. Same--Commercial uses.

Adult entertainment establishment.

All adult entertainment establishments shall comply with MSA 617.242 and Chapter 5 of this Code;

Agriculture, general.

No killing or dressing of poultry, rabbits or other small or large animals, fish or creatures shall be permitted, other than the animals, fish or creatures raised on the premises and that such killing or dressing is done in an accessory building located not less than 200 feet from any lot line;

All buildings and enclosures, including fences, for the feeding, breeding or milking of large livestock or small animals, such as poultry, rabbits, fish and other similar animals, but not including pasturing and grazing, of such animals, must be located not less than 200 feet from any lot line;

Automobile and light vehicle repair and service.

No displays or storage of merchandise, parts or refuse may be located closer than 20 feet from any public right-of-way;

A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district;

All areas for outdoor storage of automobiles or light vehicles shall be screened from adjacent properties by a dense urban screen regardless of the use on the adjacent property;

Automobile or light vehicle sales, rental or storage.

In the MU-C district, the use is permitted when located at least 100 feet from any R district;

Bank.

When in the MU-N district, the following standards apply:

The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;

Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend.

Drive-through may be open at 6:00 a.m. during the weekday or at 7:00 a.m. on the weekend only if all speaker boxes and drive-through windows are at least 125 feet from any residential structure, excluding any residential use or structure on the same property or within the same development;

Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing or a dense urban screen;

The land use supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;

Banks are limited to no more than two drive-through windows and one drive-through

· ATM services on the premises;

Any drive-through lane that is located between a bank and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open past 10:00 p.m.;

Banks in the R-P, F-1, F-3, F-5, F-6, F-7, F-8 or F-9 districts may not have drive-through facilities;

Drive-through lanes shall allow for stacking space for three cars;

Bed and breakfast.

This is a primary use of land, and the owner need not reside in the use. The use shall:

Have no more than 12 habitable units;

If located in a residential zone district, the use shall appear outwardly to be a one-family dwelling, giving no appearance of a business use other than allowed signs;

If located in a residential zone district, the use shall have no greater impact on surrounding public areas or infrastructure or natural resources than a fully occupied private home with house guests;

Be located on a lot or tract containing a minimum of 0.6 acre;

Contain a minimum of 1,500 square feet of area on the first floor of the main building;

Dining areas shall not exceed five seats per habitable unit. In addition to resident guests, only guests of resident guests shall be permitted to dine in a bed and breakfast, or guests participating in meetings or other private events hosted by the facility when other overnight guests are not present, not to exceed the approved seating capacity of the facility. For-profit events on the premises that involve a total number of participants in excess of the approved dining area seating capacity shall be limited to six days per year and shall be restricted to the period of October 15 through June 15;

Shall not have signage exceeding 12 square feet in size, and any signage shall complement the architecture of the structure;

Shall limit each guest stay to a maximum of 21 consecutive days;

Building materials sales.

Outdoor storage is limited to ten percent of the parcel's land area, and shall not be permitted in any required front yard area;

Each such area shall be screened from view from any ground floor window or door on any adjacent property, and from all adjacent rights-of-way, by an opaque fence or wall between six feet and eight feet in height. The fence may exceed eight feet in height where the difference in grade between the property line or right-of-way and the outdoor storage area makes a taller fence necessary to effectively screen the area;

A landscaped earth berm may be used instead or in combination with a required fence or wall;

Convention center.

A convention center may not exceed 50,000 square feet if it is within 500 feet of a multi-family use, or 15,000 square feet if it is within 500 feet of a one or two family use;

Daycare facility, small and large.

In the RR-1 and RR-2 districts this use and related parking facilities and structures other than driveways are limited to no more than 20 percent of the lot or parcel area;

Filling station.

No displays or storage of merchandise, parts or refuse may be located closer than ten feet from any public right-of-way;

A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district;

Grocery store, small and large.

Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas;

Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock;

Mini-storage facility.

This use shall comply with the following standards:

The use shall be contained within an enclosed building or buildings;

If the use abuts a residential zone district on any property line, building architecture shall employ sloped roofs and shall display wall relief features and colors commonly found in residential construction;

The use shall be designed so that doors to individual storage units do not face any abutting street frontage;

At least 50 percent of the wall surface area of any wall facing an abutting public street shall be faced with brick or split-block materials. Exposed concrete masonry unit (CMU) construction is not permitted on

se facades;

Hours of public access to mini-storage units abutting one or more residential zone districts shall be restricted to the period from 6:00 a.m. to 10:00 p.m.;

Signage shall be limited to one 40 square foot illuminated pole and 20 square feet of non-illuminated wall signage. Signs shall not be located closer than ten feet to the front property line and no closer than 50 feet to any side property line;

Mini-storage facilities are only allowed on properties within the RR-1 district that are also within the Airport Overlay District Safety Zone B. There shall be a minimum of 50 feet of landscaped or naturally vegetated buffer from all property lines;

In the R districts a dense urban screen shall be installed along all side and rear property lines;

Office.

In the MU-I district, offices are limited to those in support of the permitted institutional uses in the district; general offices unrelated to the activities of those institutions are not permitted;

In the MU-B district, offices are limited to those in support of the permitted industrial uses in that zone district; general offices unrelated to the activities of those institutions are not permitted;

In the F-6 district, offices may not have drive-through facilities;

Other outdoor entertainment or recreation use not listed.

No circus ground, carnival ground, event ground, or amusement park shall be approved within 300 feet of an R-C, RR-2 or R district;

Parking lot or parking structure (primary use).

~~In the MU-C district, any parking structure shall be located at least 50 feet from any RC, RR or R district;~~

~~In F-1, F-2, F-3, F-4, F-6, F-8 and F-9 districts, only parking lots are allowed as primary uses. In F-7, only parking structures are allowed as primary uses. In F-5, parking lots and parking structures are allowed as primary uses;~~

~~3. Parking lots (primary use) are stand alone and self-contained, separate and distinct from other adjacent land uses. They need to conform to UDC requirements, such as lot frontage and drive aisle width, independent of adjacent properties;~~

Parking lots.

(a) Parking lots (primary use) shall be stand alone and

self-contained, separate and distinct from other adjacent land uses. They need to conform to UDC requirements, such as lot frontage and drive aisle width, independent of adjacent properties;

(b) When in the MU-N district, the following standards apply:

(i) Primary use parking lots shall meet all the street landscaping provisions in Section 50-25.3 as applicable. In addition, primary use parking lots shall be screened from adjacent structures and uses. Such screening shall consist of a continuous, view-obscuring fence, wall or compact evergreen hedge along all property lot lines which are adjacent to residential structures and uses, which shall be broken only for egress and access driveways and walkways. Such fence, wall or hedge shall be not less than four feet nor more than six feet in height;

(ii) Primary use parking lots shall meet all the landscaping provisions in Section 50-25.4, as applicable. In addition, regardless of the number of parking spaces provided, the parking lot must set aside at least 15 percent of the interior parking area for landscaping islands;

(iii) If the primary use parking lot abuts an improved public alley, driveway access must be provided to the alley;

(iv) Primary use parking lots must be designed to be a similar lot size as other lots in the neighborhood, and shall not alter the essential character of the neighborhood;

Parking structures.

(a) In the MU-C district, any parking structure shall be located at least 50 feet from any RC, RR or R district;

Recreational vehicle (RV) park.

Within any flood plain district, recreational vehicles that do not meet the exemption criteria specified in Subsection 2 below shall be subject to the elevation and anchoring provisions of Section 50-18.1.C for new structures;

Criteria for exempt recreational vehicles:

(a) The vehicle must have a current license required for highway use;



(b) The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks;

(c) No permanent structural type additions may be attached to the vehicle;

(d) The vehicle and associated use must be permissible in any pre-existing, underlying zoning district;

(e) Accessory structures are not permitted within the floodway district. Any accessory structure in the flood fringe district must be constructed of flood-resistant materials and be securely anchored as specified in Section 50-18.1.C.3.v;

Cost of an accessory structure must not exceed \$500;

Recreational vehicles that are exempt in Section 50-20.3.P.2 lose this exemption when development occurs on the site exceeding \$500 for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as a new structure and shall be subject to the elevation/floodproofing requirements and the land use standards specified in Section 50-18.1.C.3(C) of this ordinance [*Chapter*]. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle to a flood-free location;

New commercial recreational vehicle parks or campgrounds, subdivisions or condominium associations, and the expansion of any similar existing use exceeding five units or dwelling sites may be allowed subject to the following:

On any new or replacement recreational vehicle site in the flood fringe district, the recreational vehicle and its contents must be placed on fill above the regulatory flood protection elevation and adequate road access to the site must be provided in accordance with Section 50-18.1.C.5(d). No fill placed in the floodway to meet the requirements of this section shall increase the flood stage of the regional flood;

Any new or replacement recreational vehicle site located in the floodway district, or as an alternative to 4.(a) above in the flood fringe district, may be

wed as a special use in accordance with the following provisions and the provisions of Section 50-37.10:

The applicant must submit an emergency plan for the safe evacuation of all vehicles and people acceptable to the city council as specified in Section 50-18.1.C.5(d). The plan shall demonstrate that adequate time and personnel exist to carry out an evacuation, and that all vehicles will meet the exemption criteria specified in Section 50-20.Q.2 above; and

All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding;

Restaurant.

In the R-2 and MU-N district, no use shall exceed 5,000 sq. ft. in gross floor area;

Drive-ins and drive-throughs for restaurants are only allowed in the MU-N, MU-C, MU-B, MU-P, F-2, F-3, F-4, and F-5 zone districts;

Drive-through lanes shall allow for stacking space for 5 cars;

When in the MU-N district, the following additional standards apply:

The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;

Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend.

Drive-through may be open at 6:00 a.m. during the weekday or at 7:00 a.m. on the weekend only if all speaker boxes and drive-through windows are at least 125 feet from any residential structure, excluding any residential use or structure on the same property or within the same development;

Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing, or a dense urban screen;

The land use supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;

Restaurants are limited to one drive through lane and one speaker box;  
When in the F-3 and F-5 districts, the following additional standards apply;  
Access to and from the drive-through must be through the alley, if alley exists;  
Restaurants are limited to one drive through lane;  
Retail sales, small and large.  
Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas;  
Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock;  
Retail stores are limited to one drive-through window;  
Any drive-through lane that is located between a retail store and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open part 10:00 p.m.;  
5 Drive-through lanes shall allow for stacking space for three cars;  
When in the MU-N district, the following standards apply:  
The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;  
Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend.  
Drive-through may be open at 6:00 a.m. during the weekday or at 7:00 a.m. on the weekend only if all speaker boxes and drive-through windows are at least 125 feet from any residential structure, excluding any residential use or structure on the same property or within the same development;  
Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing, or a dense urban screen;  
The land use supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;  
Seasonal camp or cabin.

In the R-C and RR-1 districts, buildings shall be located not less than 200 feet from any R district;

In the R-C district, the design of the site shall preserve the rural character by:

Separating each camp or cabin site by at least 50 feet, measured from the closest points on each tent or cabin area;

Preserving all natural vegetation not required to be removed for access roads, trails or public safety;

Using gravel or pervious paving, rather than impervious materials, for all access road and driveways serving fewer than 25 camp or cabin sites;

Veterinarian or animal hospital.

In the R-C and RR-1 districts, this use is permitted provided that service is limited to large livestock/large animal care and any building or enclosure so used shall be located not less than 100 feet from any lot line;

In the R-2, R-P, MU-N and MU-C districts, this use is permitted provided that practice is limited to the treatment of small animals (household pets, i.e. dogs, cats, birds, that are ordinarily permitted in the house for company) and that all aspects of the facility are totally contained (including kennel runs and exercise areas) within a soundproof building with adequate ventilation;

Vacation dwelling unit.

The minimum rental period shall as follows:

For properties zoned RR-1, RR-2, R-1 and R-P the minimum rental period shall not be less than two nights except for the period from June 15 to September 15 when the minimum rental period shall not be less than five nights;

For properties zoned R-2, MU-N and F-5 the minimum rental period shall not be less than two nights except for the period from June 15 to September 15 when the minimum rental period shall not be less than three nights;

The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two;

Off street parking shall be provided at the following rate:

1-2 bedroom unit, one space;

3-4 bedroom unit, two spaces;

5+ bedroom unit, three spaces;

Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street;

The property owner must obtain all licenses and permits from the city of Duluth and state of Minnesota required for guest occupancy on the property for three to 21 days;

The property owner must provide required documents and adhere to additional requirements listed in the city of Duluth's UDC application manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures;

The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective Date: November 11, 2015)

**STATEMENT OF PURPOSE:** This ordinance implements two text amendments to Chapter 50 of the City Code, known as the Unified Development Chapter (UDC).

The proposed ordinance allows the land use "primary use parking lot" as a special use in the MU-N district. The current UDC does not allow this use in the Mixed Use Neighborhood district out of concern for potential land use conflicts, such as noise and light, between the parking lot and any adjacent residential uses. This amendment allows primary use parking lots in the MU-N zone district, but any new primary use parking lots would have higher landscaping standard than primary use parking lots in other zone districts, and would require a special use permit (and a public hearing in front of the planning commission).

The proposed ordinance also allows for increased hours of operation for drive-throughs in the MU-N district. This text change allows drive-throughs to be open an hour earlier (6 a.m. instead of 7 a.m. on weekdays, and 7 a.m. instead of 8 a.m. on weekends), but only if there is at least 125 feet from the drive-through to the nearest residential structure (note that the ordinance reviewed by the planning commission had originally stated 150 feet).

The proposed changes were discussed at a published public hearing on

September 8, 2015. After the public hearing was closed, the Duluth planning commission made a motion to recommend that the city council approve the recommended amendments to UDC. The planning commission recommended a minor text change to the language related to primary use parking lots and screening, which has been incorporated in this ordinance. The vote passed with a vote of 8 yeas, 0 nays and 0 abstentions, with 1 planning commission member being absent from the meeting.

Action deadline: Not applicable

PL: 15-135

**Attachments** [Attachment 1](#)  
[Cover Letter](#)

**A motion was made that this Ordinance be adopted. The motion carried unanimously.**

#### **COUNCILOR QUESTIONS AND COMMENTS**

**The meeting was adjourned at 7:21 p.m.**



# City of Duluth

411 West First Street  
Duluth, Minnesota 55802

## Minutes

### City Council

**MISSION STATEMENT:** *The mission of the Duluth City Council is to develop effective public policy rooted in citizen involvement that results in excellent municipal services and creates a thriving community prepared for the challenges of the future.*

**TOOLS OF CIVILITY:** *The Duluth City Council promotes the use and adherence of the tools of civility in conducting the business of the council. The tools of civility will provide increased opportunities for civil discourse in order to find positive resolutions to the issues that face the city. These tools include: pay attention, listen, be inclusive, do not gossip, show respect, be agreeable, apologize, give constructive criticism and take responsibility. [Approved by the council on August 25, 2003]*

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Monday, October 26, 2015

7:00 PM

Council Chamber

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#### ROLL CALL

**Present:** 8 - Councilors Zach Filipovich, Jay Fosle, Sharla Gardner, Howie Hanson, Jennifer Julsrud, Barb Russ, Joel Sipress and President Emily Larson.

**Absent:** 1 – Councilor Linda Krug

#### APPROVAL OF MINUTES

1. 15-078 July 20 and 27, 2015.

**Attachments:** [July 20, 2015, Minutes](#)  
[July 27, 2015, Minutes](#)

This Minutes was approved.

#### REPORTS FROM OTHER OFFICERS

2. 15-071 Clerk applications for exempt permits submitted to the Minnesota gambling control board from A Race Worth Winning-ALS on February 6, 2016, and Minnesota Bluegrass & Old-Time Music Association on April 16, 2016 (raffles).

**Attachments:** [A Race Worth Winning-ALS Application](#)  
[Minnesota Bluegrass & Old-Time Association Application](#)

This Report was received.

**REPORTS FROM THE ADMINISTRATION**

3. 15-077 Chief administrative officer report on proposed transfer of control of the Charter Communications cable television franchise.

Attachments: [Report](#)

This Reports from the Administration was received.

**REPORTS OF BOARDS AND COMMISSIONS**

4. 15-073 Duluth Seaway Port authority minutes of March 31, May 29, June 25, July 6 and August 20, 2015, meetings.

Attachments: [March 31, 2015](#)

[May 29, 2015](#)

[June 25, 2015](#)

[July 6, 2015](#)

[August 20, 2015](#)

This Board or Commission Report was received.

5. 15-075 Charter commission minutes of April 8 and July 8, 2015, meetings.

Attachments: [April 8, 2015](#)

[July 8, 2015](#)

This Board or Commission Report was received.

6. 15-076 Duluth public utilities commission minutes of September 15, 2015, meeting.

Attachments: [Minutes](#)

This Board or Commission Report was received.

**REPORTS OF COUNCIL COMMITTEES****REPORTS OF COUNCIL OPEN ISSUES**

Councilor Russ presented the October 2015 Duluth City Councils Distinguished Service Award to Rachael Kresha.



Ms. Kresha commented and thanked the council.

## **OPPORTUNITY FOR CITIZENS TO BE HEARD**

Mary Matthews, President of Duluth Public Arts Commission, and Sheila Smith, Executive Director of the MN Citizens for the Arts, updated the council on the impact of arts and culture on the city.

Matt Rosendahl, President of the Duluth Library Board, urged council support for library staffing.

Jerry Schlafer commented on many examples of individuals wanting something for free.

## **MOTIONS AND RESOLUTIONS**

### **CONSENT AGENDA**

### **COMMITTEE 1**

#### **BY COUNCILOR FILIPOVICH (FINANCE)**

7.     **15-0727R**     RESOLUTION AUTHORIZING ACCEPTANCE OF A CROSS COUNTRY SKI TRAIL ASSISTANCE PROGRAM GRANT AGREEMENT FOR YEAR 2015-2016 WITH THE MINNESOTA DEPARTMENT OF NATURAL RESOURCES IN AN AMOUNT NOT TO EXCEED \$11,000.

#### **CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to accept a Minnesota cross country trail assistance program grant, a copy of which is attached as Exhibit A, with the Minnesota department of natural resources for the maintenance of the Duluth cross country ski trails for the 2015-2016 season in the amount of \$11,000; said funds to be deposited in General Fund 110, Public Administration 121, Maintenance Operations/Park Maintenance 1217-2145, Ski Trail Reimbursement 4225.

STATEMENT OF PURPOSE: This resolution authorizes acceptance of a Minnesota DNR grant for maintenance of the city's cross country ski trails in the amount of \$11,000 and accepting the grant if offered.

The city has applied for and used the program's funds in past years to assist the city in covering its cross country trail costs.

**Attachments:** [Exhibit A](#)

**This Resolution was adopted unanimously.**

- 8. 15-0741R** RESOLUTION APPROVING A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF DULUTH AND INTERNATIONAL ASSOCIATION OF FIREFIGHTERS LOCAL 101 FOR YEARS 2015-2017.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to execute

and implement a collective bargaining agreement with International Association of Fire Fighters Local 101 ("IAFF") containing the same terms and conditions, and substantially the same as that attached hereto as Exhibit A, covering the years 2015 through 2017.

STATEMENT OF PURPOSE: The city and IAFF have been in negotiations for a successor agreement to the current 2012-2014 collective bargaining agreement ("CBA"). The parties tentatively agreed to a 2015-2017 CBA on August 26, 2015, and IAFF ratified this CBA on October 9, 2015. This three-year CBA has wage increases of 2.25% in 2015, 2.0% in 2016, and 2.25% in 2017. Beginning January 1, 2016, IAFF members will receive a 1.5% increase in compensation for E.M.T. training, certification and duties. In addition, IAFF members not eligible for city-paid retiree health insurance will receive a 1.5% increase into their healthcare savings plan accounts. This CBA also expands family dental insurance eligibility rules and provides for more flexible deferred compensation availability by allowing employees additional health insurance coverage options.

**Attachments:** [Exhibit A - Fire 2015-2017 Final CBA \(Clean version\)](#)

**This Resolution was adopted unanimously.**

**BY COUNCILOR HANSON (PURCHASING & LICENSING)**

9.      **15-0734R**      RESOLUTION APPROVING THE ISSUANCE OF A 2016 MINNESOTA CURRENCY EXCHANGE LICENSE TO THE TITLE LOAN COMPANY, INC.

## CITY PROPOSAL:

RESOLVED, that the Duluth City Council hereby approves of the Minnesota department of commerce issuing a 2016 currency exchange license to The Title Loan Company, Inc., 22 North Second Avenue West.

STATEMENT OF PURPOSE: This resolution approves of the Minnesota department of commerce issuing a 2016 currency exchange license The Title Loan Company, Inc., 22 North Second Avenue West.

Pursuant to Minnesota Statute 53A.04, the governing body of the city in which the currency business is going to operate must concur in the issuance of a currency exchange license by the commissioner of commerce.

Attachments: [Notification Letter](#)

**This Resolution was adopted unanimously.**

10.      **15-0735R**      RESOLUTION APPROVING THE EXEMPTION OF A BINGO LICENSE AND WAIVING THE 60 DAY WAITING PERIOD FOR HOLY FAMILY CATHOLIC CHURCH.

## CITY PROPOSAL:

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling bingo exemption to Holy Family Catholic Church and does hereby waive the 60

day waiting period which it has to object to the issuance of said exemption.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a copy of this resolution to the Minnesota gambling control board immediately after its passage.

STATEMENT OF PURPOSE: This application is for a bingo license to be held at Holy Family Catholic Church on November 8 and has been reviewed and approved.

**This Resolution was adopted unanimously.**

- 11. 15-0742R** RESOLUTION AMENDING RESOLUTION 15-0209, AUTHORIZING A LEASE CONTRACT FOR A 54 MONTH LEASE OF 20 MOTOR GRADERS, TO AMEND THE NAME OF THE LESSOR.

CITY PROPOSAL:

RESOLVED, that Resolution 15-0209 authorizing a lease contract with Ziegler be amended authorizing the proper city officials to execute two lease contracts, addendums to lease and related documents, in substantially the form of those documents attached as Exhibit A, with Caterpillar Financial Services Corporation for the 54 month lease of 20 motor graders at the same cost and funding as previously approved by Resolution 15-0209.

RESOLVED FURTHER, that the authorization granted by this resolution is predicated on the end of lease repurchase guarantee letters dated October 8, 2015, that have been provided by Ziegler, Inc., and are attached as Exhibit B.

STATEMENT OF PURPOSE: This resolution will amend resolution 15-0209R to correct the name of the leasing company that will hold these contracts. Ziegler Inc. (Ziegler) submitted the winning bid for the lease of the motor graders, however, based on the relationship between Caterpillar Financial Services Corporation (CFSC) and Ziegler, Ziegler will actually "sell" the graders to CFSC, which will then lease them to the City on a "lease-purchase" contract. At the end of the lease-purchase contract term, Ziegler has agreed as per the attached commitment to pay the "purchase price" to CFSC and take ownership of the equipment. Thus, the city will

effectively end up with a lease only for the 54 month term. There are no changes to the quantity or type of graders being leased, the lease cost, nor the funding. There are ten motor graders listed on each proposed lease agreement. Ziegler has provided end of lease repurchase guarantee letters that are intended to relieve the city of any obligation to purchase the graders at the end of the lease term.

**Attachments:** [Exhibit A](#)  
[Exhibit B](#)

**This Resolution was adopted unanimously.**

## COMMITTEE 2

### BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)

12. 15-0738R RESOLUTION ADOPTING THE RIVERSIDE SMALL AREA PLAN.  
RESOLUTION ADOPTING THE RIVERSIDE SMALL AREA PLAN.  
CITY PROPOSAL:

RESOLVED, that:

(a) The city council adopted the comprehensive land use plan on June 26, 2006, via Resolution 06-0491, which outlined the desired arrangement of land uses for the next 20 years and identified sub-areas of the city to be studied in more detail; and

(b) The city council adopted Resolution 15-0123 on March 9, 2015, accepting a donation from the Spirit Valley Land Company for the preparation of the small area plan; and

(c) The city planning division has prepared and recommends approval of the Riverside small area plan (SAP), a land use plan for one of the sub-areas identified in the comprehensive land use plan; and

(d) The purpose of the Riverside small area plan is to provide guidance for the area that will influence future developments through an assessment of current demographics, land use, zoning, transportation, development opportunities, and environmental characteristics that will form the basis for the plan recommendations and implementation strategy; and

(e) The city planning commission has reviewed the SAP and conducted a public hearing on September 22, 2015, at their planning commission meeting,

and recommends adoption of the Riverside small area plan recommendations.

**STATEMENT OF PURPOSE:** This resolution adopts the Riverside small area plan (SAP). The recommendations in the small area plan is the result of a seven month planning process which enlisted the assistance of a nine person advisory committee with ties to the neighborhood. The advisory committee met four times throughout the study period. In addition there were two public meetings that involved more than 100 residents in the process and provided input on land use, transportation, environmental/open space, and housing/community priorities. Understanding that not every stakeholder was able to attend a public meeting, the planning staff operated an online website throughout the project which was hosted by "My Sidewalk" where questions were posted and feedback was provided.

The purpose of the planning process is to provide guidance for the Riverside area that will influence future developments. Through a series of community engagement events, analysis of the history of the neighborhood, review of past and current planning efforts, and an analysis of the current demographics, the planning team gained an intimate understanding of the current community context, as well as its present challenges, and future opportunities.

The study reveals areas in which investments should be made in the existing housing stock and where new housing should develop in a way that will blend with the historical character of the neighborhood. The small area plan is a framework to guide the future development of the Riverside community, offering tangible implementation action items to make connections between short-term actions that will help shape the long-term visions articulated by residents and community members who live and work in the neighborhood.

The small area study recommendations are focused on supporting areas of opportunity surrounding land use and housing, businesses, and economic development to strengthen recreational amenities as well as recreational amenities in the neighborhood.

On September 22, 2015, the Duluth city planning commission held a public hearing on the plan and voted unanimously (7-0) to recommend that the city council approve it.

The motion to approve requires affirmative votes of at least two-thirds of those members constituting a quorum.

**Attachments:** [Attachment 1](#)  
[Attachment 2](#)  
[Attachment 3](#)

**This Resolution was adopted unanimously.**

13.     **15-0744R**     RESOLUTION AUTHORIZING THE BUILDING OFFICIAL TO ABATE CERTAIN NUISANCES BY REMOVAL OF STRUCTURALLY UNSOUND BUILDINGS IN THE CITY OF DULUTH IN AN AMOUNT NOT TO EXCEED \$340,000.

CITY PROPOSAL:

RESOLVED, that the council finds as follows:

(a) The building official of the city of Duluth duly issued condemnation orders for structures located upon the parcel of land described below located within the city of Duluth after determining that the criteria of Section 10-3 of the city of Duluth Legislative Code was met in each case:

(1) 131st Avenue West, Tax Parcel Number 010-1680-00560. Notification of condemnation for demolition to Rebecca Bosanko, daughter of deceased property owner Melvin Schlafer, by certified mail delivered September 26, 2015, and by posting on the site of the condemned building;

(2) 1227 Foster Avenue, Tax Parcel Number 010-0530-01310. Notification of condemnation for demolition by certified mail to owner and taxpayer address of record, publication in Duluth News Tribune August 31, 2015, and September 7, 2015, and posting on the site of the condemned building;

(3) 19 West Fourth Street, Tax Parcel Number 010-1000-00060. Notification of condemnation for demolition to owner Mary Jo Alander by certified mail delivered September 14, 2015, and by posting on the site of the condemned building;

(4) 2111 West Fourth Street, Tax Parcel Number 010-1180-04370. Notification of condemnation for demolition by certified mail to owner and taxpayer address of record, publication in Duluth News Tribune August 31, 2015, and September 7, 2015 and posting on the site of the condemned building;

(5) 3015 Vernon Street, Tax Parcel Number 010-4570-03620.

Notification of condemnation for demolition by certified mail to owner and taxpayer address of record, publication in Duluth News Tribune August 31, 2015, and September 7, 2015, and posting on the site of the condemned building;

(6) 417 North 21st Avenue West, Tax Parcel Number 010-1180-04520. Notification of condemnation for demolition by certified mail to owner and taxpayer address of record, publication in Duluth News Tribune August 31, 2015, and September 7, 2015 and posting on the site of the condemned building;

(7) 429 North 63rd Avenue West, Tax Parcel Number 010-0850-01625. Notification of condemnation for demolition delivered to owner Gary Nelson by certified mail delivered September 14, 2015, and by posting on the site of the condemned building;

(8) 5526 Albion Street, Tax Parcel Number 010-4030-01130. Notification of condemnation for demolition to owner Michael Strop by certified mail delivered August 31, 2015, and by posting on the site of the condemned building;

(9) 5702 West Eighth Street, Tax Parcel Number 010-4520-10580. Notification of condemnation for demolition to owner Ronald and Jennifer Ann Kroll by certified mail delivered August 29, 2015, and by posting on the site of the condemned building;

(10) 5803 Cody Street, Tax Parcel Number 010-4510-07710. Notification of condemnation for demolition by certified mail to owner and taxpayer address of record, publication in Duluth News Tribune August 31, 2015, and September 7, 2015, and posting on the site of the condemned building;

(11) 603 North 23rd Avenue West, Tax Parcel Number 010-1220-02550. Notification of condemnation for demolition to owner Wells Fargo by certified mail delivered September 2, 2015, and posting on the site of the condemned building;

(12) 6116 Raleigh Street, Tax Parcel Number 010-2320-00860. Notification of order for condemnation for demolition to taxpayer Darian Pionk by certified mail delivered June 8, 2015, and by posting on the site of the condemned building;

(13) 2624 West Second Street, Tax Parcel Number 010-1140-02680. Notification of condemnation for demolition by certified mail to owner and taxpayer address of record, publication in Duluth News Tribune September 16, 2015, and September 23, 2015, and posting on the site of



the condemned building;

(14) 318 South Basswood Avenue, Tax Parcel Number 010-0880-06460. Notification of condemnation for demolition by certified mail to owner and taxpayer address of record, publication in Duluth News Tribune September 16, 2015, and September 23, 2015, and posting on the site of the condemned building;

(15) 816 East Fifth Street and 816-1/2 East Fifth Street (two vacant dilapidated dwellings on one parcel), Tax Parcel Number 010-3830-17330. Notification of condemnation for demolition by certified mail to owner and taxpayer address of record, publication in Duluth News Tribune September 16, 2015, and September 23, 2015, and posting on the site of the condemned buildings;

(16) 1019 North 14th Avenue East, Tax Parcel Number 010-0500-03180. Notification of condemnation for demolition to owner Cletus Kuznia by certified mail delivered September 15, 2015, and by posting on the site of the condemned building;

(b) The orders are now final; and

(c) The cost for demolition of the structures has been estimated to not exceed \$340,000.

BE IT RESOLVED, that pursuant to Section 10-3(b) of the city of Duluth Legislative Code the building official is authorized to:

(a) Proceed with the work ordered or to contract to have the work done, payable from DEDA, general and community development block grant funds;

(b) Should the sale of the salvage from such work exceed the cost of the demolition, the balance in excess of the cost shall be paid to the owner of said building or to such other persons as may by law be entitled thereto; and

(c) Submit to the city council a statement of the cost of such work for its further determination of the manner by which such costs shall be recouped as provided by Section 10-3(b) of the city of Duluth Legislative Code.

STATEMENT OF PURPOSE: This resolution identifies buildings that are subject to final demolition orders and authorizes the building official to take appropriate action for removal. The council finds that the structures are substandard and constitute spot slum and blight conditions on the community. Buildings damaged or deteriorated in excess of 60% of their market value are subject to an order to the owner to demolish the building

within 30 days. Owners are notified via certified mail, or, if confirmed delivery is unsuccessful, through publication in the Duluth News Tribune on two dates and the order is posted on the damaged building. Owners are informed of their right to appeal to the building appeal board within 15 days of receipt of the order. If appealed, the board can grant up to 18 months additional time for rehabilitation if the appellant shows dedication of sufficient funds and has entered into a valid contract to complete the work within the prescribed time. Demolition orders are final when the appeal period has lapsed without the filing of an appeal or when an appeal has been granted but the additional given time has elapsed without completion of repair and rehabilitation. Once a demolition order is final, the city council may direct the building official to proceed with the work ordered or to contract to have the work done. The estimated total cost for all structures is \$340,000.

**This Resolution was adopted unanimously.**

- 14. 15-0748R** RESOLUTION VACATING A PORTION OF PLATTED STREET RIGHT-OF-WAY OF WEST NINTH STREET, AT THE NORTHEAST CORNER OF THE INTERSECTION SEVENTH AVENUE WEST AND WEST NINTH STREET (LEE AND KYLE ERICKSON).

CITY PROPOSAL:

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (d) 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 this portion of the street easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, October 13, 2015,

regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the partial vacation of the platted road easement, described below:

#### VACATION DESCRIPTION

All that part of the platted right-of-way of Ninth Street lying southeasterly of Lots 14, 15, and 16, Block 35, Duluth Heights First Division, according to the recorded plat thereof, St. Louis County, MN and northeasterly of the platted northeast line Seventh Avenue West extended, and northwesterly of the platted northwest line of West Ninth Street extended. Subject to easements, reservations and restrictions of record; and

(e) 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 showing the platted easement to be vacated.

**STATEMENT OF PURPOSE:** The resolution partially vacates a portion of the platted street right of way for improved West Ninth Street. If the partial vacation is approved, West Ninth Street would still have a right-of-way width of 66 feet, which is an appropriate width of right-of-way for a local road, and is in conformance with the other platted right of way of West Ninth Street.

On October 13, 2015, the Duluth city planning commission held a public hearing on the proposal and voted 8 yeas, 0 nays, 0 abstentions with 1 member absent, to recommend the city council approve the vacation.

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

Petition received: August 28, 2015

Action deadline: January 12, 2016

Petitioners:  
Lee and Kyle Erickson  
625 West Ninth Street  
Duluth, MN 55806

PL 15-142

Attachments: [Attachment 1](#)  
[Attachment 2](#)

This Resolution was adopted unanimously.

15.     **15-0750R**     RESOLUTION AUTHORIZING TRANSFER OF \$52,510.42 IN 2010, 2011 AND 2012 CDBG FUNDS AND AMENDMENTS TO THE 2014 CDBG PROGRAM UDAC BUILDING REFORMATION GRANT AGREEMENT; INCREASING THE FUNDING OF THE AGREEMENT.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to CDBG Agreement 22231 with Udac, Inc., increasing the amount payable thereunder from \$250,000 to \$302,510.42.

2010 CDBG Program  
Fund 262, Agency 020, Object 5434, Project CD10CD

ProjectActivity	Original Budget	New Grant	Difference
PFAC-PF02 Memorial Park CC	\$250,000	\$247,500	(\$2,500)

2011 CDBG Program  
Fund 262, Agency 020, Object 5434, Project CD11CD

ProjectActivity	Original Budget	New Grant	Difference
PFAC-PF04 Street Assess Assist	\$84,000.00	\$83,989.58	(\$10.42)

2012 CDBG Program  
Fund 262, Agency 020, Object 5434, Project CD12CD

ProjectActivity	Original Budget	New Grant	Difference
PFAC-PF02 Lincoln Pk School	\$50,000	\$0	(\$50,000)

2014 CDBG Program

Fund 262, Agency 020, Object 5434, Project CD14CD

ProjectActivity	Original Budget	New Grant	Difference
PFAC-PF04 UDAC Building Ref		\$250,000.00	\$302,510.42
	\$52,510.42		

STATEMENT OF PURPOSE: The purpose of this resolution is to increase the Fiscal Year 2014 project funding by \$52,510.42 for the Udac building reformation project. Udac, Inc., has requested additional program assistance for their facility project that serves low income individuals in hillside neighborhood. These funds will help complete the project that has exceeded original projections.

The funding will come from three completed projects. The Lincoln Park School redevelopment project was removed from the 2012 annual action plan and a community development committee public hearing was held on May 26, 2015. Also, the Memorial Park Community Center project and the street assessment assistance project both had unused funds to be reprogrammed.

**This Resolution was adopted unanimously.**

### COMMITTEE 3

#### BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)

16. 15-0737R RESOLUTION AUTHORIZING TEMPORARY CONSTRUCTION AND PERMANENT STREET EASEMENT AGREEMENTS WITH SPIRIT VALLEY LAND COMPANY, LLC AND DALE MAYNARD JOHNSON.

#### CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into the following easement agreements with the following persons and entities:

- (a) Temporary construction easement agreement with Spirit Valley Land Companies, LLC, attached as Attachment 1, and

(b) Street and utility easement with Spirit Valley Land Company, LLC and Dale Maynard Johnson attached as Attachment 2.

STATEMENT OF PURPOSE: This resolution authorizes the acceptance of easements for construction of a fourth leg of intersection at Warwick Street and Grand Avenue, across from the Spirit Mountain lower chalet. The Minnesota Department of Transportation will take over said easements for its 2016 construction of said intersection.

Attachments: [Attachment 1](#)  
[Attachment 2](#)

This Resolution was adopted unanimously.

## BY COUNCILOR SIPRESS (RECREATION, LIBRARIES & AUTHORITIES)

17. 15-0746R RESOLUTION AUTHORIZING THE CITY TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH LHB, INC., FOR THE DEVELOPMENT OF ARCHITECTURAL AND ENGINEERING DESIGNS FOR THE CHAMBERS GROVE PARK FLOOD RECOVERY AND IMPROVEMENTS PROJECT FOR AN AMOUNT NOT TO EXCEED \$94,920.

### CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into a professional services agreement with LHB, Inc., for the development of architectural and engineering designs for the Chambers Grove Park Flood Recovery And Improvements Project for an amount not to exceed \$94,920, payable from Fund 225-125-1807-5319 (Disaster Recovery Fund; Finance; Parks, Recreation, and Other; Other Professional Services); Project: Flood-310 - Flood - June 2012, Chambers Grove.

STATEMENT OF PURPOSE: This resolution authorizes a consultant agreement with LHB, Inc., substantially in the form of that attached as Exhibit B, for an amount not to exceed \$94,920.

Chambers Grove Park, located within the St. Louis River Corridor in the Fond du Lac neighborhood, was severely affected by the historic June 2012 flood. The City of Duluth proposes to use \$1 million in Parks and Trails Legacy Grant Funds (from the MN DNR) for flood recovery and improvements to Chambers Grove Park. The success of this project will accomplish three goals: 1) update and improve a well-used, beloved park; 2) bring the park into ADA compliance and elevate it to a Regional Park status and 3) comply with the City's economic and community development goals for the St. Louis River Corridor. The project proposal is attached as Exhibit A.

**Attachments:** [EXHIBIT A - LHB PROPOSAL.pdf](#)  
[EXHIBIT B - CHAMBERS GROVE AGREEMENT.pdf](#)

**This Resolution was adopted unanimously.**

## **END OF CONSENT AGENDA**

## **INTRODUCTION AND CONSIDERATION OF ORDINANCES**

### **ORDINANCE TABLED**

### **COMMITTEE 2**

### **BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)**

- 18. 15-086-O** AN ORDINANCE AMENDING SECTIONS 50-20.3 COMMERCIAL USES, 50.20.5 ACCESSORY USES, AND 50-41 DEFINITIONS TO ALLOW FOR URBAN AGRICULTURE LAND USES.

#### **CITY PROPOSAL:**

The city of Duluth does ordain:

Section 1. That Section 50-20.3 of the Duluth City Code, 1959, as amended, be amended as follows:

Sec. 50-20.3. Same--Commercial uses.

Adult entertainment establishment.

All adult entertainment establishments shall comply with MSA 617.242 and Chapter 5 of this Code;

Agriculture, community garden, farmers market, general and urban.

~~No killing or dressing of poultry, rabbits or other small or large animals, fish or creatures shall be permitted, other than the animals, fish or creatures raised on the premises and that such killing or dressing is done in an accessory building located not less than 200 feet from any lot line;~~

~~All buildings and enclosures, including fences, for the feeding, breeding or milking of large livestock or small animals, such as poultry, rabbits, fish and other similar animals, but not including pasturing and grazing, of such animals, must be located not less than 200 feet from any lot line;~~

Agriculture, community garden.

(a) Compost bins, water tanks, and other containers shall be controlled for odors and pests and shall be screened from view by adjacent properties and any public right-of-way with a fence at least as tall as the container, or with shrubs, trees, and/or perennials planted so that at maturity they will provide at least 75 percent opacity to the height of the container. If not visible from a public right-of-way or adjacent property, this screening is not required;

(b) If a primary structure is present, accessory structures shall follow requirements in Section 50-21. If no primary structure is present, structures shall be allowed no closer than 20 feet from the front property line, three feet from any side property line, and five feet from the rear property line. No accessory structure shall exceed 20 feet in height;

(c) Fences must adhere to restrictions in Section 50-26.4;

(d) No sale of produce or other goods is allowed;

(e) Events such as weddings, parties and other activities normally associated with an event center, religious assembly, or other use that typically holds large events, are not allowed unless permitted within the zone district;

(f) For outdoor growing operations, mechanized equipment similar in scale to that designed for household use shall be permitted. Use of larger mechanized farm equipment is generally prohibited; provided, however, that during the initial preparation of the land, heavy equipment may be used;

(g) Keeping of bees is permitted, as regulated by Chapter 6 of the City Code. Keeping of all other animals is



prohibited;

(h) All tools and equipment shall be stored in an enclosed, secured structure;

Agriculture, farmers market.

(a) Farmers markets are only allowed between the hours of 7:00 a.m. to 7:00 p.m.;

(b) As part of the special use permit process, planning commission shall determine that the farmer's market will provide adequate on-site parking, or that sufficient public parking exists nearby;

(c) Sales shall be limited to no more than three days per week;

Agriculture, general.

(a) No killing or dressing of poultry, rabbits or other small or large animals, fish or creatures shall be permitted, other than the animals, fish or creatures raised on the premises and that such killing or dressing is done in an accessory building located not less than 200 feet from any lot line;

(b) All buildings and enclosures, including fences, for the feeding, breeding or milking of large livestock or small animals, such as poultry, rabbits, fish and other similar animals, but not including pasturing and grazing, of such animals, must be located not less than 200 feet from any lot line;

(c) Any production or processing of cheese, honey or other products raised on the farm must be done inside a building and in accordance with all state regulations;

Agriculture, urban.

(a) Compost bins, water tanks, and other containers shall be controlled for odors and pests and shall be screened from view by adjacent properties and any public right-of-way with a fence at least as tall as the container, or with shrubs, trees, and/or perennials planted so that at maturity they will provide at least 75 percent opacity to the height of the container. If not visible from a public right-of-way or adjacent property, this screening is not required;

(b) If a primary structure is present, accessory structures, including ones of a temporary nature such as hoop houses, shall follow requirements in Section 50-21;

(c) For urban agriculture uses where operations are primarily conducted within a building, such as a greenhouse or hydroponic operation, such building shall be considered the primary building and not an accessory building. For urban agriculture uses where operations are primarily conducted outside, structures (including ones of a temporary nature such as hoop houses) shall be allowed no closer than 20 feet from the front property line, three feet from any side property line, and five feet from the rear property line. No accessory structure shall

exceed 20 feet in height, and accessory structures shall not exceed more than 30 percent of the lot area;

(d) Fences must adhere to restrictions in Section 50-26.4;

(e) No sale of produce or other goods is allowed;

(f) Events such as weddings, parties and other activities normally associated with an event center, religious assembly, or other use that typically holds large events, are not allowed unless permitted within the zone district;

(g) For outdoor growing operations, mechanized equipment similar in scale to that designed for household use shall be permitted. Use of larger mechanized farm equipment is generally prohibited; provided, however, that during the initial preparation of the land, heavy equipment may be used;

(h) Keeping of fish for aquaculture or aquaponics is allowed, subject to any conditions of the special use permit. Keeping of chickens, rabbits and bees is permitted, as regulated by Chapter 6 of the City Code. Keeping of all other animals is prohibited unless specifically approved in the City Code;

(i) All tools and equipment shall be stored in an enclosed, secured structure;

Automobile and light vehicle repair and service.

No displays or storage of merchandise, parts or refuse may be located closer than 20 feet from any public right-of-way;

A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district;

All areas for outdoor storage of automobiles or light vehicles shall be screened from adjacent properties by a dense urban screen regardless of the use on the adjacent property;

Automobile or light vehicle sales, rental or storage.

In the MU-C district, the use is permitted when located at least 100 feet from any R district;

Bank.

When in the MU-N district, the following standards apply:

The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;

Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend;

Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing or a dense urban screen;

The land use supervisor may require that the

rough be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;

Banks are limited to no more than two drive-through windows and one drive-through lane for ATM services on the premises;

Any drive-through lane that is located between a bank and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open past 10:00 p.m.;

Banks in the R-P, F-1, F-3, F-5, F-6, F-7, F-8 or F-9 districts may not have drive-through facilities;

Drive-through lanes shall allow for stacking space for three cars;

Bed and breakfast.

This is a primary use of land, and the owner need not reside in the use. The use shall:

Have no more than 12 habitable units;

If located in a residential zone district, the use shall appear outwardly to be a one-family dwelling, giving no appearance of a business use other than allowed signs;

If located in a residential zone district, the use shall have no greater impact on surrounding public areas or infrastructure or natural resources than a fully occupied private home with house guests;

Be located on a lot or tract containing a minimum of 0.6 acre;

Contain a minimum of 1,500 square feet of area on the first floor of the main building;

Dining areas shall not exceed five seats per habitable unit. In addition to resident guests, only guests of resident guests shall be permitted to dine in a bed and breakfast, or guests participating in meetings or other private events hosted by the facility when other overnight guests are not present, not to exceed the approved seating capacity of the facility. For-profit events on the premises that involve a total number of participants in excess of the approved dining area seating capacity shall be limited to six days per year and shall be restricted to the period of October 15 through June 15;

Shall not have signage exceeding 12 square feet in size, and any signage shall complement the architecture of the structure;

Shall limit each guest stay to a maximum of 21 consecutive days;

Building materials sales.

Outdoor storage is limited to ten percent of the parcel's land area, and shall not be permitted in any required front yard area;

Each such area shall be screened from view from any ground floor window or door on any adjacent property, and from all adjacent rights-of-way, by an opaque fence or wall between six feet and eight feet in height. The fence may exceed eight feet in height where the difference in grade between the property line or right-of-way and the outdoor storage area makes a taller fence necessary to effectively screen the area;

A landscaped earth berm may be used instead or in combination with a required fence or wall;

Convention center.

A convention center may not exceed 50,000 square feet if it is within 500 feet of a multi-family use, or 15,000 square feet if it is within 500 feet of a one or two family use;

Daycare facility, small and large.

In the RR-1 and RR-2 districts this use and related parking facilities and structures other than driveways are limited to no more than 20 percent of the lot or parcel area;

Filling station.

No displays or storage of merchandise, parts or refuse may be located closer than ten feet from any public right-of-way;

A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district;

Grocery store, small and large.

Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas;

Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock;

Mini-storage facility.

This use shall comply with the following standards:

The use shall be contained within an enclosed building or buildings;

If the use abuts a residential zone district on any property line, building architecture shall employ sloped roofs and shall display wall relief features and colors commonly found in residential construction;

The use shall be designed so that doors to individual storage units do not face any abutting street frontage;

At least 50 percent of the wall surface area of any wall facing an abutting public street shall be faced with brick or split-block materials. Exposed concrete masonry unit (CMU) construction is not permitted on those facades;

Hours of public access to mini-storage units abutting one or more residential zone districts shall be restricted to the period from 6:00 a.m. to 10:00 p.m.;

Signage shall be limited to one 40 square feet illuminated

and 20 square feet of non-illuminated wall signage. Signs shall not be located closer than ten feet to the front property line and no closer than 50 feet to any side property line;

Mini-storage facilities are only allowed on properties within the RR-1 district that are also within the Airport Overlay District Safety Zone B. There shall be a minimum of 50 feet of landscaped or naturally vegetated buffer from all property lines;

In the R districts a dense urban screen shall be installed along all side and rear property lines;

Office.

In the MU-I district, offices are limited to those in support of the permitted institutional uses in the district; general offices unrelated to the activities of those institutions are not permitted;

In the MU-B district, offices are limited to those in support of the permitted industrial uses in that zone district; general offices unrelated to the activities of those institutions are not permitted;

In the F-6 district, offices may not have drive-through facilities;

Other outdoor entertainment or recreation use not listed.

No circus ground, carnival ground, event ground, or amusement park shall be approved within 300 feet of an R-C, RR-2 or R district;

Parking lot or parking structure (primary use).

In the MU-C district, any parking structure shall be located at least 50 feet from any RC, RR or R district;

In F-1, F-2, F-3, F-4, F-6, F-8 and F-9 districts, only parking lots are allowed as primary uses. In F-7, only parking structures are allowed as primary uses. In F-5, parking lots and parking structures are allowed as primary uses;

Parking lots (primary use) are stand alone and self-contained, separate and distinct from other adjacent land uses. They need to conform to UDC requirements, such as lot frontage and drive aisle width, independent of adjacent properties;

Recreational vehicle (RV) park.

Within any flood plain district, recreational vehicles that do not meet the exemption criteria specified in Subsection 2 below shall be subject to the elevation and anchoring provisions of Section 50-18.1.C for new structures;

Criteria for exempt recreational vehicles:

- (a) The vehicle must have a current license required for highway use;
- (b) The vehicle must be highway ready, meaning on

wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks;

(c) No permanent structural type additions may be attached to the vehicle;

(d) The vehicle and associated use must be permissible in any pre-existing, underlying zoning district;

(e) Accessory structures are not permitted within the floodway district. Any accessory structure in the flood fringe district must be constructed of flood-resistant materials and be securely anchored as specified in Section 50-18.1.C.3.v;

(f) Cost of an accessory structure must not exceed \$500;

Recreational vehicles that are exempt in Section 50-20.3.P.2 lose this exemption when development occurs on the site exceeding \$500 for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as a new structure and shall be subject to the elevation/floodproofing requirements and the land use standards specified in Section 50-18.1.C.3(C) of this ordinance [Chapter]. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle to a flood-free location;

New commercial recreational vehicle parks or campgrounds, subdivisions or condominium associations, and the expansion of any similar existing use exceeding five units or dwelling sites may be allowed subject to the following:

On any new or replacement recreational vehicle site in the flood fringe district, the recreational vehicle and its contents must be placed on fill above the regulatory flood protection elevation and adequate road access to the site must be provided in accordance with Section 50-18.1.C.5(d). No fill placed in the floodway to meet the requirements of this section shall increase the flood stage of the regional flood;

Any new or replacement recreational vehicle site located in the floodway district, or as an alternative to 4(a) above in the flood fringe district, may be allowed as a special use in accordance with the following provisions and the provisions of Section 50-37.10;

The applicant must submit an emergency plan for the safe evacuation of all vehicles and people acceptable to the city council as specified in Section 50-18.1.C.5(d). The plan shall demonstrate that adequate time and personnel

t to carry out an evacuation, and that all vehicles will meet the exemption criteria specified in Section 50-20.Q.2 above; and

All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding;

Restaurant.

In the R-2 and MU-N district, no use shall exceed 5,000 sq. ft. in gross floor area; Drive-ins and drive-throughs for restaurants are only allowed in the MU-N, MU-C, MU-B, MU-P, F-2, F-3, F-4, and F-5 zone districts;

Drive-through lanes shall allow for stacking space for 5 cars;

When in the MU-N district, the following additional standards apply:

The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;

Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend;

Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing, or a dense urban screen;

The land use supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;

Restaurants are limited to one drive through lane and one speaker box;

When in the F-3 and F-5 districts, the following additional standards apply;

Access to and from the drive-through must be through the alley, if alley exists;

Restaurants are limited to one drive through lane;

Retail sales, small and large.

Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas;

Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock;

Retail stores are limited to one drive-through window;

Any drive-through lane that is located between a retail store and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open past 10:00 p.m.;

Drive-through lanes shall allow for stacking space for

e cars;

When in the MU-N district, the following standards apply:

The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;

Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend;

Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing, or a dense urban screen;

The land use supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;

Seasonal camp or cabin.

In the R-C and RR-1 districts, buildings shall be located not less than 200 feet from any R district;

In the R-C district, the design of the site shall preserve the rural character by:

Separating each camp or cabin site by at least 50 feet, measured from the closest points on each tent or cabin area;

Preserving all natural vegetation not required to be removed for access roads, trails or public safety;

Using gravel or pervious paving, rather than impervious materials, for all access road and driveways serving fewer than 25 camp or cabin sites;

Veterinarian or animal hospital.

In the R-C and RR-1 districts, this use is permitted provided that service is limited to large livestock/large animal care and any building or enclosure so used shall be located not less than 100 feet from any lot line;

In the R-2, R-P, MU-N and MU-C districts, this use is permitted provided that practice is limited to the treatment of small animals (household pets, i.e. dogs, cats, birds, that are ordinarily permitted in the house for company) and that all aspects of the facility are totally contained (including kennel runs and exercise areas) within a soundproof building with adequate ventilation;

Vacation dwelling unit.

The minimum rental period shall as follows:

For properties zoned RR-1, RR-2, R-1 and R-P the minimum rental period shall not be less than two nights except for the period from June 15 to September 15 when the minimum rental period shall not be less than five nights;

For properties zoned R-2, MU-N and F-5 the minimum rental period shall not be less than two



its except for the period from June 15 to September 15 when the minimum rental period shall not be less than three nights;

The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two;

Off street parking shall be provided at the following rate:

1-2 bedroom unit, one space;

3-4 bedroom unit, two spaces;

5+ bedroom unit, three spaces;

Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street;

The property owner must obtain all licenses and permits from the city of Duluth and state of Minnesota required for guest occupancy on the property for three to 21 days;

The property owner must provide required documents and adhere to additional requirements listed in the city of Duluth's UDC application manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures;

The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first.

Section 2. That Section 50-20.5 of the Duluth City Code, 1959, as amended, be amended as follows:

50-20.5 Accessory uses.

Accessory agriculture roadside stand.

Only one stand offering for sale farm products produced on the premises is permitted provided that such stand does not exceed an area of 200 square feet and that it is located not nearer than 25 feet to any street or highway;

Accessory bed and breakfast.

The owner and operator of an accessory bed and breakfast shall be required to live in the establishment. In addition, the use shall:

Have no more than five habitable units;

Appear outwardly to be a one-family dwelling, giving no appearance of a business use other than allowed signs;

Have no greater impact on surrounding public areas, infrastructure or natural resources than a fully occupied private home with house guests;

Be located on a lot or tract containing a minimum of 0.6 acre;

Contain a minimum of 1,500 square feet of area on the

floor of the main building;

Dining areas shall not exceed three seats per habitable unit in bed and breakfast inns. In addition to resident guests, only guests of resident guests shall be permitted to dine in a bed and breakfast, or guests participating in meetings or other private events hosted by the facility when other overnight guests are not present, not to exceed the approved seating capacity of the facility. For profit events on the premises that involve a total number of participants in excess of the approved dining area seating capacity shall be limited to six days per year and shall be restricted to the period of October 15 through June 15;

Shall not have signage exceeding 12 square feet in size, and any signage shall complement the architecture of the structure;

Shall limit each guest stay to a maximum of 21 consecutive days;

May be subject to other conditions deemed necessary by the city to ensure the use complies with the purpose of this subsection;

Accessory boat dock, residential.

This use shall comply with the following standards:

Dockage of boats owned and primarily used by a resident of the property is a permitted accessory use to the primary residential use and shall not be limited in number;

If there is a residential structure on the property and the property has frontage on an improved street, the owner of the residential structure may rent out boat dockage to a maximum of two boats owned by others. If the property does not have frontage on an improved street, the owner of the residential structure may not rent dockage space to others. Boat dockage use on a property that is not residentially developed is permitted as a principal use provided that the use is limited to one boat for each lot or group of contiguous lots in the same ownership, and the boat is owned and primarily used by the owner of the property;

For each new rental boat dock space created or made legal after April 14, 1974, one off street parking space shall be provided in addition to all other off street parking spaces required by other legal uses of the property, such spaces to be constructed in accordance with Section 50-24;

At the request of the building official, the owner of property shall provide boat registration or other documentary evidence to prove compliance with these standards;

No buildings other than residential or residential

Accessory structures, no winter storage of boats other than those owned by a resident of the property in question, no repair facilities, fuel sales, food or refreshment sales, rentals of boats, boat or parts sales or displays or other commercial uses shall be permitted;

Accessory dwelling unit.

An accessory dwelling unit may be created within, or detached from, any one-family dwelling, as a subordinate use, in those districts shown in Table 50-19.8, provided the following standards are met:

Only one accessory dwelling unit may be created per lot;

No variances shall be granted for an accessory dwelling unit;

Only the property owner, which shall include title holders and contract purchasers, may apply for an accessory dwelling unit;

One off-street parking space shall be provided in addition to off-street parking that is required for the primary dwelling;

Accessory dwelling units shall contain no more than 800 square feet of floor space and shall be consistent in character and design with the primary dwelling;

If a separate outside entrance is necessary for an accessory dwelling unit located within the primary dwelling, that entrance must be located either on the rear or side of the building;

Accessory heliport.

All accessory heliports shall have and maintain in effect at all times all required permits and approvals, if any, for the facility and operation required by the FAA, and shall design and maintain the facility and conduct operations in compliance with those permits and approvals;

In the R-C and I-G districts, this use shall be permitted only when it is accessory to an airport as a primary use;

Accessory home occupation.

All home occupations not listed separately in Table 50-19.8 must comply with the following standards:

The use must be conducted entirely in the residence or accessory buildings and not on outdoor portions of the lot, except that the growing of food crops or ornamental crops, to be sold or donated off-site, shall be exempt from this provision;

No business involving retail sales of goods from the premises is permitted;

No person not a member of the family residing on the premises shall work on the premises;

Not more than 25 percent of the floor area of one story of the dwelling shall be devoted to such home occupation and not more than 50 percent of an accessory structure may be devoted to such home occupation;

The home occupation shall not require external alterations that would change the residential character of the property;

No display pertaining to such occupation shall be visible from the street;

The use of the property for a home occupation shall not result in the number of client appointments at the property in excess of two appointments per hour and appointments shall be limited to the hours of 8 a.m. to 7 p.m. and not more than four clients shall be on site at the same time;

No equipment shall be used that creates offensive noise, vibration, sound, smoke, dust, odors, heat, glare, X-ray or electrical disturbance to radio or television or that otherwise constitutes a nuisance;

All home occupations that require a license from the state shall maintain a valid license at all times and shall operate in compliance with the terms of that license and all applicable regulations of the state at all times;

. No motor vehicle repair is permitted as an accessory home occupation and repair of motor vehicles not registered to the owner or leaseholder of the property is prohibited regardless of whether the repair is being made for compensation;

Accessory sidewalk dining area.

In all districts, this use requires approval of a sidewalk use permit pursuant to Section 50-37.12;

Accessory solar or geothermal power equipment.

In all districts, other than building integrated solar collection systems, solar collection systems shall comply with the following requirements:

Ground-mounted solar system.

Solar collectors shall not be located in the front yard between the principal structure and the public right-of-way;

Solar collectors shall be located a minimum of six feet from all property lines and other structures;

Solar collector areas in any residential district shall not exceed the greater of one-half the footprint of the principal structure or 600 square feet, whichever is greater. The size of solar collector areas in all districts except residential districts shall not exceed one-half of the footprint of the principal structure;

Free-standing or ground-mounted solar installations shall not exceed 20 feet in height, when the system is oriented at its maximum design pitch;

Roof-mounted or wall-mounted solar system.

A solar collection system shall be located a minimum of six feet from all property lines and other structures

apt the structure on which it is mounted;

Notwithstanding the height limitations of the zoning district, building-mounted solar energy systems shall not extend higher than three feet above the ridge level of a roof on a structure with a gable, hip or gambrel roof and shall not extend higher than ten feet above the surface of the roof when installed on a flat or shed roof;

The solar collector surface and mounting devices for building-mounted solar energy systems shall be set back not less than one foot from the exterior perimeter of a roof for every one foot that the system extends above the parapet wall or roof surface, if no parapet wall exists, on which the system is mounted. Solar energy systems that extend less than three feet above the roof surface shall be exempt from this provision;

A solar collection system may be located on an accessory structure;

Solar easements.

A property owner who has installed or intends to install a solar collection system shall be responsible for negotiating with other property owners in the vicinity for any necessary solar easement and shall record the easement with the county recorder. If no such easement is negotiated and recorded, the owner of the solar collector shall have no right to prevent the construction of structures permitted by this Chapter on nearby properties on grounds that the construction would cast shadows on the solar collection system;

Accessory uses or structures not listed elsewhere.

In any residential district, any accessory building that is erected prior to the construction of the principal building shall comply with the following conditions:

The construction of the principal building shall be completed and the certificate of occupancy for such principal use issued within two years of issuance of the building permit for the accessory building;

Prior to issuance of a building per

**STATEMENT OF PURPOSE:** This ordinance implements a text amendment to Chapter 50 of the City Code, known as the Unified Development Chapter (UDC). The proposed ordinance clarifies use specific development standards for urban agriculture and general agriculture. The proposed changes were discussed at a published public hearing on September 8, 2015. After the public hearing was closed, the Duluth planning commission made a motion to recommend that the city council approve the recommended amendments to UDC. The vote passed with a vote of 8 yeas, 0 nays and 0 abstentions, with 1 planning commission member being absent from the meeting.

The ordinance remained on the table.

**The following entitled ordinances were read for the first time:**

**COMMITTEE 2**

**BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)**

19.     **15-088-O**     AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1, MU-B AND I-G TO R-2, PROPERTY AT VINTAGE ACRES MANUFACTURED HOUSING COMMUNITY AND ABUTTING PARCEL 010-2730-00267 (CITY OF DULUTH).

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the subject properties located in the western portion of the city and as more particularly described as follows:

010-2730-00265   010-2730-00267   010-2730-00955  
010-2730-00546   010-2730-00266

Part Being Outlot B of Plat Home Park Division of New Duluth;

be reclassified from Residential-Traditional (R-1), Mixed Use-Business (MU-B) and Industrial-General (I-G) to Residential-Urban (R-2), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as per Attachment 1.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

STATEMENT OF PURPOSE: This zoning map amendment provides a zoning change for the properties located in the western portion of the city including Vintage Acres manufactured housing community and the and abutting parcel number 010-2730-002670 from the current zoning districts

of Residential-Traditional (R-1), Mixed Use-Business (MU-B) and Industrial-General (I-G) to Residential-Urban (R-2).

On June 23, 2015, the city council unanimously passed a resolution adopting the Gary/New Duluth small area plan (SAP). The SAP recommends to rezone that portion of the Vintage Acres manufactured housing community zoned MU-B and I-G to a zoning designation that is consistent with the comprehensive land use plan. The future land use for this area is traditional residential which could support a rezoning to R-1 or R-2 zone districts.

On October 13, 2015, the Duluth city planning commission held a public hearing on the proposal and voted 8 yeas, 0 nays and 0 abstentions, to recommend that the city council approve the rezoning requested for the following reasons:

- 1.) This proposal is consistent with the comprehensive land use plan.
- 2.) The proposed R-2 zone district is consistent with the future land use category of Traditional Neighborhood.
- 3.) Material adverse impacts on nearby properties are not anticipated.

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Petitioner:  
City of Duluth Planning Division  
Room 208 City Hall  
Duluth, Minnesota 55802

PL 15-157

**Attachments:** [Attachment 1](#)  
[Attachment 2](#)

**This Ordinance was read for the first time.**

- 20. 15-089-O** AN ORDINANCE GRANTING A CONCURRENT USE PERMIT FOR A FENCE AND PRIVATE PARKING SPACES IN THE PLATTED STREET RIGHT-OF-WAY OF MYGATT AVENUE AND A FENCE IN THE PLATTED STREET RIGHT-OF-WAY OF SILCOX AVENUE (MONTESSORI SCHOOL OF DULUTH, INC.).

## CITY PROPOSAL:

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 granted to Montessori School of Duluth, Inc, and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) Two fences and 11 private parking spaces servicing the adjacent Montessori building, as shown in the exhibit Attachment 1.

Section 2. Before this ordinance shall be effective for any purpose whatsoever, the permittee shall file with the planning division a certification of insurance approved as to form by the city attorney evidencing that the permittee has in force a policy of insurance meeting the following requirements:

(a) Comprehensive general liability insurance in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage; and

(b) Insurance coverage shall include all permittee's activities occurring upon or within public right of way or easement occupied pursuant to this ordinance whether said activities are performed by the permittee or its agents or representatives; and

(c) The insurance policy shall be approved by the city attorney; and

(d) The policy shall contain a condition that it may not be canceled without 30 days written notice to the city of Duluth and directed to the attention of the city attorney; and

(e) The city of Duluth shall be named as an additional insured; and

(f) The certificate shall also reference this ordinance by its ordinance number.

Section 3. The permit granted by this ordinance may be terminated at any time by the city official exercising departmental authority of the public easement if the city of Duluth determines to use the area occupied by the permittee for any public purpose in accordance with the duly dedicated public easement or other lawful use.



Unless a shorter notice period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance, giving the permittee 30 days written notice delivered to the last known electronic address, facsimile number, or mailing address of the permittee shall be sufficient notice of termination.

Upon termination permittee shall cause all private improvements to be removed by the deadline provided in termination notice. Permittee shall be responsible for all costs incurred to remove the private improvements, including any costs associated with repairing damage caused to the public easement by the removal and without right to claim from the city of Duluth, or any of its officers, agents or servants, any compensation or reimbursement for damages of any kind whatsoever.

Section 4. By accepting the terms of this ordinance, the permittee agrees to hold harmless and defend and indemnify the city of Duluth against claims or demand which may arise against the city of Duluth by reason of the existence of private improvements, or any act or omission of the permittee, its employees, agents, and assigns. The permittee agrees that the city of Duluth shall not be liable for damage caused to the private improvements while the city engages in the repair and maintenance to, or replacement of, the public improvements or public utilities, including any snow removal operations. The permittee agrees to pay to the city of Duluth all extra costs of installation of any public improvements or public utilities made necessary by the presence of the private improvements.

Section 5. The permittee shall, at its expense, protect, support, temporarily disconnect, or remove from the public easement, the private improvements when required by city officials by reason of snow removal, traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, sidewalks, installation of sewers, drains, water pipes, power lines, signal lines and tracks, the installation or repair of any type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

Section 6. Upon the sale or transfer of permittee's interest in the permit granted by this ordinance, the permittee shall provide written notice to the planning division within five days of such transfer. The permittee's successor in interest shall file with the planning division within ten days of such transfer a duly executed and acknowledged written acceptance of the terms of this ordinance and the certificate of insurance required in Section 2 above.

Section 7. The permit granted by this ordinance is subject to termination

by the city of Duluth upon permittee's failure to comply with any of the terms and conditions of this permit. Ten days written notice, delivered as provided in Section 3 above shall be sufficient notice of termination. Upon termination, permittee shall remove the private improvements as provided in Section 3.

Section 8. The permittee shall observe the following conditions:

(a) Permittee's use of the public right of way or easement shall be limited to the designated area described in Section 1 above and further shown on the exhibits; and

(b) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as in no way interfere with or damage any portion of any public improvement, or other public utilities now or to hereinafter located in any part of said public easement.

Section 9. The following events shall automatically cause the termination of the term of this ordinance:

(a) The failure by the permittee to file the required insurance certificate as specified in Section 2 30 days after this ordinance takes effect; or

(b) The failure of the permittee to commence the improvements authorized by this ordinance within 180 days after this ordinance takes effect.

Section 10. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

**STATEMENT OF PURPOSE:** This ordinance grants Montessori School of Duluth, Inc, a concurrent use permit for the installation of a eleven private parking spaces and fencing in the right of way of Mygatt Avenue, and private fencing on Silcox Avenue.

The project, if approved, will reduce the amount of impervious surface at the project site. It will also improve the flow of parent drop-off/pick-up traffic to the school, improving safety for the users of the school and residents of the neighborhood.

On October 13, 2015, the planning commission held a public hearing on the proposal, and voted 7 yeas, 1 nay, 0 abstentions, with 1 member absent, to recommend that the city council approve the request for a concurrent use of streets.

Petition received: September 24, 2015

Action deadline: January 22, 2016

Applicant  
Montessori School of Duluth, Inc.  
Attn: Jim Goodman, Board President  
313 Mygatt Avenue  
Duluth, MN 55803

PL 15-160

**Attachments:** [Attachment 1](#)  
[Attachment 2](#)

**This Ordinance was read for the first time.**

- 21. 15-090-O** AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO MU-I, PROPERTY AT 1215 RICE LAKE ROAD (THE MARSHALL SCHOOL).

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That approximately 45 acres of land located at 1215 Rice Lake Road and as more particularly described as follows, and described in Attachment 1:

010-2710-05965  
010-2710-06124  
010-2710-06126  
010-2710-06260  
010-2710-06295  
010-2710-06252  
010-1350-16960  
010-1350-17010  
010-1350-16970  
010-1350-17020  
010-1350-16980  
010-1350-17030

010-1350-16990  
010-1350-17040  
010-1350-17000 (Partial ROW Lot 73)  
010-1350-17050  
010-1350-17910  
010-1350-17930  
010-1350-19740

be reclassified from Residential-Traditional (R-1) to Mixed Use-Institutional (MU-I), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as shown in the Attachment 2.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

STATEMENT OF PURPOSE: This amendment provides a zoning change from R-1 to MU-I at 1215 Rice Lake Road.

The MU-I zoning district is "established to provide for the unique development needs and impacts of major medical, educational and research institutional development. The intent is to give institutional landowners the flexibility to plan and develop their facilities while ensuring that surrounding neighborhoods are protected from adverse impacts, such as traffic, overshadowing buildings, noise and unexpected expansion of institutional uses into residential areas". The MU-I district allows for many different land uses, but unless there is an approved district plan for the property, a planning review and public hearing in front of the planning commission is required for all and each development and redevelopment at the site.

On October 13, 2015, the Duluth city planning commission held a public hearing on the proposal and voted 8 yeas, 0 nays, 0 abstentions, with 1 member absent, to recommend that the city council approve the rezoning requested.

The applicant did not submit written consent of 2/3 of property owners within 100 feet of the property to be rezoned. The motion to approve the rezoning must prevail with an affirmative vote of 2/3 by the city council.

Petition received: September 8, 2015

Action deadline: January 6, 2016

Petitioner:

The Marshall School

Attn: Elizabeth Tessier, Chief Financial Officer

1215 Rice Lake Road

Duluth, MN 55811  
btessier@marshallschool.org

PL 15-147

**Attachments:** [Attachment 1](#)  
[Attachment 2](#)  
[Attachment 3](#)

**This Ordinance was read for the first time.**

- 22. 15-091-O** AN ORDINANCE AMENDING SECTION 50-14.5 RESIDENTIAL-TRADITIONAL (R-1), AND 50-20.1 RESIDENTIAL USES, RELATED TO DESIGN STANDARDS FOR TOWNHOMES AND DUPLEXES.

**CITY PROPOSAL:**

The city of Duluth does ordain:

Section 1. That Section 50-14.5 of the Duluth City Code, 1959, as amended, be amended as follows:

Purpose.

The R-1 district is established to accommodate traditional neighborhoods of single-family detached residences, duplexes and townhouses on moderately sized lots. This district is intended to be used primarily in established neighborhoods. Many of the dimensional standards in this district require development and redevelopment to be consistent with development patterns, building scale, and building location of nearby areas. Uses are allowed as shown in Table 50-19.8;

*See Attachment 1, Table 50-14.5-1, R-1 District Dimensional Standards*

B. Example.

*See Attachment 2, Illustrations 50-14.5.B and 50-14.5.C*

C Illustration.

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*See Attachment 2, Illustrations 50-14.5.B and 50-14.5.C*

Section 2. That Section 50-20.1 of the Duluth City Code, 1959, as amended, be amended as follows:

50-20.1 Residential uses.

Dwelling, two-family.

In the R-1, R-2 and R-P districts, two-family dwellings shall be designed to protect and reflect the character of one-family residences as set forth below: Minimum size. A two-family dwelling shall contain at least 1,800 square feet of floor area (not including garages or utility rooms or basement or attic space not used for living quarters);

Exterior stairways. No exterior stairways with a total vertical rise greater than five feet shall be permitted;

In the R-1 and R-2 districts, each unit in a two family dwelling must have a separate exterior entrance on the facade facing the front property line;

Dwelling, townhouse.

In the R-1 and R-2 districts, each dwelling shall exhibit the characteristics of a series of one-family dwellings that are arranged in an attached side by side fashion and shall be designed to protect the character of one-family residences as set forth below:

Dwelling fronting street. Townhouse dwellings shall be located on lots in such a way that each individual dwelling unit has a minimum of ~~15~~ 20 feet of street frontage in the R-1 district, and a minimum of 15 feet of street frontage in the R-2 district;

Variation of exterior walls. No more than two adjacent townhouse units may have front facades in the same vertical plane. Where a variation in front façade plane is required, the variation shall be a minimum of three feet;

Landscaping. Prior to the occupancy and use of a townhouse dwelling, coniferous or evergreen trees meeting the minimum size requirements of Section 50-25.2 shall be planted in required front and back yard areas on an average spacing of 20 feet;

Screening of refuse areas. Where refuse storage areas are directly viewable from any exterior lot line at a height of six feet above grade, they shall be screened by wood, brick, or stone fences, or by vegetative materials, with a minimum height of six feet, designed so that at least 75 percent of the refuse

a is obscured by opaque materials when viewed at an angle perpendicular to the screening materials;

Maximum number of units. In the R-1 district, townhomes constructed on the corners of blocks or adjacent to the intersections of two or more public or private road may have up to eight dwelling units, but townhomes constructed in the middle of a subdivision block may have no more than six dwelling units. In all other zone districts, townhomes may not exceed eight dwelling units;

Separate entrances. Each unit in a townhome must have a separate exterior entrance on the facade facing the front yard property line, or front side yard property line;

Design features. At least three of the following design features shall be provided for visual relief along all facades of each townhome structure:

(a) Roof dormers;

(b) Gables;

(c) Recessed entries;

(d) Covered porches;

(e) Cupolas;

(f) Pillars, pilasters or posts;

(g) Bay windows;

(h) Eaves of at least 12 inches beyond the building wall or a parapet wall with an articulated design (decorative cornice, etc.);

(i) Multiple windows with minimum four inches trim;

(j) Recesses/shadow lines;

Dwelling, multi-family.

In the F-2, F-4, F-5 and F-8 districts, this use is permitted on the ground floor of the corridor building type only. In other building types it is only permitted above the ground floor;

Residential care facility/assisted living.

In the F-2, F-4, F-5, and F-8 districts, this use is permitted on the ground floor of the corridor building type only. In other building types it is only permitted above the ground floor;

Rooming house.

In the F-2, F-4, F-5 and F-8 districts, this use is permitted on the ground floor of the corridor building type only. In other building types it is only permitted above the ground floor;

Manufactured home park.

New manufactured home parks, expansions to existing manufactured home parks, and new or replacement of manufactured home units on lots of record are prohibited in the floodway district. If

wed in the flood fringe district, these uses shall be subject to the requirements of Section 50-18.1 of this Chapter and the following standards;

Existing, new and replacement manufactured homes in the flood fringe district must comply with the following standards:

(a) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state anchoring requirements for resisting wind forces;

(b) New or replacement manufactured homes in existing manufactured home parks must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, unless the property owner has a flood warning and emergency evacuation plan acceptable to the city council as specified in Section 50-18.1.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

**STATEMENT OF PURPOSE:** This ordinance implements text amendments to chapter 50 of the City Code, known as the Unified Development Chapter (UDC).

The proposed ordinance increases the lot frontage and lot area requirement for future townhome developments, and increases the required street frontage for each individual townhome dwelling unit. It also limits the number of townhomes in an R-1 zone to no more than six dwellings units if located within a block, up to eight dwelling units if on a street corner. Finally, the proposed ordinance adds a requirement that new townhomes provide some basic architectural design features.

The proposed changes were discussed at a published public hearing on September 8, 2015. After the public hearing was closed, the Duluth planning commission made a motion to table the item for additional review and public comment. The item was discussed at the October 13, 2015, regular planning commission meeting. The planning commission made a motion to recommend that the city council approve the recommended amendments to the UDC. The vote passed with a vote of 6 yeas, 2 nays and 0 abstentions, with 1 planning commission member being absent from the meeting.



Attachments: [Attachment 1](#)  
[Attachment 2](#)  
[Attachment 3](#)  
[Attachment 4](#)

This Ordinance was read for the first time.

The following entitled ordinance was read for the second time:

**COMMITTEE 3**

**BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)**

23. 15-087-O AN ORDINANCE GRANTING ST. LOUIS COUNTY TEMPORARY EASEMENTS OVER VACATED 20TH AVE. E AND HERITAGE PARK.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to enter into an agreement, a copy of which is attached hereto as Exhibit A, with St. Louis County granting said county a temporary easement over the following-described property in St. Louis County, Minnesota for street and utility purposes and for construction related thereto, said easements to terminate upon the sooner of the completion of reconstruction of 4th Street by said county or December 31, 2017:

That portion of vacated 20th Avenue East bounded on the Southeast by the Northwesterly line of 4th Street, and on the Northeast by a line lying 103.86 feet Northwesterly of and parallel with the Northwesterly line of platted 4th street: and

A 10.00 foot wide temporary construction easement in Lots 9 and 10 of Block 10, Highland Park Addition to Duluth, according to the recorded plat thereof, described as follows:

Beginning at the intersection of the northeast line of said Lot 9 with the east line of Woodland Avenue; thence southerly along the east line of Woodland Avenue 43.80 feet; thence southeasterly 75.00 feet to a point

southeast line of said Lot 10, said point being 60.00 feet southwest of the east corner of said Lot 9, hereinafter described as Line A; thence northeast 60.0 feet along southeast line of said Lots 9 and 10 to the east corner of Lot 9; thence northwest along the northeast line of said Lot 9 to the intersection with a line that is parallel with and distant 10.00 feet northwest of southeast line of said Lots 9 and 10; thence southwest along said line parallel with southeast line of Lots 9 and 10 to the intersection with a line that is parallel with and distant 10.00 feet northeasterly of said Line A; thence northwesterly along said line parallel with Line A to the intersection with a line that is parallel with and distant 10.00 feet east of said east line of Woodland Avenue; thence north along said line parallel with said east line of Woodland Avenue to the northeast line of said Lot 9; thence northwest along northeast line of said Lot 9 to the Point of Beginning.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective Date: November 25, 2015)

**STATEMENT OF PURPOSE:** The purpose of this ordinance is to approve an agreement granting to St. Louis County a temporary easement to allow them to keep 20th Avenue East open between Woodland 4th Street until construction of the 4th Street reconstruction project is started, to allow the County to demolish that road when appropriate and to allow them to perform necessary construction work on Heritage Park property.

The Council had previously approved an agreement for the work related to the 20th Avenue East right-of-way but further discussion with the County revealed that they needed additional temporary easements to perform all of the work anticipated for the Project. This agreement grants them temporary easements to cover all of the necessary work.

**Attachments:** [Exhibit A](#)

**A motion was made that this Ordinance be approved. The motion carried unanimously.**

**COUNCILOR QUESTIONS AND COMMENTS**

**COUNCILOR PREVIEW OF UPCOMING BUSINESS**

The meeting was adjourned at 7:28 p.m.



# City of Duluth

411 West First Street  
Duluth, Minnesota 55802

## Minutes

### City Council

**MISSION STATEMENT:** *The mission of the Duluth City Council is to develop effective public policy rooted in citizen involvement that results in excellent municipal services and creates a thriving community prepared for the challenges of the future.*

**TOOLS OF CIVILITY:** *The Duluth City Council promotes the use and adherence of the tools of civility in conducting the business of the council. The tools of civility will provide increased opportunities for civil discourse in order to find positive resolutions to the issues that face the city. These tools include: pay attention, listen, be inclusive, do not gossip, show respect, be agreeable, apologize, give constructive criticism and take responsibility. [Approved by the council on August 25, 2003]*

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Monday, October 26, 2015

7:00 PM

Council Chamber

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#### ROLL CALL

**Present:** 8 - Councilors Zach Filipovich, Jay Fosle, Sharla Gardner, Howie Hanson, Jennifer Julsrud, Barb Russ, Joel Sipress and President Emily Larson.

**Absent:** 1 – Councilor Linda Krug

#### APPROVAL OF MINUTES

1. 15-078 July 20 and 27, 2015.

**Attachments:** [July 20, 2015, Minutes](#)  
[July 27, 2015, Minutes](#)

This Minutes was approved.

#### REPORTS FROM OTHER OFFICERS

2. 15-071 Clerk applications for exempt permits submitted to the Minnesota gambling control board from A Race Worth Winning-ALS on February 6, 2016, and Minnesota Bluegrass & Old-Time Music Association on April 16, 2016 (raffles).

**Attachments:** [A Race Worth Winning-ALS Application](#)  
[Minnesota Bluegrass & Old-Time Association Application](#)

This Report was received.

**REPORTS FROM THE ADMINISTRATION**

3.     **15-077**     Chief administrative officer report on proposed transfer of control of the Charter Communications cable television franchise.

Attachments: [Report](#)

**This Reports from the Administration was received.**

**REPORTS OF BOARDS AND COMMISSIONS**

4.     **15-073**     Duluth Seaway Port authority minutes of March 31, May 29, June 25, July 6 and August 20, 2015, meetings.

Attachments: [March 31, 2015](#)

[May 29, 2015](#)

[June 25, 2015](#)

[July 6, 2015](#)

[August 20, 2015](#)

**This Board or Commission Report was received.**

5.     **15-075**     Charter commission minutes of April 8 and July 8, 2015, meetings.

Attachments: [April 8, 2015](#)

[July 8, 2015](#)

**This Board or Commission Report was received.**

6.     **15-076**     Duluth public utilities commission minutes of September 15, 2015, meeting.

Attachments: [Minutes](#)

**This Board or Commission Report was received.**

**REPORTS OF COUNCIL COMMITTEES****REPORTS OF COUNCIL OPEN ISSUES**

Councilor Russ presented the October 2015 Duluth City Councils Distinguished Service Award to Rachael Kresha.

Ms. Kresha commented and thanked the council.

## **OPPORTUNITY FOR CITIZENS TO BE HEARD**

Mary Matthews, President of Duluth Public Arts Commission, and Sheila Smith, Executive Director of the MN Citizens for the Arts, updated the council on the impact of arts and culture on the city.

Matt Rosendahl, President of the Duluth Library Board, urged council support for library staffing.

Jerry Schlafer commented on many examples of individuals wanting something for free.

## **MOTIONS AND RESOLUTIONS**

### **CONSENT AGENDA**

### **COMMITTEE 1**

#### **BY COUNCILOR FILIPOVICH (FINANCE)**

7.     **15-0727R**     RESOLUTION AUTHORIZING ACCEPTANCE OF A CROSS COUNTRY SKI TRAIL ASSISTANCE PROGRAM GRANT AGREEMENT FOR YEAR 2015-2016 WITH THE MINNESOTA DEPARTMENT OF NATURAL RESOURCES IN AN AMOUNT NOT TO EXCEED \$11,000.

#### **CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to accept a Minnesota cross country trail assistance program grant, a copy of which is attached as Exhibit A, with the Minnesota department of natural resources for the maintenance of the Duluth cross country ski trails for the 2015-2016 season in the amount of \$11,000; said funds to be deposited in General Fund 110, Public Administration 121, Maintenance Operations/Park Maintenance 1217-2145, Ski Trail Reimbursement 4225.

STATEMENT OF PURPOSE: This resolution authorizes acceptance of a Minnesota DNR grant for maintenance of the city's cross country ski trails in the amount of \$11,000 and accepting the grant if offered.

The city has applied for and used the program's funds in past years to assist the city in covering its cross country trail costs.

**Attachments:** [Exhibit A](#)

**This Resolution was adopted unanimously.**

- 8. 15-0741R** RESOLUTION APPROVING A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF DULUTH AND INTERNATIONAL ASSOCIATION OF FIREFIGHTERS LOCAL 101 FOR YEARS 2015-2017.

**CITY PROPOSAL:**

RESOLVED, that the proper city officials are hereby authorized to execute

and implement a collective bargaining agreement with International Association of Fire Fighters Local 101 ("IAFF") containing the same terms and conditions, and substantially the same as that attached hereto as Exhibit A, covering the years 2015 through 2017.

STATEMENT OF PURPOSE: The city and IAFF have been in negotiations for a successor agreement to the current 2012-2014 collective bargaining agreement ("CBA"). The parties tentatively agreed to a 2015-2017 CBA on August 26, 2015, and IAFF ratified this CBA on October 9, 2015. This three-year CBA has wage increases of 2.25% in 2015, 2.0% in 2016, and 2.25% in 2017. Beginning January 1, 2016, IAFF members will receive a 1.5% increase in compensation for E.M.T. training, certification and duties. In addition, IAFF members not eligible for city-paid retiree health insurance will receive a 1.5% increase into their healthcare savings plan accounts. This CBA also expands family dental insurance eligibility rules and provides for more flexible deferred compensation availability by allowing employees additional health insurance coverage options.

**Attachments:** [Exhibit A - Fire 2015-2017 Final CBA \(Clean version\)](#)

**This Resolution was adopted unanimously.**

**BY COUNCILOR HANSON (PURCHASING & LICENSING)**

9.      **15-0734R**      RESOLUTION APPROVING THE ISSUANCE OF A 2016 MINNESOTA CURRENCY EXCHANGE LICENSE TO THE TITLE LOAN COMPANY, INC.

## CITY PROPOSAL:

RESOLVED, that the Duluth City Council hereby approves of the Minnesota department of commerce issuing a 2016 currency exchange license to The Title Loan Company, Inc., 22 North Second Avenue West.

STATEMENT OF PURPOSE: This resolution approves of the Minnesota department of commerce issuing a 2016 currency exchange license The Title Loan Company, Inc., 22 North Second Avenue West.

Pursuant to Minnesota Statute 53A.04, the governing body of the city in which the currency business is going to operate must concur in the issuance of a currency exchange license by the commissioner of commerce.

Attachments: [Notification Letter](#)

**This Resolution was adopted unanimously.**

10.     **15-0735R**      RESOLUTION APPROVING THE EXEMPTION OF A BINGO LICENSE AND WAIVING THE 60 DAY WAITING PERIOD FOR HOLY FAMILY CATHOLIC CHURCH.

## CITY PROPOSAL:

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling bingo exemption to Holy Family Catholic Church and does hereby waive the 60



day waiting period which it has to object to the issuance of said exemption.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a copy of this resolution to the Minnesota gambling control board immediately after its passage.

STATEMENT OF PURPOSE: This application is for a bingo license to be held at Holy Family Catholic Church on November 8 and has been reviewed and approved.

**This Resolution was adopted unanimously.**

- 11. 15-0742R** RESOLUTION AMENDING RESOLUTION 15-0209, AUTHORIZING A LEASE CONTRACT FOR A 54 MONTH LEASE OF 20 MOTOR GRADERS, TO AMEND THE NAME OF THE LESSOR.

CITY PROPOSAL:

RESOLVED, that Resolution 15-0209 authorizing a lease contract with Ziegler be amended authorizing the proper city officials to execute two lease contracts, addendums to lease and related documents, in substantially the form of those documents attached as Exhibit A, with Caterpillar Financial Services Corporation for the 54 month lease of 20 motor graders at the same cost and funding as previously approved by Resolution 15-0209.

RESOLVED FURTHER, that the authorization granted by this resolution is predicated on the end of lease repurchase guarantee letters dated October 8, 2015, that have been provided by Ziegler, Inc., and are attached as Exhibit B.

STATEMENT OF PURPOSE: This resolution will amend resolution 15-0209R to correct the name of the leasing company that will hold these contracts. Ziegler Inc. (Ziegler) submitted the winning bid for the lease of the motor graders, however, based on the relationship between Caterpillar Financial Services Corporation (CFSC) and Ziegler, Ziegler will actually "sell" the graders to CFSC, which will then lease them to the City on a "lease-purchase" contract. At the end of the lease-purchase contract term, Ziegler has agreed as per the attached commitment to pay the "purchase price" to CFSC and take ownership of the equipment. Thus, the city will

effectively end up with a lease only for the 54 month term. There are no changes to the quantity or type of graders being leased, the lease cost, nor the funding. There are ten motor graders listed on each proposed lease agreement. Ziegler has provided end of lease repurchase guarantee letters that are intended to relieve the city of any obligation to purchase the graders at the end of the lease term.

**Attachments:** [Exhibit A](#)  
[Exhibit B](#)

**This Resolution was adopted unanimously.**

## COMMITTEE 2

### BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)

12. 15-0738R RESOLUTION ADOPTING THE RIVERSIDE SMALL AREA PLAN.  
RESOLUTION ADOPTING THE RIVERSIDE SMALL AREA PLAN.  
CITY PROPOSAL:

RESOLVED, that:

(a) The city council adopted the comprehensive land use plan on June 26, 2006, via Resolution 06-0491, which outlined the desired arrangement of land uses for the next 20 years and identified sub-areas of the city to be studied in more detail; and

(b) The city council adopted Resolution 15-0123 on March 9, 2015, accepting a donation from the Spirit Valley Land Company for the preparation of the small area plan; and

(c) The city planning division has prepared and recommends approval of the Riverside small area plan (SAP), a land use plan for one of the sub-areas identified in the comprehensive land use plan; and

(d) The purpose of the Riverside small area plan is to provide guidance for the area that will influence future developments through an assessment of current demographics, land use, zoning, transportation, development opportunities, and environmental characteristics that will form the basis for the plan recommendations and implementation strategy; and

(e) The city planning commission has reviewed the SAP and conducted a public hearing on September 22, 2015, at their planning commission meeting,

and recommends adoption of the Riverside small area plan recommendations.

**STATEMENT OF PURPOSE:** This resolution adopts the Riverside small area plan (SAP). The recommendations in the small area plan is the result of a seven month planning process which enlisted the assistance of a nine person advisory committee with ties to the neighborhood. The advisory committee met four times throughout the study period. In addition there were two public meetings that involved more than 100 residents in the process and provided input on land use, transportation, environmental/open space, and housing/community priorities. Understanding that not every stakeholder was able to attend a public meeting, the planning staff operated an online website throughout the project which was hosted by "My Sidewalk" where questions were posted and feedback was provided.

The purpose of the planning process is to provide guidance for the Riverside area that will influence future developments. Through a series of community engagement events, analysis of the history of the neighborhood, review of past and current planning efforts, and an analysis of the current demographics, the planning team gained an intimate understanding of the current community context, as well as its present challenges, and future opportunities.

The study reveals areas in which investments should be made in the existing housing stock and where new housing should develop in a way that will blend with the historical character of the neighborhood. The small area plan is a framework to guide the future development of the Riverside community, offering tangible implementation action items to make connections between short-term actions that will help shape the long-term visions articulated by residents and community members who live and work in the neighborhood.

The small area study recommendations are focused on supporting areas of opportunity surrounding land use and housing, businesses, and economic development to strengthen recreational amenities as well as recreational amenities in the neighborhood.

On September 22, 2015, the Duluth city planning commission held a public hearing on the plan and voted unanimously (7-0) to recommend that the city council approve it.

The motion to approve requires affirmative votes of at least two-thirds of those members constituting a quorum.

**Attachments:** [Attachment 1](#)

[Attachment 2](#)

[Attachment 3](#)

**This Resolution was adopted unanimously.**

13.     **15-0744R**     RESOLUTION AUTHORIZING THE BUILDING OFFICIAL TO ABATE CERTAIN NUISANCES BY REMOVAL OF STRUCTURALLY UNSOUND BUILDINGS IN THE CITY OF DULUTH IN AN AMOUNT NOT TO EXCEED \$340,000.

CITY PROPOSAL:

RESOLVED, that the council finds as follows:

(a) The building official of the city of Duluth duly issued condemnation orders for structures located upon the parcel of land described below located within the city of Duluth after determining that the criteria of Section 10-3 of the city of Duluth Legislative Code was met in each case:

(1) 131st Avenue West, Tax Parcel Number 010-1680-00560. Notification of condemnation for demolition to Rebecca Bosanko, daughter of deceased property owner Melvin Schlafer, by certified mail delivered September 26, 2015, and by posting on the site of the condemned building;

(2) 1227 Foster Avenue, Tax Parcel Number 010-0530-01310. Notification of condemnation for demolition by certified mail to owner and taxpayer address of record, publication in Duluth News Tribune August 31, 2015, and September 7, 2015, and posting on the site of the condemned building;

(3) 19 West Fourth Street, Tax Parcel Number 010-1000-00060. Notification of condemnation for demolition to owner Mary Jo Alander by certified mail delivered September 14, 2015, and by posting on the site of the condemned building;

(4) 2111 West Fourth Street, Tax Parcel Number 010-1180-04370. Notification of condemnation for demolition by certified mail to owner and taxpayer address of record, publication in Duluth News Tribune August 31, 2015, and September 7, 2015 and posting on the site of the condemned building;

(5) 3015 Vernon Street, Tax Parcel Number 010-4570-03620.

Notification of condemnation for demolition by certified mail to owner and taxpayer address of record, publication in Duluth News Tribune August 31, 2015, and September 7, 2015, and posting on the site of the condemned building;

(6) 417 North 21st Avenue West, Tax Parcel Number 010-1180-04520. Notification of condemnation for demolition by certified mail to owner and taxpayer address of record, publication in Duluth News Tribune August 31, 2015, and September 7, 2015 and posting on the site of the condemned building;

(7) 429 North 63rd Avenue West, Tax Parcel Number 010-0850-01625. Notification of condemnation for demolition delivered to owner Gary Nelson by certified mail delivered September 14, 2015, and by posting on the site of the condemned building;

(8) 5526 Albion Street, Tax Parcel Number 010-4030-01130. Notification of condemnation for demolition to owner Michael Strop by certified mail delivered August 31, 2015, and by posting on the site of the condemned building;

(9) 5702 West Eighth Street, Tax Parcel Number 010-4520-10580. Notification of condemnation for demolition to owner Ronald and Jennifer Ann Kroll by certified mail delivered August 29, 2015, and by posting on the site of the condemned building;

(10) 5803 Cody Street, Tax Parcel Number 010-4510-07710. Notification of condemnation for demolition by certified mail to owner and taxpayer address of record, publication in Duluth News Tribune August 31, 2015, and September 7, 2015, and posting on the site of the condemned building;

(11) 603 North 23rd Avenue West, Tax Parcel Number 010-1220-02550. Notification of condemnation for demolition to owner Wells Fargo by certified mail delivered September 2, 2015, and posting on the site of the condemned building;

(12) 6116 Raleigh Street, Tax Parcel Number 010-2320-00860. Notification of order for condemnation for demolition to taxpayer Darian Pionk by certified mail delivered June 8, 2015, and by posting on the site of the condemned building;

(13) 2624 West Second Street, Tax Parcel Number 010-1140-02680. Notification of condemnation for demolition by certified mail to owner and taxpayer address of record, publication in Duluth News Tribune September 16, 2015, and September 23, 2015, and posting on the site of

the condemned building;

(14) 318 South Basswood Avenue, Tax Parcel Number 010-0880-06460. Notification of condemnation for demolition by certified mail to owner and taxpayer address of record, publication in Duluth News Tribune September 16, 2015, and September 23, 2015, and posting on the site of the condemned building;

(15) 816 East Fifth Street and 816-1/2 East Fifth Street (two vacant dilapidated dwellings on one parcel), Tax Parcel Number 010-3830-17330. Notification of condemnation for demolition by certified mail to owner and taxpayer address of record, publication in Duluth News Tribune September 16, 2015, and September 23, 2015, and posting on the site of the condemned buildings;

(16) 1019 North 14th Avenue East, Tax Parcel Number 010-0500-03180. Notification of condemnation for demolition to owner Cletus Kuznia by certified mail delivered September 15, 2015, and by posting on the site of the condemned building;

(b) The orders are now final; and

(c) The cost for demolition of the structures has been estimated to not exceed \$340,000.

BE IT RESOLVED, that pursuant to Section 10-3(b) of the city of Duluth Legislative Code the building official is authorized to:

(a) Proceed with the work ordered or to contract to have the work done, payable from DEDA, general and community development block grant funds;

(b) Should the sale of the salvage from such work exceed the cost of the demolition, the balance in excess of the cost shall be paid to the owner of said building or to such other persons as may by law be entitled thereto; and

(c) Submit to the city council a statement of the cost of such work for its further determination of the manner by which such costs shall be recouped as provided by Section 10-3(b) of the city of Duluth Legislative Code.

STATEMENT OF PURPOSE: This resolution identifies buildings that are subject to final demolition orders and authorizes the building official to take appropriate action for removal. The council finds that the structures are substandard and constitute spot slum and blight conditions on the community. Buildings damaged or deteriorated in excess of 60% of their market value are subject to an order to the owner to demolish the building

within 30 days. Owners are notified via certified mail, or, if confirmed delivery is unsuccessful, through publication in the Duluth News Tribune on two dates and the order is posted on the damaged building. Owners are informed of their right to appeal to the building appeal board within 15 days of receipt of the order. If appealed, the board can grant up to 18 months additional time for rehabilitation if the appellant shows dedication of sufficient funds and has entered into a valid contract to complete the work within the prescribed time. Demolition orders are final when the appeal period has lapsed without the filing of an appeal or when an appeal has been granted but the additional given time has elapsed without completion of repair and rehabilitation. Once a demolition order is final, the city council may direct the building official to proceed with the work ordered or to contract to have the work done. The estimated total cost for all structures is \$340,000.

**This Resolution was adopted unanimously.**

- 14. 15-0748R** RESOLUTION VACATING A PORTION OF PLATTED STREET RIGHT-OF-WAY OF WEST NINTH STREET, AT THE NORTHEAST CORNER OF THE INTERSECTION SEVENTH AVENUE WEST AND WEST NINTH STREET (LEE AND KYLE ERICKSON).

CITY PROPOSAL:

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (d) 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 this portion of the street easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, October 13, 2015,

regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the partial vacation of the platted road easement, described below:

#### VACATION DESCRIPTION

All that part of the platted right-of-way of Ninth Street lying southeasterly of Lots 14, 15, and 16, Block 35, Duluth Heights First Division, according to the recorded plat thereof, St. Louis County, MN and northeasterly of the platted northeast line Seventh Avenue West extended, and northwesterly of the platted northwest line of West Ninth Street extended. Subject to easements, reservations and restrictions of record; and

(e) 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 showing the platted easement to be vacated.

**STATEMENT OF PURPOSE:** The resolution partially vacates a portion of the platted street right of way for improved West Ninth Street. If the partial vacation is approved, West Ninth Street would still have a right-of-way width of 66 feet, which is an appropriate width of right-of-way for a local road, and is in conformance with the other platted right of way of West Ninth Street.

On October 13, 2015, the Duluth city planning commission held a public hearing on the proposal and voted 8 yeas, 0 nays, 0 abstentions with 1 member absent, to recommend the city council approve the vacation.

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

Petition received: August 28, 2015

Action deadline: January 12, 2016

Petitioners:  
Lee and Kyle Erickson  
625 West Ninth Street  
Duluth, MN 55806

PL 15-142



Attachments: [Attachment 1](#)  
[Attachment 2](#)

This Resolution was adopted unanimously.

15.     **15-0750R**     RESOLUTION AUTHORIZING TRANSFER OF \$52,510.42 IN 2010, 2011 AND 2012 CDBG FUNDS AND AMENDMENTS TO THE 2014 CDBG PROGRAM UDAC BUILDING REFORMATION GRANT AGREEMENT; INCREASING THE FUNDING OF THE AGREEMENT.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to CDBG Agreement 22231 with Udac, Inc., increasing the amount payable thereunder from \$250,000 to \$302,510.42.

2010 CDBG Program  
Fund 262, Agency 020, Object 5434, Project CD10CD

ProjectActivity	Original Budget	New Grant	Difference
PFAC-PF02 Memorial Park CC	\$250,000	\$247,500	(\$2,500)

2011 CDBG Program  
Fund 262, Agency 020, Object 5434, Project CD11CD

ProjectActivity	Original Budget	New Grant	Difference
PFAC-PF04 Street Assess Assist	\$84,000.00	\$83,989.58	(\$10.42)

2012 CDBG Program  
Fund 262, Agency 020, Object 5434, Project CD12CD

ProjectActivity	Original Budget	New Grant	Difference
PFAC-PF02 Lincoln Pk School	\$50,000	\$0	(\$50,000)

2014 CDBG Program

Fund 262, Agency 020, Object 5434, Project CD14CD

ProjectActivity	Original Budget	New Grant	Difference
PFAC-PF04 UDAC Building Ref		\$250,000.00	\$302,510.42
	\$52,510.42		

STATEMENT OF PURPOSE: The purpose of this resolution is to increase the Fiscal Year 2014 project funding by \$52,510.42 for the Udac building reformation project. Udac, Inc., has requested additional program assistance for their facility project that serves low income individuals in hillside neighborhood. These funds will help complete the project that has exceeded original projections.

The funding will come from three completed projects. The Lincoln Park School redevelopment project was removed from the 2012 annual action plan and a community development committee public hearing was held on May 26, 2015. Also, the Memorial Park Community Center project and the street assessment assistance project both had unused funds to be reprogrammed.

**This Resolution was adopted unanimously.**

### COMMITTEE 3

#### BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)

16. 15-0737R RESOLUTION AUTHORIZING TEMPORARY CONSTRUCTION AND PERMANENT STREET EASEMENT AGREEMENTS WITH SPIRIT VALLEY LAND COMPANY, LLC AND DALE MAYNARD JOHNSON.

#### CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into the following easement agreements with the following persons and entities:

- (a) Temporary construction easement agreement with Spirit Valley Land Companies, LLC, attached as Attachment 1, and

(b) Street and utility easement with Spirit Valley Land Company, LLC and Dale Maynard Johnson attached as Attachment 2.

STATEMENT OF PURPOSE: This resolution authorizes the acceptance of easements for construction of a fourth leg of intersection at Warwick Street and Grand Avenue, across from the Spirit Mountain lower chalet. The Minnesota Department of Transportation will take over said easements for its 2016 construction of said intersection.

Attachments: [Attachment 1](#)  
[Attachment 2](#)

This Resolution was adopted unanimously.

## BY COUNCILOR SIPRESS (RECREATION, LIBRARIES & AUTHORITIES)

17.     **15-0746R**     RESOLUTION AUTHORIZING THE CITY TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH LHB, INC., FOR THE DEVELOPMENT OF ARCHITECTURAL AND ENGINEERING DESIGNS FOR THE CHAMBERS GROVE PARK FLOOD RECOVERY AND IMPROVEMENTS PROJECT FOR AN AMOUNT NOT TO EXCEED \$94,920.

### CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into a professional services agreement with LHB, Inc., for the development of architectural and engineering designs for the Chambers Grove Park Flood Recovery And Improvements Project for an amount not to exceed \$94,920, payable from Fund 225-125-1807-5319 (Disaster Recovery Fund; Finance; Parks, Recreation, and Other; Other Professional Services); Project: Flood-310 - Flood - June 2012, Chambers Grove.

STATEMENT OF PURPOSE: This resolution authorizes a consultant agreement with LHB, Inc., substantially in the form of that attached as Exhibit B, for an amount not to exceed \$94,920.

Chambers Grove Park, located within the St. Louis River Corridor in the Fond du Lac neighborhood, was severely affected by the historic June 2012 flood. The City of Duluth proposes to use \$1 million in Parks and Trails Legacy Grant Funds (from the MN DNR) for flood recovery and improvements to Chambers Grove Park. The success of this project will accomplish three goals: 1) update and improve a well-used, beloved park; 2) bring the park into ADA compliance and elevate it to a Regional Park status and 3) comply with the City's economic and community development goals for the St. Louis River Corridor. The project proposal is attached as Exhibit A.

**Attachments:** [EXHIBIT A - LHB PROPOSAL.pdf](#)  
[EXHIBIT B - CHAMBERS GROVE AGREEMENT.pdf](#)

**This Resolution was adopted unanimously.**

## **END OF CONSENT AGENDA**

## **INTRODUCTION AND CONSIDERATION OF ORDINANCES**

### **ORDINANCE TABLED**

### **COMMITTEE 2**

### **BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)**

- 18. 15-086-O** AN ORDINANCE AMENDING SECTIONS 50-20.3 COMMERCIAL USES, 50.20.5 ACCESSORY USES, AND 50-41 DEFINITIONS TO ALLOW FOR URBAN AGRICULTURE LAND USES.

#### **CITY PROPOSAL:**

The city of Duluth does ordain:

Section 1. That Section 50-20.3 of the Duluth City Code, 1959, as amended, be amended as follows:

Sec. 50-20.3. Same--Commercial uses.

Adult entertainment establishment.

All adult entertainment establishments shall comply with MSA 617.242 and Chapter 5 of this Code;

Agriculture, community garden, farmers market, general and urban.

~~No killing or dressing of poultry, rabbits or other small or large animals, fish or creatures shall be permitted, other than the animals, fish or creatures raised on the premises and that such killing or dressing is done in an accessory building located not less than 200 feet from any lot line;~~

~~All buildings and enclosures, including fences, for the feeding, breeding or milking of large livestock or small animals, such as poultry, rabbits, fish and other similar animals, but not including pasturing and grazing, of such animals, must be located not less than 200 feet from any lot line;~~

Agriculture, community garden.

(a) Compost bins, water tanks, and other containers shall be controlled for odors and pests and shall be screened from view by adjacent properties and any public right-of-way with a fence at least as tall as the container, or with shrubs, trees, and/or perennials planted so that at maturity they will provide at least 75 percent opacity to the height of the container. If not visible from a public right-of-way or adjacent property, this screening is not required;

(b) If a primary structure is present, accessory structures shall follow requirements in Section 50-21. If no primary structure is present, structures shall be allowed no closer than 20 feet from the front property line, three feet from any side property line, and five feet from the rear property line. No accessory structure shall exceed 20 feet in height;

(c) Fences must adhere to restrictions in Section 50-26.4;

(d) No sale of produce or other goods is allowed;

(e) Events such as weddings, parties and other activities normally associated with an event center, religious assembly, or other use that typically holds large events, are not allowed unless permitted within the zone district;

(f) For outdoor growing operations, mechanized equipment similar in scale to that designed for household use shall be permitted. Use of larger mechanized farm equipment is generally prohibited; provided, however, that during the initial preparation of the land, heavy equipment may be used;

(g) Keeping of bees is permitted, as regulated by Chapter 6 of the City Code. Keeping of all other animals is

prohibited;

(h) All tools and equipment shall be stored in an enclosed, secured structure;

Agriculture, farmers market.

(a) Farmers markets are only allowed between the hours of 7:00 a.m. to 7:00 p.m.;

(b) As part of the special use permit process, planning commission shall determine that the farmer's market will provide adequate on-site parking, or that sufficient public parking exists nearby;

(c) Sales shall be limited to no more than three days per week;

Agriculture, general.

(a) No killing or dressing of poultry, rabbits or other small or large animals, fish or creatures shall be permitted, other than the animals, fish or creatures raised on the premises and that such killing or dressing is done in an accessory building located not less than 200 feet from any lot line;

(b) All buildings and enclosures, including fences, for the feeding, breeding or milking of large livestock or small animals, such as poultry, rabbits, fish and other similar animals, but not including pasturing and grazing, of such animals, must be located not less than 200 feet from any lot line;

(c) Any production or processing of cheese, honey or other products raised on the farm must be done inside a building and in accordance with all state regulations;

Agriculture, urban.

(a) Compost bins, water tanks, and other containers shall be controlled for odors and pests and shall be screened from view by adjacent properties and any public right-of-way with a fence at least as tall as the container, or with shrubs, trees, and/or perennials planted so that at maturity they will provide at least 75 percent opacity to the height of the container. If not visible from a public right-of-way or adjacent property, this screening is not required;

(b) If a primary structure is present, accessory structures, including ones of a temporary nature such as hoop houses, shall follow requirements in Section 50-21;

(c) For urban agriculture uses where operations are primarily conducted within a building, such as a greenhouse or hydroponic operation, such building shall be considered the primary building and not an accessory building. For urban agriculture uses where operations are primarily conducted outside, structures (including ones of a temporary nature such as hoop houses) shall be allowed no closer than 20 feet from the front property line, three feet from any side property line, and five feet from the rear property line. No accessory structure shall

exceed 20 feet in height, and accessory structures shall not exceed more than 30 percent of the lot area;

(d) Fences must adhere to restrictions in Section 50-26.4;

(e) No sale of produce or other goods is allowed;

(f) Events such as weddings, parties and other activities normally associated with an event center, religious assembly, or other use that typically holds large events, are not allowed unless permitted within the zone district;

(g) For outdoor growing operations, mechanized equipment similar in scale to that designed for household use shall be permitted. Use of larger mechanized farm equipment is generally prohibited; provided, however, that during the initial preparation of the land, heavy equipment may be used;

(h) Keeping of fish for aquaculture or aquaponics is allowed, subject to any conditions of the special use permit. Keeping of chickens, rabbits and bees is permitted, as regulated by Chapter 6 of the City Code. Keeping of all other animals is prohibited unless specifically approved in the City Code;

(i) All tools and equipment shall be stored in an enclosed, secured structure;

Automobile and light vehicle repair and service.

No displays or storage of merchandise, parts or refuse may be located closer than 20 feet from any public right-of-way;

A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district;

All areas for outdoor storage of automobiles or light vehicles shall be screened from adjacent properties by a dense urban screen regardless of the use on the adjacent property;

Automobile or light vehicle sales, rental or storage.

In the MU-C district, the use is permitted when located at least 100 feet from any R district;

Bank.

When in the MU-N district, the following standards apply:

The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;

Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend;

Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing or a dense urban screen;

The land use supervisor may require that the

rough be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;

Banks are limited to no more than two drive-through windows and one drive-through lane for ATM services on the premises;

Any drive-through lane that is located between a bank and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open past 10:00 p.m.;

Banks in the R-P, F-1, F-3, F-5, F-6, F-7, F-8 or F-9 districts may not have drive-through facilities;

Drive-through lanes shall allow for stacking space for three cars;

Bed and breakfast.

This is a primary use of land, and the owner need not reside in the use. The use shall:

Have no more than 12 habitable units;

If located in a residential zone district, the use shall appear outwardly to be a one-family dwelling, giving no appearance of a business use other than allowed signs;

If located in a residential zone district, the use shall have no greater impact on surrounding public areas or infrastructure or natural resources than a fully occupied private home with house guests;

Be located on a lot or tract containing a minimum of 0.6 acre;

Contain a minimum of 1,500 square feet of area on the first floor of the main building;

Dining areas shall not exceed five seats per habitable unit. In addition to resident guests, only guests of resident guests shall be permitted to dine in a bed and breakfast, or guests participating in meetings or other private events hosted by the facility when other overnight guests are not present, not to exceed the approved seating capacity of the facility. For-profit events on the premises that involve a total number of participants in excess of the approved dining area seating capacity shall be limited to six days per year and shall be restricted to the period of October 15 through June 15;

Shall not have signage exceeding 12 square feet in size, and any signage shall complement the architecture of the structure;

Shall limit each guest stay to a maximum of 21 consecutive days;

Building materials sales.

Outdoor storage is limited to ten percent of the parcel's land area, and shall not be permitted in any required front yard area;



Each such area shall be screened from view from any ground floor window or door on any adjacent property, and from all adjacent rights-of-way, by an opaque fence or wall between six feet and eight feet in height. The fence may exceed eight feet in height where the difference in grade between the property line or right-of-way and the outdoor storage area makes a taller fence necessary to effectively screen the area;

A landscaped earth berm may be used instead or in combination with a required fence or wall;

Convention center.

A convention center may not exceed 50,000 square feet if it is within 500 feet of a multi-family use, or 15,000 square feet if it is within 500 feet of a one or two family use;

Daycare facility, small and large.

In the RR-1 and RR-2 districts this use and related parking facilities and structures other than driveways are limited to no more than 20 percent of the lot or parcel area;

Filling station.

No displays or storage of merchandise, parts or refuse may be located closer than ten feet from any public right-of-way;

A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district;

Grocery store, small and large.

Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas;

Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock;

Mini-storage facility.

This use shall comply with the following standards:

The use shall be contained within an enclosed building or buildings;

If the use abuts a residential zone district on any property line, building architecture shall employ sloped roofs and shall display wall relief features and colors commonly found in residential construction;

The use shall be designed so that doors to individual storage units do not face any abutting street frontage;

At least 50 percent of the wall surface area of any wall facing an abutting public street shall be faced with brick or split-block materials. Exposed concrete masonry unit (CMU) construction is not permitted on those facades;

Hours of public access to mini-storage units abutting one or more residential zone districts shall be restricted to the period from 6:00 a.m. to 10:00 p.m.;

Signage shall be limited to one 40 square feet illuminated

and 20 square feet of non-illuminated wall signage. Signs shall not be located closer than ten feet to the front property line and no closer than 50 feet to any side property line;

Mini-storage facilities are only allowed on properties within the RR-1 district that are also within the Airport Overlay District Safety Zone B. There shall be a minimum of 50 feet of landscaped or naturally vegetated buffer from all property lines;

In the R districts a dense urban screen shall be installed along all side and rear property lines;

Office.

In the MU-I district, offices are limited to those in support of the permitted institutional uses in the district; general offices unrelated to the activities of those institutions are not permitted;

In the MU-B district, offices are limited to those in support of the permitted industrial uses in that zone district; general offices unrelated to the activities of those institutions are not permitted;

In the F-6 district, offices may not have drive-through facilities;

Other outdoor entertainment or recreation use not listed.

No circus ground, carnival ground, event ground, or amusement park shall be approved within 300 feet of an R-C, RR-2 or R district;

Parking lot or parking structure (primary use).

In the MU-C district, any parking structure shall be located at least 50 feet from any RC, RR or R district;

In F-1, F-2, F-3, F-4, F-6, F-8 and F-9 districts, only parking lots are allowed as primary uses. In F-7, only parking structures are allowed as primary uses. In F-5, parking lots and parking structures are allowed as primary uses;

Parking lots (primary use) are stand alone and self-contained, separate and distinct from other adjacent land uses. They need to conform to UDC requirements, such as lot frontage and drive aisle width, independent of adjacent properties;

Recreational vehicle (RV) park.

Within any flood plain district, recreational vehicles that do not meet the exemption criteria specified in Subsection 2 below shall be subject to the elevation and anchoring provisions of Section 50-18.1.C for new structures;

Criteria for exempt recreational vehicles:

- (a) The vehicle must have a current license required for highway use;
- (b) The vehicle must be highway ready, meaning on

wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks;

(c) No permanent structural type additions may be attached to the vehicle;

(d) The vehicle and associated use must be permissible in any pre-existing, underlying zoning district;

(e) Accessory structures are not permitted within the floodway district. Any accessory structure in the flood fringe district must be constructed of flood-resistant materials and be securely anchored as specified in Section 50-18.1.C.3.v;

(f) Cost of an accessory structure must not exceed \$500;

Recreational vehicles that are exempt in Section 50-20.3.P.2 lose this exemption when development occurs on the site exceeding \$500 for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as a new structure and shall be subject to the elevation/floodproofing requirements and the land use standards specified in Section 50-18.1.C.3(C) of this ordinance [Chapter]. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle to a flood-free location;

New commercial recreational vehicle parks or campgrounds, subdivisions or condominium associations, and the expansion of any similar existing use exceeding five units or dwelling sites may be allowed subject to the following:

On any new or replacement recreational vehicle site in the flood fringe district, the recreational vehicle and its contents must be placed on fill above the regulatory flood protection elevation and adequate road access to the site must be provided in accordance with Section 50-18.1.C.5(d). No fill placed in the floodway to meet the requirements of this section shall increase the flood stage of the regional flood;

Any new or replacement recreational vehicle site located in the floodway district, or as an alternative to 4(a) above in the flood fringe district, may be allowed as a special use in accordance with the following provisions and the provisions of Section 50-37.10;

The applicant must submit an emergency plan for the safe evacuation of all vehicles and people acceptable to the city council as specified in Section 50-18.1.C.5(d). The plan shall demonstrate that adequate time and personnel

t to carry out an evacuation, and that all vehicles will meet the exemption criteria specified in Section 50-20.Q.2 above; and

All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding;

Restaurant.

In the R-2 and MU-N district, no use shall exceed 5,000 sq. ft. in gross floor area; Drive-ins and drive-throughs for restaurants are only allowed in the MU-N, MU-C, MU-B, MU-P, F-2, F-3, F-4, and F-5 zone districts;

Drive-through lanes shall allow for stacking space for 5 cars;

When in the MU-N district, the following additional standards apply:

The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;

Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend;

Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing, or a dense urban screen;

The land use supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;

Restaurants are limited to one drive through lane and one speaker box;

When in the F-3 and F-5 districts, the following additional standards apply;

Access to and from the drive-through must be through the alley, if alley exists;

Restaurants are limited to one drive through lane;

Retail sales, small and large.

Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas;

Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock;

Retail stores are limited to one drive-through window;

Any drive-through lane that is located between a retail store and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open past 10:00 p.m.;

Drive-through lanes shall allow for stacking space for

e cars;

When in the MU-N district, the following standards apply:

The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;

Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend;

Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing, or a dense urban screen;

The land use supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;

Seasonal camp or cabin.

In the R-C and RR-1 districts, buildings shall be located not less than 200 feet from any R district;

In the R-C district, the design of the site shall preserve the rural character by:

Separating each camp or cabin site by at least 50 feet, measured from the closest points on each tent or cabin area;

Preserving all natural vegetation not required to be removed for access roads, trails or public safety;

Using gravel or pervious paving, rather than impervious materials, for all access road and driveways serving fewer than 25 camp or cabin sites;

Veterinarian or animal hospital.

In the R-C and RR-1 districts, this use is permitted provided that service is limited to large livestock/large animal care and any building or enclosure so used shall be located not less than 100 feet from any lot line;

In the R-2, R-P, MU-N and MU-C districts, this use is permitted provided that practice is limited to the treatment of small animals (household pets, i.e. dogs, cats, birds, that are ordinarily permitted in the house for company) and that all aspects of the facility are totally contained (including kennel runs and exercise areas) within a soundproof building with adequate ventilation;

Vacation dwelling unit.

The minimum rental period shall as follows:

For properties zoned RR-1, RR-2, R-1 and R-P the minimum rental period shall not be less than two nights except for the period from June 15 to September 15 when the minimum rental period shall not be less than five nights;

For properties zoned R-2, MU-N and F-5 the minimum rental period shall not be less than two

its except for the period from June 15 to September 15 when the minimum rental period shall not be less than three nights;

The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two;

Off street parking shall be provided at the following rate:

1-2 bedroom unit, one space;

3-4 bedroom unit, two spaces;

5+ bedroom unit, three spaces;

Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street;

The property owner must obtain all licenses and permits from the city of Duluth and state of Minnesota required for guest occupancy on the property for three to 21 days;

The property owner must provide required documents and adhere to additional requirements listed in the city of Duluth's UDC application manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures;

The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first.

Section 2. That Section 50-20.5 of the Duluth City Code, 1959, as amended, be amended as follows:

50-20.5 Accessory uses.

Accessory agriculture roadside stand.

Only one stand offering for sale farm products produced on the premises is permitted provided that such stand does not exceed an area of 200 square feet and that it is located not nearer than 25 feet to any street or highway;

Accessory bed and breakfast.

The owner and operator of an accessory bed and breakfast shall be required to live in the establishment. In addition, the use shall:

Have no more than five habitable units;

Appear outwardly to be a one-family dwelling, giving no appearance of a business use other than allowed signs;

Have no greater impact on surrounding public areas, infrastructure or natural resources than a fully occupied private home with house guests;

Be located on a lot or tract containing a minimum of 0.6 acre;

Contain a minimum of 1,500 square feet of area on the

floor of the main building;

Dining areas shall not exceed three seats per habitable unit in bed and breakfast inns. In addition to resident guests, only guests of resident guests shall be permitted to dine in a bed and breakfast, or guests participating in meetings or other private events hosted by the facility when other overnight guests are not present, not to exceed the approved seating capacity of the facility. For profit events on the premises that involve a total number of participants in excess of the approved dining area seating capacity shall be limited to six days per year and shall be restricted to the period of October 15 through June 15;

Shall not have signage exceeding 12 square feet in size, and any signage shall complement the architecture of the structure;

Shall limit each guest stay to a maximum of 21 consecutive days;

May be subject to other conditions deemed necessary by the city to ensure the use complies with the purpose of this subsection;

Accessory boat dock, residential.

This use shall comply with the following standards:

Dockage of boats owned and primarily used by a resident of the property is a permitted accessory use to the primary residential use and shall not be limited in number;

If there is a residential structure on the property and the property has frontage on an improved street, the owner of the residential structure may rent out boat dockage to a maximum of two boats owned by others. If the property does not have frontage on an improved street, the owner of the residential structure may not rent dockage space to others. Boat dockage use on a property that is not residentially developed is permitted as a principal use provided that the use is limited to one boat for each lot or group of contiguous lots in the same ownership, and the boat is owned and primarily used by the owner of the property;

For each new rental boat dock space created or made legal after April 14, 1974, one off street parking space shall be provided in addition to all other off street parking spaces required by other legal uses of the property, such spaces to be constructed in accordance with Section 50-24;

At the request of the building official, the owner of property shall provide boat registration or other documentary evidence to prove compliance with these standards;

No buildings other than residential or residential

Accessory structures, no winter storage of boats other than those owned by a resident of the property in question, no repair facilities, fuel sales, food or refreshment sales, rentals of boats, boat or parts sales or displays or other commercial uses shall be permitted;

Accessory dwelling unit.

An accessory dwelling unit may be created within, or detached from, any one-family dwelling, as a subordinate use, in those districts shown in Table 50-19.8, provided the following standards are met:

Only one accessory dwelling unit may be created per lot;

No variances shall be granted for an accessory dwelling unit;

Only the property owner, which shall include title holders and contract purchasers, may apply for an accessory dwelling unit;

One off-street parking space shall be provided in addition to off-street parking that is required for the primary dwelling;

Accessory dwelling units shall contain no more than 800 square feet of floor space and shall be consistent in character and design with the primary dwelling;

If a separate outside entrance is necessary for an accessory dwelling unit located within the primary dwelling, that entrance must be located either on the rear or side of the building;

Accessory heliport.

All accessory heliports shall have and maintain in effect at all times all required permits and approvals, if any, for the facility and operation required by the FAA, and shall design and maintain the facility and conduct operations in compliance with those permits and approvals;

In the R-C and I-G districts, this use shall be permitted only when it is accessory to an airport as a primary use;

Accessory home occupation.

All home occupations not listed separately in Table 50-19.8 must comply with the following standards:

The use must be conducted entirely in the residence or accessory buildings and not on outdoor portions of the lot, except that the growing of food crops or ornamental crops, to be sold or donated off-site, shall be exempt from this provision;

No business involving retail sales of goods from the premises is permitted;

No person not a member of the family residing on the premises shall work on the premises;

Not more than 25 percent of the floor area of one story of the dwelling shall be devoted to such home occupation and not more than 50 percent of an accessory structure may be devoted to such home occupation;



The home occupation shall not require external alterations that would change the residential character of the property;

No display pertaining to such occupation shall be visible from the street;

The use of the property for a home occupation shall not result in the number of client appointments at the property in excess of two appointments per hour and appointments shall be limited to the hours of 8 a.m. to 7 p.m. and not more than four clients shall be on site at the same time;

No equipment shall be used that creates offensive noise, vibration, sound, smoke, dust, odors, heat, glare, X-ray or electrical disturbance to radio or television or that otherwise constitutes a nuisance;

All home occupations that require a license from the state shall maintain a valid license at all times and shall operate in compliance with the terms of that license and all applicable regulations of the state at all times;

. No motor vehicle repair is permitted as an accessory home occupation and repair of motor vehicles not registered to the owner or leaseholder of the property is prohibited regardless of whether the repair is being made for compensation;

Accessory sidewalk dining area.

In all districts, this use requires approval of a sidewalk use permit pursuant to Section 50-37.12;

Accessory solar or geothermal power equipment.

In all districts, other than building integrated solar collection systems, solar collection systems shall comply with the following requirements:

Ground-mounted solar system.

Solar collectors shall not be located in the front yard between the principal structure and the public right-of-way;

Solar collectors shall be located a minimum of six feet from all property lines and other structures;

Solar collector areas in any residential district shall not exceed the greater of one-half the footprint of the principal structure or 600 square feet, whichever is greater. The size of solar collector areas in all districts except residential districts shall not exceed one-half of the footprint of the principal structure;

Free-standing or ground-mounted solar installations shall not exceed 20 feet in height, when the system is oriented at its maximum design pitch;

Roof-mounted or wall-mounted solar system.

A solar collection system shall be located a minimum of six feet from all property lines and other structures

apt the structure on which it is mounted;

Notwithstanding the height limitations of the zoning district, building-mounted solar energy systems shall not extend higher than three feet above the ridge level of a roof on a structure with a gable, hip or gambrel roof and shall not extend higher than ten feet above the surface of the roof when installed on a flat or shed roof;

The solar collector surface and mounting devices for building-mounted solar energy systems shall be set back not less than one foot from the exterior perimeter of a roof for every one foot that the system extends above the parapet wall or roof surface, if no parapet wall exists, on which the system is mounted. Solar energy systems that extend less than three feet above the roof surface shall be exempt from this provision;

A solar collection system may be located on an accessory structure;

Solar easements.

A property owner who has installed or intends to install a solar collection system shall be responsible for negotiating with other property owners in the vicinity for any necessary solar easement and shall record the easement with the county recorder. If no such easement is negotiated and recorded, the owner of the solar collector shall have no right to prevent the construction of structures permitted by this Chapter on nearby properties on grounds that the construction would cast shadows on the solar collection system;

Accessory uses or structures not listed elsewhere.

In any residential district, any accessory building that is erected prior to the construction of the principal building shall comply with the following conditions:

The construction of the principal building shall be completed and the certificate of occupancy for such principal use issued within two years of issuance of the building permit for the accessory building;

Prior to issuance of a building per

STATEMENT OF PURPOSE: This ordinance implements a text amendment to Chapter 50 of the City Code, known as the Unified Development Chapter (UDC). The proposed ordinance clarifies use specific development standards for urban agriculture and general agriculture. The proposed changes were discussed at a published public hearing on September 8, 2015. After the public hearing was closed, the Duluth planning commission made a motion to recommend that the city council approve the recommended amendments to UDC. The vote passed with a vote of 8 yeas, 0 nays and 0 abstentions, with 1 planning commission member being absent from the meeting.

The ordinance remained on the table.

**The following entitled ordinances were read for the first time:**

**COMMITTEE 2**

**BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)**

19.     **15-088-O**     AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1, MU-B AND I-G TO R-2, PROPERTY AT VINTAGE ACRES MANUFACTURED HOUSING COMMUNITY AND ABUTTING PARCEL 010-2730-00267 (CITY OF DULUTH).

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the subject properties located in the western portion of the city and as more particularly described as follows:

010-2730-00265   010-2730-00267   010-2730-00955  
010-2730-00546   010-2730-00266

Part Being Outlot B of Plat Home Park Division of New Duluth;

be reclassified from Residential-Traditional (R-1), Mixed Use-Business (MU-B) and Industrial-General (I-G) to Residential-Urban (R-2), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as per Attachment 1.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

STATEMENT OF PURPOSE: This zoning map amendment provides a zoning change for the properties located in the western portion of the city including Vintage Acres manufactured housing community and the and abutting parcel number 010-2730-002670 from the current zoning districts

of Residential-Traditional (R-1), Mixed Use-Business (MU-B) and Industrial-General (I-G) to Residential-Urban (R-2).

On June 23, 2015, the city council unanimously passed a resolution adopting the Gary/New Duluth small area plan (SAP). The SAP recommends to rezone that portion of the Vintage Acres manufactured housing community zoned MU-B and I-G to a zoning designation that is consistent with the comprehensive land use plan. The future land use for this area is traditional residential which could support a rezoning to R-1 or R-2 zone districts.

On October 13, 2015, the Duluth city planning commission held a public hearing on the proposal and voted 8 yeas, 0 nays and 0 abstentions, to recommend that the city council approve the rezoning requested for the following reasons:

- 1.) This proposal is consistent with the comprehensive land use plan.
- 2.) The proposed R-2 zone district is consistent with the future land use category of Traditional Neighborhood.
- 3.) Material adverse impacts on nearby properties are not anticipated.

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Petitioner:  
City of Duluth Planning Division  
Room 208 City Hall  
Duluth, Minnesota 55802

PL 15-157

**Attachments:** [Attachment 1](#)  
[Attachment 2](#)

**This Ordinance was read for the first time.**

- 20. 15-089-O** AN ORDINANCE GRANTING A CONCURRENT USE PERMIT FOR A FENCE AND PRIVATE PARKING SPACES IN THE PLATTED STREET RIGHT-OF-WAY OF MYGATT AVENUE AND A FENCE IN THE PLATTED STREET RIGHT-OF-WAY OF SILCOX AVENUE (MONTESSORI SCHOOL OF DULUTH, INC.).

## CITY PROPOSAL:

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 granted to Montessori School of Duluth, Inc, and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) Two fences and 11 private parking spaces servicing the adjacent Montessori building, as shown in the exhibit Attachment 1.

Section 2. Before this ordinance shall be effective for any purpose whatsoever, the permittee shall file with the planning division a certification of insurance approved as to form by the city attorney evidencing that the permittee has in force a policy of insurance meeting the following requirements:

(a) Comprehensive general liability insurance in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage; and

(b) Insurance coverage shall include all permittee's activities occurring upon or within public right of way or easement occupied pursuant to this ordinance whether said activities are performed by the permittee or its agents or representatives; and

(c) The insurance policy shall be approved by the city attorney; and

(d) The policy shall contain a condition that it may not be canceled without 30 days written notice to the city of Duluth and directed to the attention of the city attorney; and

(e) The city of Duluth shall be named as an additional insured; and

(f) The certificate shall also reference this ordinance by its ordinance number.

Section 3. The permit granted by this ordinance may be terminated at any time by the city official exercising departmental authority of the public easement if the city of Duluth determines to use the area occupied by the permittee for any public purpose in accordance with the duly dedicated public easement or other lawful use.

Unless a shorter notice period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance, giving the permittee 30 days written notice delivered to the last known electronic address, facsimile number, or mailing address of the permittee shall be sufficient notice of termination.

Upon termination permittee shall cause all private improvements to be removed by the deadline provided in termination notice. Permittee shall be responsible for all costs incurred to remove the private improvements, including any costs associated with repairing damage caused to the public easement by the removal and without right to claim from the city of Duluth, or any of its officers, agents or servants, any compensation or reimbursement for damages of any kind whatsoever.

Section 4. By accepting the terms of this ordinance, the permittee agrees to hold harmless and defend and indemnify the city of Duluth against claims or demand which may arise against the city of Duluth by reason of the existence of private improvements, or any act or omission of the permittee, its employees, agents, and assigns. The permittee agrees that the city of Duluth shall not be liable for damage caused to the private improvements while the city engages in the repair and maintenance to, or replacement of, the public improvements or public utilities, including any snow removal operations. The permittee agrees to pay to the city of Duluth all extra costs of installation of any public improvements or public utilities made necessary by the presence of the private improvements.

Section 5. The permittee shall, at its expense, protect, support, temporarily disconnect, or remove from the public easement, the private improvements when required by city officials by reason of snow removal, traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, sidewalks, installation of sewers, drains, water pipes, power lines, signal lines and tracks, the installation or repair of any type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

Section 6. Upon the sale or transfer of permittee's interest in the permit granted by this ordinance, the permittee shall provide written notice to the planning division within five days of such transfer. The permittee's successor in interest shall file with the planning division within ten days of such transfer a duly executed and acknowledged written acceptance of the terms of this ordinance and the certificate of insurance required in Section 2 above.

Section 7. The permit granted by this ordinance is subject to termination

by the city of Duluth upon permittee's failure to comply with any of the terms and conditions of this permit. Ten days written notice, delivered as provided in Section 3 above shall be sufficient notice of termination. Upon termination, permittee shall remove the private improvements as provided in Section 3.

Section 8. The permittee shall observe the following conditions:

(a) Permittee's use of the public right of way or easement shall be limited to the designated area described in Section 1 above and further shown on the exhibits; and

(b) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as in no way interfere with or damage any portion of any public improvement, or other public utilities now or to hereinafter located in any part of said public easement.

Section 9. The following events shall automatically cause the termination of the term of this ordinance:

(a) The failure by the permittee to file the required insurance certificate as specified in Section 2 30 days after this ordinance takes effect; or

(b) The failure of the permittee to commence the improvements authorized by this ordinance within 180 days after this ordinance takes effect.

Section 10. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

**STATEMENT OF PURPOSE:** This ordinance grants Montessori School of Duluth, Inc, a concurrent use permit for the installation of a eleven private parking spaces and fencing in the right of way of Mygatt Avenue, and private fencing on Silcox Avenue.

The project, if approved, will reduce the amount of impervious surface at the project site. It will also improve the flow of parent drop-off/pick-up traffic to the school, improving safety for the users of the school and residents of the neighborhood.

On October 13, 2015, the planning commission held a public hearing on the proposal, and voted 7 yeas, 1 nay, 0 abstentions, with 1 member absent, to recommend that the city council approve the request for a concurrent use of streets.

Petition received: September 24, 2015

Action deadline: January 22, 2016

Applicant  
Montessori School of Duluth, Inc.  
Attn: Jim Goodman, Board President  
313 Mygatt Avenue  
Duluth, MN 55803

PL 15-160

**Attachments:** [Attachment 1](#)  
[Attachment 2](#)

**This Ordinance was read for the first time.**

- 21. 15-090-O** AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO MU-I, PROPERTY AT 1215 RICE LAKE ROAD (THE MARSHALL SCHOOL).

**CITY PROPOSAL:**

The city of Duluth does ordain:

Section 1. That approximately 45 acres of land located at 1215 Rice Lake Road and as more particularly described as follows, and described in Attachment 1:

010-2710-05965  
010-2710-06124  
010-2710-06126  
010-2710-06260  
010-2710-06295  
010-2710-06252  
010-1350-16960  
010-1350-17010  
010-1350-16970  
010-1350-17020  
010-1350-16980  
010-1350-17030



010-1350-16990  
010-1350-17040  
010-1350-17000 (Partial ROW Lot 73)  
010-1350-17050  
010-1350-17910  
010-1350-17930  
010-1350-19740

be reclassified from Residential-Traditional (R-1) to Mixed Use-Institutional (MU-I), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as shown in the Attachment 2.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

STATEMENT OF PURPOSE: This amendment provides a zoning change from R-1 to MU-I at 1215 Rice Lake Road.

The MU-I zoning district is "established to provide for the unique development needs and impacts of major medical, educational and research institutional development. The intent is to give institutional landowners the flexibility to plan and develop their facilities while ensuring that surrounding neighborhoods are protected from adverse impacts, such as traffic, overshadowing buildings, noise and unexpected expansion of institutional uses into residential areas". The MU-I district allows for many different land uses, but unless there is an approved district plan for the property, a planning review and public hearing in front of the planning commission is required for all and each development and redevelopment at the site.

On October 13, 2015, the Duluth city planning commission held a public hearing on the proposal and voted 8 yeas, 0 nays, 0 abstentions, with 1 member absent, to recommend that the city council approve the rezoning requested.

The applicant did not submit written consent of 2/3 of property owners within 100 feet of the property to be rezoned. The motion to approve the rezoning must prevail with an affirmative vote of 2/3 by the city council.

Petition received: September 8, 2015

Action deadline: January 6, 2016

Petitioner:

The Marshall School

Attn: Elizabeth Tessier, Chief Financial Officer

1215 Rice Lake Road

Duluth, MN 55811  
btessier@marshallschool.org

PL 15-147

**Attachments:** [Attachment 1](#)  
[Attachment 2](#)  
[Attachment 3](#)

**This Ordinance was read for the first time.**

- 22. 15-091-O** AN ORDINANCE AMENDING SECTION 50-14.5 RESIDENTIAL-TRADITIONAL (R-1), AND 50-20.1 RESIDENTIAL USES, RELATED TO DESIGN STANDARDS FOR TOWNHOMES AND DUPLEXES.

**CITY PROPOSAL:**

The city of Duluth does ordain:

Section 1. That Section 50-14.5 of the Duluth City Code, 1959, as amended, be amended as follows:

Purpose.

The R-1 district is established to accommodate traditional neighborhoods of single-family detached residences, duplexes and townhouses on moderately sized lots. This district is intended to be used primarily in established neighborhoods. Many of the dimensional standards in this district require development and redevelopment to be consistent with development patterns, building scale, and building location of nearby areas. Uses are allowed as shown in Table 50-19.8;

*See Attachment 1, Table 50-14.5-1, R-1 District Dimensional Standards*

B. Example.

*See Attachment 2, Illustrations 50-14.5.B and 50-14.5.C*

C Illustration.

*See Attachment 2, Illustrations 50-14.5.B and 50-14.5.C*

Section 2. That Section 50-20.1 of the Duluth City Code, 1959, as amended, be amended as follows:

50-20.1 Residential uses.

Dwelling, two-family.

In the R-1, R-2 and R-P districts, two-family dwellings shall be designed to protect and reflect the character of one-family residences as set forth below: Minimum size. A two-family dwelling shall contain at least 1,800 square feet of floor area (not including garages or utility rooms or basement or attic space not used for living quarters);

Exterior stairways. No exterior stairways with a total vertical rise greater than five feet shall be permitted;

In the R-1 and R-2 districts, each unit in a two family dwelling must have a separate exterior entrance on the facade facing the front property line;

Dwelling, townhouse.

In the R-1 and R-2 districts, each dwelling shall exhibit the characteristics of a series of one-family dwellings that are arranged in an attached side by side fashion and shall be designed to protect the character of one-family residences as set forth below:

Dwelling fronting street. Townhouse dwellings shall be located on lots in such a way that each individual dwelling unit has a minimum of ~~15~~ 20 feet of street frontage in the R-1 district, and a minimum of 15 feet of street frontage in the R-2 district;

Variation of exterior walls. No more than two adjacent townhouse units may have front facades in the same vertical plane. Where a variation in front façade plane is required, the variation shall be a minimum of three feet;

Landscaping. Prior to the occupancy and use of a townhouse dwelling, coniferous or evergreen trees meeting the minimum size requirements of Section 50-25.2 shall be planted in required front and back yard areas on an average spacing of 20 feet;

Screening of refuse areas. Where refuse storage areas are directly viewable from any exterior lot line at a height of six feet above grade, they shall be screened by wood, brick, or stone fences, or by vegetative materials, with a minimum height of six feet, designed so that at least 75 percent of the refuse

a is obscured by opaque materials when viewed at an angle perpendicular to the screening materials;

Maximum number of units. In the R-1 district, townhomes constructed on the corners of blocks or adjacent to the intersections of two or more public or private road may have up to eight dwelling units, but townhomes constructed in the middle of a subdivision block may have no more than six dwelling units. In all other zone districts, townhomes may not exceed eight dwelling units;

Separate entrances. Each unit in a townhome must have a separate exterior entrance on the facade facing the front yard property line, or front side yard property line;

Design features. At least three of the following design features shall be provided for visual relief along all facades of each townhome structure:

(a) Roof dormers;

(b) Gables;

(c) Recessed entries;

(d) Covered porches;

(e) Cupolas;

(f) Pillars, pilasters or posts;

(g) Bay windows;

(h) Eaves of at least 12 inches beyond the building wall or a parapet wall with an articulated design (decorative cornice, etc.);

(i) Multiple windows with minimum four inches trim;

(j) Recesses/shadow lines;

Dwelling, multi-family.

In the F-2, F-4, F-5 and F-8 districts, this use is permitted on the ground floor of the corridor building type only. In other building types it is only permitted above the ground floor;

Residential care facility/assisted living.

In the F-2, F-4, F-5, and F-8 districts, this use is permitted on the ground floor of the corridor building type only. In other building types it is only permitted above the ground floor;

Rooming house.

In the F-2, F-4, F-5 and F-8 districts, this use is permitted on the ground floor of the corridor building type only. In other building types it is only permitted above the ground floor;

Manufactured home park.

New manufactured home parks, expansions to existing manufactured home parks, and new or replacement of manufactured home units on lots of record are prohibited in the floodway district. If

wed in the flood fringe district, these uses shall be subject to the requirements of Section 50-18.1 of this Chapter and the following standards;

Existing, new and replacement manufactured homes in the flood fringe district must comply with the following standards:

(a) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state anchoring requirements for resisting wind forces;

(b) New or replacement manufactured homes in existing manufactured home parks must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, unless the property owner has a flood warning and emergency evacuation plan acceptable to the city council as specified in Section 50-18.1.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

**STATEMENT OF PURPOSE:** This ordinance implements text amendments to chapter 50 of the City Code, known as the Unified Development Chapter (UDC).

The proposed ordinance increases the lot frontage and lot area requirement for future townhome developments, and increases the required street frontage for each individual townhome dwelling unit. It also limits the number of townhomes in an R-1 zone to no more than six dwellings units if located within a block, up to eight dwelling units if on a street corner. Finally, the proposed ordinance adds a requirement that new townhomes provide some basic architectural design features.

The proposed changes were discussed at a published public hearing on September 8, 2015. After the public hearing was closed, the Duluth planning commission made a motion to table the item for additional review and public comment. The item was discussed at the October 13, 2015, regular planning commission meeting. The planning commission made a motion to recommend that the city council approve the recommended amendments to the UDC. The vote passed with a vote of 6 yeas, 2 nays and 0 abstentions, with 1 planning commission member being absent from the meeting.

Attachments: [Attachment 1](#)  
[Attachment 2](#)  
[Attachment 3](#)  
[Attachment 4](#)

This Ordinance was read for the first time.

The following entitled ordinance was read for the second time:

**COMMITTEE 3**

**BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)**

23. 15-087-O AN ORDINANCE GRANTING ST. LOUIS COUNTY TEMPORARY EASEMENTS OVER VACATED 20TH AVE. E AND HERITAGE PARK.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the proper city officials are hereby authorized to enter into an agreement, a copy of which is attached hereto as Exhibit A, with St. Louis County granting said county a temporary easement over the following-described property in St. Louis County, Minnesota for street and utility purposes and for construction related thereto, said easements to terminate upon the sooner of the completion of reconstruction of 4th Street by said county or December 31, 2017:

That portion of vacated 20th Avenue East bounded on the Southeast by the Northwesterly line of 4th Street, and on the Northeast by a line lying 103.86 feet Northwesterly of and parallel with the Northwesterly line of platted 4th street: and

A 10.00 foot wide temporary construction easement in Lots 9 and 10 of Block 10, Highland Park Addition to Duluth, according to the recorded plat thereof, described as follows:

Beginning at the intersection of the northeast line of said Lot 9 with the east line of Woodland Avenue; thence southerly along the east line of Woodland Avenue 43.80 feet; thence southeasterly 75.00 feet to a point

southeast line of said Lot 10, said point being 60.00 feet southwest of the east corner of said Lot 9, hereinafter described as Line A; thence northeast 60.0 feet along southeast line of said Lots 9 and 10 to the east corner of Lot 9; thence northwest along the northeast line of said Lot 9 to the intersection with a line that is parallel with and distant 10.00 feet northwest of southeast line of said Lots 9 and 10; thence southwest along said line parallel with southeast line of Lots 9 and 10 to the intersection with a line that is parallel with and distant 10.00 feet northeasterly of said Line A; thence northwesterly along said line parallel with Line A to the intersection with a line that is parallel with and distant 10.00 feet east of said east line of Woodland Avenue; thence north along said line parallel with said east line of Woodland Avenue to the northeast line of said Lot 9; thence northwest along northeast line of said Lot 9 to the Point of Beginning.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective Date: November 25, 2015)

**STATEMENT OF PURPOSE:** The purpose of this ordinance is to approve an agreement granting to St. Louis County a temporary easement to allow them to keep 20th Avenue East open between Woodland 4th Street until construction of the 4th Street reconstruction project is started, to allow the County to demolish that road when appropriate and to allow them to perform necessary construction work on Heritage Park property.

The Council had previously approved an agreement for the work related to the 20th Avenue East right-of-way but further discussion with the County revealed that they needed additional temporary easements to perform all of the work anticipated for the Project. This agreement grants them temporary easements to cover all of the necessary work.

**Attachments:** [Exhibit A](#)

**A motion was made that this Ordinance be approved. The motion carried unanimously.**

**COUNCILOR QUESTIONS AND COMMENTS**

**COUNCILOR PREVIEW OF UPCOMING BUSINESS**

The meeting was adjourned at 7:28 p.m.





# City of Duluth

411 West First Street  
Duluth, Minnesota 55802

## Minutes

### City Council

**MISSION STATEMENT:** *The mission of the Duluth City Council is to develop effective public policy rooted in citizen involvement that results in excellent municipal services and creates a thriving community prepared for the challenges of the future.*

**TOOLS OF CIVILITY:** *The Duluth City Council promotes the use and adherence of the tools of civility in conducting the business of the council. The tools of civility will provide increased opportunities for civil discourse in order to find positive resolutions to the issues that face the city. These tools include: pay attention, listen, be inclusive, do not gossip, show respect, be agreeable, apologize, give constructive criticism and take responsibility. [Approved by the council on August 25, 2003]*

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Thursday, November 19, 2015

5:15 PM

Council Chamber

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#### Special Council Meeting - DTA

#### ROLL CALL

**Present:** 8 - Councilors Zach Filipovich, Jay Fosle, Sharla Gardner, Howie Hanson, Jennifer Julsrud, Barb Russ, Joes Sipress and President Emily Larson.

**Absent:** 1 – Councilor Linda Krug.

#### PLEDGE OF ALLEGIANCE

#### MOTIONS AND RESOLUTIONS

#### COMMITTEE 3

#### BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)

- 15-0798R** RESOLUTION AUTHORIZING AN AGREEMENT WITH THE DTA FOR THE REPAIR OF THE STORM SEWER UNDER THIRD AVENUE WEST BETWEEN MICHIGAN STREET AND I-35 FRONTAGE ROAD IN THE AMOUNT OF \$99,970.

#### CITY PROPOSAL:

RESOLVED, that the city council hereby finds that:

(a) A city storm sewer in Third Avenue West is cracked and is undermined and is in jeopardy of imminent failure and needs to be repaired and structurally supported in order to prevent such failure and to prevent damage to the new road to be installed over said sewer and damage to surrounding properties upon the happening of said failure;

(b) Delay in making the necessary repairs will delay the completion of the construction of the adjacent and related multimodal transit center project, increasing the costs of the project to the public;

(c) The onset of winter could greatly increase the potential damages to the public arising out of a failure of said sewer line and the cost to the public of making repairs during winter construction conditions; and

(d) That such conditions constitute an emergency justifying contracting with Duluth Transit Authority (the "DTA") to have its contractor constructing the aforesaid project perform such repairs on an immediate basis.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of the attached agreement, with the DTA to repair the storm sewer in Third Avenue West between Michigan Street and the I-35 frontage road, City Project No. 1082, for an amount not to exceed \$99,970, payable from the Stormwater Fund No. 535.

**A motion was made that this Resolution be adopted. The motion carried by the following vote:**

**Yea:** 7 - Councilors Filipovich, Fosle, Gardner, Julsrud, Russ, Sipress and President Larson.

**Absent:** 1 - Councilor Krug

**Abstain:** 1 - Councilor Hanson

**This meeting was adjourned at 5:18 p.m.**



# City of Duluth

411 West First Street  
Duluth, Minnesota 55802

## Minutes

### City Council

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**TOOLS OF CIVILITY:** *The Duluth City Council promotes the use and adherence of the tools of civility in conducting the business of the council. The tools of civility will provide increased opportunities for civil discourse in order to find positive resolutions to the issues that face the city. These tools include: pay attention, listen, be inclusive, do not gossip, show respect, be agreeable, apologize, give constructive criticism and take responsibility. [Approved by the council on August 25, 2003]*

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Monday, November 23, 2015

7:00 PM

Council Chamber

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#### ROLL CALL

**Present:** 9 - Councilors Zach Filipovich, Jay Fosle, Sharla Gardner, Howie Hanson, Jennifer Julsrud, Linda Krug, Barb Russ, Joes Sipress and President Emily Larson.

#### PLEDGE OF ALLEGIANCE

#### PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

1. **15-088** Communication regarding the proposed rezoning of the Morgan Park School site (15-092-O).

**Attachments:** [George A. Ruetschi Communication](#)

This Petition/Other Communication was received.

#### REPORTS FROM THE ADMINISTRATION

#### REPORTS FROM OTHER OFFICERS

2. **15-085** Clerk applications for exempt permits submitted to the Minnesota gambling control board from Minnesota Ballet on April 28, 2016, and St. John's the Evangelist Church on March 10, 2016 (raffles).

**Attachments:** [Minnesota Ballet Raffle Application](#)  
[St John Raffle Application](#)

This Other Officers Report was received.

## REPORTS OF BOARDS AND COMMISSIONS

3. 15-084 Civil service board minutes of September 15, 2015, meeting.

Attachments: [11-17-15 Agenda](#) [Minutes](#)

This Board or Commission Report was received.

4. 15-086 Duluth economic development authority minutes of September 23, 2015, meeting.

Attachments: [9-23-15 DEDA Mtg Minutes](#)

This Board or Commission Report was received.

5. 15-087 Duluth airport authority minutes of September 15, 2015, meeting.

Attachments: [Duluth Airport Authority Minutes](#)

This Board or Commission Report was received.

## REPORTS OF COUNCIL COMMITTEES

## REPORTS OF COUNCIL OPEN ISSUES

Councilor Sipress presented John Steffl with the Duluth City Council's November 2015 Distinguished Artists Award.

John Steffl commented and thanked the council.

## OPPORTUNITY FOR CITIZENS TO BE HEARD

Tom Morgan commented about Duluth's newest sister city in Rani, Kurdistan, which is in northern Iraq and updates about other cities.

Jeremy Rubin, Bob Kunze, Paul Steen, Nancy Nelson, Doug Stevens and Bill Majewski commented about the Skyline Parkway vegetation management plan.

## RESOLUTION TABLED

## COMMITTEE 2

## BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)

6. **15-0775R** RESOLUTION AMENDING RESOLUTION 14-0599, ADOPTING LICENSE, PERMIT, FINE, PENALTY AND OTHER CHARGES FOR 2015, BE AMENDED BY ADDING AN ANNUAL LICENSE FEE FOR KEEPING SMALL FARM ANIMALS.

**Body:** CITY PROPOSAL:

RESOLVED, that Resolution 14-0599 adopting license, permit, fine, penalty and other charges for 2015 be amended by adding an annual fee for keeping small farm animals in the amount of \$20.00 pursuant to Section 6-80.2(a) of the Duluth City Code, 1959, as amended, said new adopted fee shall be effective upon the effective date of Ordinance 15-093.

Councilor Russ moved to remove the resolution from the table, which motion was seconded and unanimously carried.

Councilor Russ moved to return the resolution to the administration, which motion was seconded and unanimously carried.

**This Resolution was withdrawn.**

## MOTIONS AND RESOLUTIONS

### BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)

32. **15-093-O** AN ORDINANCE AMENDING CHAPTER 6, ARTICLE VII, OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO NONDOMESTIC ANIMALS.

**Body:** CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Chapter 6, Section 72, of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 6-72. Definitions.

For the purposes of this Chapter, the following words and phrases shall mean:

(a) Farm animal. A domesticated species of fowl, or hoofed mammal commonly kept for agricultural purpose such as a horse, cow, sheep, pig or llama; such hoofed mammals having a weight at maturity that typically exceeds 30 pounds;

(b) Small farm animal. A domesticated hoofed mammal commonly kept for agricultural purposes, but not necessarily being kept for those purposes by the owner, such as a sheep or pig, having a weight at maturity that does not exceeds 30 pounds;

(~~b~~c) Nondomesticated animal. Every mammal, fowl and reptile species, including those born or raised in captivity, except the following:

(1) Domestic dogs (excluding hybrids with wolves, coyotes, or jackals) properly vaccinated against rabies pursuant to law;

(2) Domestic cats (excluding hybrids with ocelots or margays) properly vaccinated against rabies pursuant to law;

(3) Farm animals, including bees, Vietnamese pot-bellied pigs and pigeons, provided that no more than three Vietnamese pot-bellied pigs and no more than ten pigeons can be kept on any one lot or premises;

(4) Rodents, including hamsters, mice, gerbils, white rats or guinea pigs capable of being maintained continuously in cages;

(5) Rabbits;

(6) Species of common cage birds;

(7) Nonpoisonous snakes of a species that commonly does not grow in excess of eight feet in length;

(8) Chinchillas, hedgehogs, nonpoisonous lizards and other similar small animals capable of being maintained continuously in cages;

(9) Fish, unless prohibited by state or federal law;

(10) Neutered male or spayed female domestic ferrets;

(~~e~~d) Veterinary hospital. Any establishment maintained or operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals;

(~~e~~d) Zoological park. Any facility operated by a person, partnership, corporation, or governmental agency, other than a pet shop or kennel, displaying or exhibiting one or more species of nondomesticated animals.

Section 2. That Chapter 6, Article VII of the Duluth City Code, 1959, as amended, is hereby amended to add the following title between Sec. 6-78 and Sec. 6-79:

Division I. Licensing Requirements & Processes.

Section 3. That Chapter 6, Section 80.2 and Section 80.3, of the Duluth

City Code, 1959, as amended, are hereby added to read as follows:

Sec. 6-80.2. Obtaining a license to keep small farm animals.

(a) Any person who keeps small farm animals in the city of Duluth other than areas zoned Rural-Conservation (R-C) or Residential-Rural 1 (RR-1) under sections 50-14.2 and 50-14.3 of this Code, shall obtain an annual license prior to acquiring any small farm animal. Only one license shall be allowed per one-family dwelling or two-family dwelling as defined in Section 50-41 of this Code. A license granted to a two-family dwelling shall require written permission from the occupants of both dwelling units. The license year commences on January 1 and ends on the following December 31. Applications shall be made to the city clerk. The city clerk shall collect the license fee;

(b) Fees to be charged for the issuance of a license to keep small farm animals shall be set in accordance with Section 31-6(a) of this Code;

(c) All licenses shall be conditioned upon passing a mandatory inspection by the animal control authority;

(d) The animal control authority may refuse to grant or may revoke a license if the small farm animals become a nuisance, as evidenced by a third admitted or judicially-determined violation of the Duluth City Code within 12 months of the first of the three admitted or judicially-determined violations;

(e) The animal control authority may refuse to grant or may revoke a license to a person convicted of cruelty to animals under a code, ordinance or statute from this state, or a code, ordinance or statute from another state;

(f) All reports of such inspections and reviews shall be in writing and maintained by the animal control authority.

Sec. 6-80.3. Keeping of small farm animals.

(a) Each person holding a license to keep small farm animals within the city of Duluth shall comply with the following:

(1) The principle use of the property where the small farm animals are to be kept is a one-family dwelling on a lot greater than 2 acres as defined in Section 50-41 of this Code;

(2) No person shall keep more than three small farm animals;

(3) No person shall keep any small farm animals inside a dwelling

unit;

(4) No person shall slaughter any small farm animals within the city of Duluth;

(5) Small farm animals shall be provided a secure and well ventilated roofed structure in compliance with the current zoning and building codes;

(6) The roofed structure shall be fully enclosed, wind proof, and be of an appropriate size and design for the small farm animal to be kept according to industry best practices;

(7) The floors and walls of the roofed structure shall be kept in a clean, sanitary and healthy condition with all dropping and body excretions collected on a daily basis and placed in a fire-proof covered container until applied as fertilizer, composted or transported off the premises;

(8) Small farm animals shall be kept in the roofed structure or any attached fenced yard enclosure at all times;

(9) The fence around the yard enclosure shall be securely constructed so as to prevent the harm or escape of the small farm animal;

(10) The fenced yard enclosure shall be well drained so there is no accumulation of moisture;

(11) A floor area or combination of the floor and fenced yard area for keeping small farm animals shall not be less than the size established by industry standards;

(12) No roofed structure or fenced yard enclosure shall be located closer than 75 feet to any lot line; this requirement shall not apply to pasture or grazing areas.

Section 4. That this ordinance shall take effect 30 days after its passage and publication.

**This Ordinance was withdrawn.**

**CONSENT AGENDA**

**COMMITTEE 1**

**BY COUNCILOR FILIPOVICH (FINANCE)**



7. **15-0791R** RESOLUTION DISTRIBUTING THE ESTIMATED 2016 HOTEL-MOTEL AND FOOD AND BEVERAGE TOURISM TAXES.

Body: CITY PROPOSAL:

RESOLVED, that the 2016 hotel-motel and food and beverage tourism taxes, as estimated, be distributed in the following manner:

	Promotional & Capital	Operational Support	Total
3% Hotel/motel tax	\$ 2,512,200	\$ 960,900	\$ 1,551,300
1% Hotel/motel tax	\$ 837,400	\$ 837,400	
1% Food and beverage	\$ 2,470,900	\$ 2,470,900	
Additional 2% hotel/motel	\$ 1,561,700	\$ 780,900	\$ 780,800
Additional .75% food and beverage	\$ 1,853,200	\$ 1,853,200	
Additional .5% food/beverage and .5% hotel/motel	\$ 1,625,900	\$ 1,625,900	
<b>Total</b>	<b>\$ 10,861,300</b>	<b>\$ 5,050,100</b>	<b>\$ 5,811,200</b>
DECC- Amsoil Arena debt service	\$ 3,404,500	\$ 3,404,500	
Spirit Mountain bond - Chalet	\$ 500,000	\$ 500,000	
Spirit Mountain Adventure Park lease	\$ 145,700	\$ 145,700	
Visit Duluth	\$ 1,775,000	\$ 1,775,000	
Other advertising and publicity	\$ 200,000	\$ 200,000	
General fund tourism activities support	\$ 895,000	\$ 895,000	
General fund tourist-related park maintenance	\$ 200,000	\$ 200,000	
Lake Superior Zoo	\$ 510,000	\$ 510,000	
Great Lakes Aquarium	\$ 360,000	\$ 360,000	
Business improvement district	\$ 200,000	\$ 200,000	
Heritage & Arts Center/Depot	\$ 226,800	\$ 226,800	
Capital projects	\$ 135,100	\$ 135,100	
Public arts	\$ 40,000	\$ 40,000	
Sister cities	\$ 40,000	\$ 40,000	
Lake Superior & Mississippi Railroad	\$ 20,000	\$ 20,000	
Rail alliance	\$ 12,500	\$ 12,500	
DECC - Bayfront Park management	\$ 60,000	\$ 60,000	
DECC - Blue Bridge operations	\$ 38,000	\$ 38,000	
Glensheen matching funds	\$ 50,000	\$ 50,000	
St Louis River Corridor debt service	\$ 1,625,900	\$ 1,625,900	
Spirit Mountain operations	\$ 250,000	\$ 250,000	
Mounted patrol support	\$ 30,000	\$ 30,000	

Tourism-related grant fund	\$	50,000	\$	50,000
Undesignated fund balance	\$	92,800	\$	92,800
Total	\$	10,861,300	\$	5,050,100
			\$	5,811,200

This Resolution was adopted unanimously.

### BY COUNCILOR HANSON (PURCHASING & LICENSING)

8. **15-0790R** RESOLUTION AUTHORIZING THE EXECUTION OF A SNOWMOBILE TRAILS ASSISTANCE PROGRAM GRANT AGREEMENT FOR FY2016 WITH THE MINNESOTA DEPARTMENT OF NATURAL RESOURCES IN AN AMOUNT NOT TO EXCEED \$13,025.

**Body:** CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to execute the Minnesota snowmobile trails assistance program grant agreement, substantially in the form of that attached as Exhibit A, with the Minnesota department of natural resources for the maintenance of the Duluth snowmobile trails for the 2015-2016 season in the amount of \$13,025; said funds to be deposited as follows: General Fund 110, Public Administration 121, Maintenance Operations/Park Maintenance 1217-2145, Snowmobile Trail Grants 4226.

**Attachments:** [Exhibit A](#)

This Resolution was adopted unanimously.

9. **15-0793R** RESOLUTION AUTHORIZING THE PURCHASE OF STREET LIGHTING MATERIALS FROM ON2 SOLUTIONS IN THE AMOUNT OF \$207,360.

**Body:** CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to purchase street lighting materials, per the bid form provided attached as Exhibit A, from On2 Solutions in the amount of \$207,360, payable from Street Lighting Utility 550, Public Administration 120, Capital Improvements 5533, Revenue 1493.

**Attachments:** [Exhibit A](#)

[Exhibit B](#)

This Resolution was adopted unanimously.

10. **15-0804R** RESOLUTION APPROVING DIRECT PURCHASING, SURVEILLANCE HARDWARE AND SOFTWARE MAINTENANCE AGREEMENT WITH HITACHI DATA SYSTEMS INCLUDING \$71,382.00 FOR YEAR 2015.

**Body:** CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into the attached Exhibit A, direct purchasing agreement with Hitachi Data Systems dated January 1, 2015, through December 31, 2015, in the amount of \$71,382.00 with further service to be requested through a maintenance term extension at the request of the city.

**Attachments:** [Exhibit A \(15-0804R\).pdf](#)

This Resolution was adopted unanimously.

**BY COUNCILOR GARDNER (PERSONNEL)**

11.     **15-0808R**     RESOLUTION CONFIRMING THE APPOINTMENT OF HEATHER RAND AS DIRECTOR OF BUSINESS AND ECONOMIC DEVELOPMENT FOR THE CITY OF DULUTH.

**Body:** CITY PROPOSAL:

WHEREAS, the chief administrative officer upon the direction of the mayor has recommended the appointment of Heather Rand to the position of director of business and economic development; and

WHEREAS, the City Charter requires the city council confirm this appointment.

THEREFORE, BE IT RESOLVED, that the city council hereby confirms the appointment of Heather Rand to the position of director of business and economic development for the city of Duluth.

This Resolution was adopted unanimously.

**COMMITTEE 2****BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)**

12.     **15-0780R**     RESOLUTION AUTHORIZING FIRST AMENDMENTS TO SUBLEASE AGREEMENTS WITH ARROWHEAD ECONOMIC OPPORTUNITY AGENCY AND NORTHEAST MINNESOTA OFFICE OF JOB TRAINING TO PROVIDE TELECOMMUNICATION SERVICES AND NETWORK INFRASTRUCTURE AND INCREASING RENT FOR SAID SERVICES.

**Body:** CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter

into a first amendment to a sublease agreement (City Contract No. 21781) with Arrowhead Economic Opportunity Agency ("AEOA"), substantially in the form of that attached hereto as Exhibit A, increasing the rent paid to the city by \$30 a month for network infrastructure services enabling internet access and \$40 a month for telecommunication services, plus \$5 per month per phone.

BE IT FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into a first amendment to a sublease agreement (City Contract No. 21782) with Northeast Minnesota Office of Job Training ("NMOJT"), substantially in the form of that attached hereto as Exhibit B, increasing the rent paid to the city by \$30 a month for network infrastructure services enabling internet access.

**Attachments:** [Exhibit A FIRST AMENDMENT to arrowhead sublease 11.6.2015](#)  
[Exhibit B First Amendment to NMOJT sublease](#)

**This Resolution was adopted unanimously.**

13. **15-0781R** RESOLUTION AUTHORIZING UTILITY EASEMENT AGREEMENT WITH PIER B HOLDING LLC OVER PROPERTY IN BAY FRONT DIVISION.

**Body:** CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into a permanent easement agreement with the Pier B Holding, LLC, a copy of which is attached hereto as Exhibit A, at no cost to the city for a utility easement affecting property located St. Louis County, Minnesota, generally described as:

Lots 7, 9, 11, 13, 15, 17, 19 and 21 and vacated 8th Avenue West, Block 9, BAY FRONT DIVISION OF DULUTH.

**Attachments:** [Exhibit A - 15-0781R](#)

**This Resolution was adopted unanimously.**

14. **15-0792R** RESOLUTION ACCEPTING A TRAIL EASEMENT AND A CONSERVATION EASEMENT FROM GRAND AVENUE ESTATES OF DULUTH, LLC.

**Body:** CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to accept, on behalf of the general public and at no cost to the city, an easement from Grand Avenue Estates of Duluth, LLC, that is attached

hereto as Exhibit A, dedicating to the general public a 30 foot trail easement, and an easement attached hereto as Exhibit B, dedicating to the general public a conservation easement over Outlots A and B in the Grand Avenue Estates subdivision.

**Attachments:** [Attachment A](#)  
[Attachment B](#)  
[Attachment C](#)

**This Resolution was adopted unanimously.**

- 15. 15-0794R** RESOLUTION APPLYING THE PROPERTY TRANSFER RESTRICTIONS OF MINNESOTA STATE SECTION 272.162.

**Body:** CITY PROPOSAL:

WHEREAS, Minnesota Statutes Section 272.162 imposes restrictions on transfers of property, and the statute applies only to land within municipalities which choose to be governed by its provisions; and

WHEREAS, municipalities may choose to have the state statute apply to the properties within their boundaries by filing a certified copy of a resolution making that choice with the auditor and recorder of the county in which the municipality is located.

RESOLVED, as of January 1, 2016, the restrictions of Minnesota Statute Section 272.162 shall apply to property within the city's boundaries, and city staff is directed to file certified copies of this resolution with the St. Louis county auditor and St. Louis county recorder.

**Attachments:** [Attachment A](#)

**This Resolution was adopted unanimously.**

- 16. 15-0799R** RESOLUTION VACATING CERTAIN EASEMENTS FOR PUBLIC STREET, ROADWAY AND UTILITY PURPOSES AT THE FORMER ATLAS CEMENT PLANT SITE (DEDA).

**Body:** CITY PROPOSAL:

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (d) 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 this portion of the street easements are useless for all purposes as it will be included in the final plat for Atlas Industrial Park; and

(c) The city planning commission, at its Tuesday, November 10, 2015, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the easements described below:

**NICK GLUMAC 66 FOOT VACATION DESCRIPTION (ATTACHED EXHIBITS A AND B):**

All that part of the West One-Half of the Southeast Quarter (W 1/2 of the SE 1/4) of Section Thirty-Four (34), Township Forty-Nine (49) North, Range Fifteen (15) West of the Fourth (4th) Principal Meridian, described in Document No. 851320 as recorded in the Registrar of Titles office, St. Louis County, Minnesota described as follows:

Commencing at the South Quarter Corner of said Section 34; thence North 00 degrees 17 minutes 17 seconds West, assumed bearing, along the west line of the W 1/2 of the SE 1/4 of said Section 34, a distance of 653.51 feet; thence North 89 degrees 23 minutes 03 seconds East, a distance of 224.44 feet to the easterly right-of-way line of Commonwealth Avenue (Minnesota Trunk Highway No. 23) and the point of beginning of the line to be described; thence North 89 degrees 23 minutes 03 seconds East a distance of 337.11 feet; thence northeasterly along a tangential curve concave to the northwest having a radius of 170.77 feet, central angle of 91 degrees 54 minutes 07 seconds a distance of 273.91; thence North 02 degrees 31 minutes 04 seconds West, a distance of 195.64 feet; thence northwesterly along a tangential curve concave to the southwest having a radius of 2140.85 feet, central angle of 15 degrees 05 minutes 48 seconds, a distance of 564.09 feet; thence northwesterly along a compound curve concave to the southwest having a radius of 586.50 feet, central angle of 10 degrees 22 minutes 00 seconds, a distance of 106.12 feet; thence North 27 degrees 35 minutes 16 seconds West, a distance of 86.17 feet; thence North 02 degrees 13 minutes 42 seconds East, a distance of 80.57 feet, and there terminating.

**NICK GLUMAC ADDITIONAL VACATION DESCRIPTION (ATTACHED EXHIBITS C AND D):**

All that part of the West One-Half of the Southeast Quarter (W

1/2 of the SE 1/4) of Section Thirty-Four (34), Township Forty-Nine (49) North, Range Fifteen (15) West of the Fourth (4th) Principal Meridian, described in Document No. 924436 as recorded in the Registrar of Titles office, St. Louis County, Minnesota lying between two lines 33.00 feet and 50.00 feet easterly of the centerline described in Document No. 851320 as recorded in the Registrar of Titles office, St. Louis County, Minnesota described as follows:

Commencing at the South Quarter Corner of said Section 34; thence North 00 degrees 17 minutes 17 seconds West, assumed bearing, along the west line of the SW 1/4 of the SE 1/4 of said Section 34, a distance of 653.51 feet; thence North 89 degrees 23 minutes 03 seconds East, a distance of 184.44 feet to the intersection of centerlines of Commonwealth Avenue (Minnesota Trunk Highway No. 23) and Nick Glumac Drive as described in Document No. 851320; thence North 89 degrees 23 minutes 03 seconds East along the centerline of said Nick Glumac Drive, a distance of 377.11 feet to the Point of Beginning of the line to be described; thence northeasterly a distance of 273.91 feet along said Nick Glumac Drive being a tangential curve concave to the northwest having a radius of 170.77 feet, and a central angle of 91 degrees 54 minutes 07 seconds; thence North 02 degrees 31 minutes 04 seconds West, a distance of 195.64 feet; thence northwesterly along a tangential curve concave to the southwest having a radius of 2140.85 feet, central angle of 15 degrees 05 minutes 48 seconds, a distance of 564.09 feet and said line there terminating.

The southerly sideline being a line 33.00 feet northeasterly of and parallel with the following described line:

Commencing at the South Quarter Corner of said Section 34; thence North 00 degrees 17 minutes 17 seconds West, assumed bearing, along the west line of the W 1/2 of the SE 1/4 of said Section 34, a distance of 653.51 feet; thence North 89 degrees 23 minutes 03 seconds East, a distance of 184.44 feet to the intersection of centerlines of Commonwealth Avenue (Minnesota Trunk Highway No. 23) and Nick Glumac Drive as described in Document No. 851320; thence North 89 degrees 23 minutes 03 seconds East along the centerline of said Nick Glumac Drive, a distance of 377.11 feet; thence northeasterly a distance of 131.00 feet along said Nick Glumac Drive being a tangential curve concave to the northwest having a radius of 170.77 feet, and a central angle of 43 degrees 57 minutes 09 seconds to the Point of Beginning of the line to be described; thence South 44 degrees 34 minutes 05 seconds East, a distance of 45 feet more or less and said southerly sideline there terminating.

AND

All that part of the West One-Half of the Southeast Quarter (W 1/2 of the SE 1/4) of Section Thirty-Four (34), Township Forty-Nine (49) North, Range Fifteen (15) West of the Fourth (4th) Principal Meridian, described in Document No. 924436 as recorded in the Registrar of Titles office, St. Louis County, Minnesota; lying 40.00 feet northwesterly of and 50.00 feet southeasterly of the following described line:

Commencing at the South Quarter Corner of said Section 34; thence North 00 degrees 17 minutes 17 seconds West, assumed bearing, along the west line of the W 1/2 of the SE 1/4 of said Section 34, a distance of 653.51 feet; thence North 89 degrees 23 minutes 03 seconds East, a distance of 184.44 feet to the intersection of centerlines of Commonwealth Avenue (Minnesota Trunk Highway No. 23) and Nick Glumac Drive as described in Document No. 851320; thence North 89 degrees 23 minutes 03 seconds East along the centerline of said Nick Glumac Drive, a distance of 377.11 feet; thence northeasterly a distance of 273.91 feet along said Nick Glumac Drive being a tangential curve concave to the northwest having a radius of 170.77 feet, and a central angle of 91 degrees 54 minutes 07 seconds; thence North 02 degrees 31 minutes 04 seconds West along the centerline said Nick Glumac Drive, a distance of 195.64 feet; thence northwesterly along said Nick Glumac Drive and being a tangential curve concave to the southwest having a radius of 2140.85 feet, central angle of 15 degrees 05 minutes 48 seconds, a distance of 564.09 feet to the Point of Beginning of the line to be described; thence North 17 degrees 36 minutes 52 seconds West, a distance of 93.50 feet; thence northerly a distance of 184.70 feet along a tangential curve concave to the east having a radius of 330.00 feet, and a central angle of 31 degrees 46 minutes 46 seconds to a point hereinafter referred to as Point "A" and said line there terminating.

#### TOGETHER WITH

All that part of the West One-Half of the Southeast Quarter (W 1/2 of the SE 1/4) of Section Thirty-Four (34), Township Forty-Nine (49) North, Range Fifteen (15) West of the Fourth (4th) Principal Meridian, St. Louis County, Minnesota not included in the above described easement which lies within the circumference of a circle having a radius of 90.00 feet. The center point of said circle being the aforementioned Point "A."

#### EAST SPUR ROAD VACATION DESCRIPTION (ATTACHED EXHIBITS E AND F):

All that part of the Southwest Quarter of the Southeast Quarter (SW 1/4 of the SE 1/4) of Section Thirty-Four (34), Township Forty-Nine (49) North, Range Fifteen (15) West of the Fourth (4th) Principal Meridian,



described in Document No. 924469 as recorded in the Registrar of Titles office, St. Louis County, Minnesota; the centerline of said easement being more particularly described as follows:

Commencing at the South Quarter Corner of said Section 34; thence North 00 degrees 17 minutes 17 seconds West, assumed bearing, along the west line of the SW 1/4 of the SE 1/4 of said Section 34, a distance of 653.51 feet; thence North 89 degrees 23 minutes 03 seconds East, a distance of 184.44 feet to the intersection of centerlines of Commonwealth Avenue (Minnesota Trunk Highway No. 23) and Nick Glumac Drive as described in Document No. 851320; thence North 89 degrees 23 minutes 03 seconds East along the centerline said Nick Glumac Drive, a distance of 377.11 feet; thence northeasterly a distance of 131.00 feet along said Nick Glumac Drive being a tangential curve concave to the northwest having a radius of 170.77 feet, and a central angle of 43 degrees 57 minutes 09 seconds to the Point of Beginning of the centerline to be described; thence South 44 degrees 34 minutes 05 seconds East, a distance of 83.00 feet; thence southeasterly a distance of 79.00 feet along a tangential curve concave to the northeast having a radius of 100.00 feet and a central angle of 45 degrees 15 minutes 49 seconds; thence South 89 degrees 49 minutes 54 seconds East, a distance of 163.00 feet to a point hereinafter referred to as Point "A"; thence continuing South 89 degrees 49 minutes 54 seconds East, a distance of 350.32 feet to the east line of said SW 1/4 of the SE1/4 and said centerline there terminating.

The sidelines of said easement are prolonged or shortened to terminate on the easterly line of Nick Glumac Drive and the east line of the SW 1/4 of the SE 1/4 of said Section 34.

#### TOGETHER WITH

That part of the Southwest Quarter of the Southeast Quarter (SW 1/4 of the SE 1/4) of Section Thirty-Four (34), Township Forty-Nine (49) North, Range Fifteen (15) West of the Fourth (4th) Principal Meridian, St. Louis County, Minnesota not included in the above described easement which lies within the circumference of a circle having a radius of 75.00 feet. The center point of said circle being the aforementioned Point "A," and

(e) 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 showing the platted easement to be vacated.

Attachments: [Attachment A](#)  
[Attachment B](#)

This Resolution was adopted unanimously.

### COMMITTEE 3

#### BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)

17.    **15-0779R**    RESOLUTION APPROVING A COUNTY PROJECT WITHIN MUNICIPAL CORPORATE LIMITS FOR IMPROVEMENTS TO COUNTY STATE AID HIGHWAY NO. 9 (FOURTH STREET AND WALLACE AVENUE).

Body: CITY PROPOSAL:

RESOLVED, that plans for Project No. 069-609-040 showing proposed alignments, profiles, grades and cross sections for the construction, reconstruction or improvement of County State Aid Highway No. 9 (Fourth Street and Wallace Avenue) within the limits of the city of Duluth as a state aid project, have been prepared and presented to the city, and that said plans be in all things approved.

Attachments: [15-0779R Map](#)

Councilor Julsrud moved to suspend the rules to hear speakers on the resolutions, which motion was seconded and unanimously carried.

Myrna Matheson and Ann Redefs spoke in opposition of this resolution and the removal of the trees.

Steve Krasaway, St Louis County resident engineer spoke of the need to remove the trees and what will replace them.

This Resolution was adopted unanimously.

18.    **15-0782R**    RESOLUTION AUTHORIZING A ONE-YEAR EXTENSION TO CONTRACT 20814 WITH NORTHERN ENERGETICS IN THE AMOUNT OF \$57,200, AND A NEW CONTRACT TOTAL AMOUNT NOT TO EXCEED \$483,100.

Body: CITY PROPOSAL:

WHEREAS, the Duluth City Council previously approved Resolution 09-0061 on January 26, 2009, authorizing Contract 20184 with Northern Energetics for energy consulting services and audits; and

WHEREAS, the Duluth City Council previously approved Resolution 13-0001 on January 14, 2013, amending the contract to extend the services for an additional three years; and

WHEREAS, the city desires to continue its relationship with Northern Energetics by extending the contract for one year, beginning January 1, 2016, and ending December 31, 2016.

RESOLVED, that the proper city officials are authorized to execute a one-year extension of Contract 20814 with Northern Energetics to provide energy consulting services and audits for \$57,200 in year 2016 payable from Home Energy Fund 555, Public Works and Utilities 500, Other Services and Charges 5441.

**Attachments:** [Exhibit A](#)  
[Exhibit B](#)

**This Resolution was adopted unanimously.**

19.    **15-0783R**    RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN ST. LOUIS COUNTY, THE CITY OF DULUTH AND THE CITY OF HERMANTOWN TO COMPLETE A TRAFFIC SIGNAL TIMING PLAN UPDATE PROJECT WITHIN THE CITIES OF DULUTH AND HERMANTOWN.

**Body:** CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized and directed to execute an agreement between St. Louis County, the city of Duluth and the city of Hermantown to provide for payment by the city to the county of the city's share of costs of the traffic signal timing plan update under State Aid Project No. 069-030-041, at an estimated cost to the city of Duluth of \$18,900, payable from Street Lighting Fund 550, City Project No. 1457.

**Attachments:** [15-0783R Agreement & Appendices](#)

**This Resolution was adopted unanimously.**

20.    **15-0786R**    RESOLUTION AUTHORIZING THE EXTENSION OF A MINNESOTA DEPARTMENT OF NATURAL RESOURCES GRANT AGREEMENT FOR REMOVAL OF DEBRIS AND SEDIMENT.

**Body:** CITY PROPOSAL:

RESOLVED, that the city of Duluth will extend the deadline of the Minnesota department of natural resources Grant Agreement Number

3000034888 for removal of debris and sediment resulting from the 2012 flood to June 30, 2016.

**Attachments:** [15-0786R Appendix 1](#)  
[15-0786R Appendix 2](#)

**This Resolution was adopted unanimously.**

21.     **15-0789R**     RESOLUTION AMENDING CONTRACT NO. 22547 WITH FOUR STAR CONSTRUCTION, INC. FOR RETAINING WALL REPAIRS AT 1720 NEW STREET AND 2305 WEST FIFTH STREET IN THE AMOUNT OF \$47,094.88 FOR A NEW TOTAL OF \$143,265.88.

**Body:** CITY PROPOSAL:

RESOLVED, that Contract No. 22547 with Four Star Construction, Inc., for retaining wall repairs at 1720 New Street and 2305 West Fifth Street be amended to include additional work at 2305 West Fifth Street for additional height of wall, regrading and paving the alley, and unexpected rock excavation, in the amount of \$47,094.88 for a new total of \$143,265.88, payable out of Permanent Improvement Fund 411, Department 035 (capital projects account), Object 5530 (improvements other than buildings), City Project Nos. 1303 and 1308.

**Attachments:** [15-0789R Map](#)

**This Resolution was adopted unanimously.**

22.     **15-0795R**     RESOLUTION AUTHORIZING AN AGREEMENT WITH LHB, INC. FOR PROFESSIONAL ENGINEERING SERVICES TO PROVIDE DESIGN AND CONSTRUCTION ENGINEERING SERVICES FOR THE AERIAL LIFT BRIDGE OPERATING ROPE REPLACEMENT PROJECT IN THE AMOUNT OF \$67,407.

**Body:** CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with LHB, Inc., for professional engineering services to provide design and construction engineering services for the Aerial Lift Bridge operating rope replacement project in the amount of \$67,407, payable from Permanent Improvement Fund 411, Department 035 (capital projects accounts), Object 5530 (improvements other than buildings), City Project No. 1504, Requisition No. 15-0685.

**Attachments:** [15-0795R PESA](#)

This Resolution was adopted unanimously.

23.     **15-0800R**     RESOLUTION AWARDING A CONTRACT TO PARSONS ELECTRIC, INC. FOR THE INSTALLATION OF CITYWIDE STREET LIGHTING UPGRADES IN THE AMOUNT OF \$124,096.50.

Body: CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Parsons Electric, Inc., for the installation of citywide street lighting upgrades in the amount of \$124,096.50, payable from Street Lighting Utility Fund 550, Department 120 (public administration), Object 5533 (capital improvements - revenue), City Project No. 1493, Requisition No. 15-0641.

This Resolution was adopted unanimously.

#### **BY COUNCILOR FOSLE (PUBLIC SAFETY)**

24.     **15-0784R**     RESOLUTION AUTHORIZING AGREEMENT WITH ST. LOUIS COUNTY TO PERFORM POLICE SERVICES PURSUANT TO 2014 OPERATION STONEGARDEN AND ACCEPTING REIMBURSEMENT FROM THE MINNESOTA DEPARTMENT OF PUBLIC SAFETY, HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION THROUGH ST. LOUIS COUNTY IN AN AMOUNT NOT TO EXCEED \$24,157

Body: CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially the same as the attached exhibit B, with St. Louis County pursuant to a 2014 Operation Stonegarden grant, substantially the same as the attached Exhibit A from the Minnesota department of public safety, homeland security and emergency management division, under which grant agreement the city shall perform services to protect and secure the international border and port of entry between St. Louis County and Canada from September 1, 2014, through August 31, 2016.

FURTHER RESOLVED, that the proper city officials are hereby authorized to accept reimbursement from St. Louis county for stated services in an amount not to exceed \$24,157, funds to be deposited in fund number 215-200-2297-4210-02 (Duluth police grant programs, Police, 2014 Operation Stonegarden).

Attachments: [Exhibit B](#)  
[Exhibit A](#)

**This Resolution was adopted unanimously.**

- 25. 15-0785R** RESOLUTION AUTHORIZING PROPER CITY OFFICIALS TO ACCEPT A GRANT FROM THE ST. LUKE'S FOUNDATION FOR THE DULUTH POLICE DEPARTMENT SPONSORED CRISIS INTERVENTION TRAINING PROJECT IN THE AMOUNT OF \$6,000.

**Body:** CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to accept a grant from the St. Luke's Foundation in the amount of \$6,000 for the Duluth police department sponsored crisis intervention training project, funds to be deposited in Fund No. 215-200-2255-4270 (Duluth police grants programs, police miscellaneous police grants, other grants) expenses to be paid from Fund No. 215-200-2255-5441 (Duluth police grant programs, police, miscellaneous police grants, and other services and charges).

**This Resolution was adopted unanimously.**

- 26. 15-0788R** RESOLUTION AUTHORIZING THE PROPER CITY OFFICIALS TO ACCEPT A GRANT FROM THE DEPARTMENT OF JUSTICE OFFICE OF VIOLENCE AGAINST WOMEN IN THE AMOUNT OF \$150,000 TO SUPPORT THE CREATION OF A CUSTOMIZED VERSION OF THE BLUEPRINT FOR SAFETY.

**Body:** CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to accept a grant in the amount of \$150,000 from the U.S. department of justice office of violence against women to be used to support the creation of a customized version of the Blueprint for Safety: an Interagency Response to Domestic Violence Crimes, and to execute the grant agreements, substantially the same as that attached hereto as Attachment A, funds to be deposited in Fund 210-030-3180-4209-02 (special projects fund, finance department, Blueprint for Safety grant, direct federal grants - operating).

FURTHER RESOLVED, that the proper city officials are authorized to enter into agreements with the Domestic Abuse Intervention Programs and the American Indian Community Housing Organization, substantially in the form as attached hereto as Attachments B and C, for services to be conducted in accordance with the terms of and conditions of the grant application and grant agreement, funds to be paid from 210-030-3180-5319 (special projects fund, finance department, Blueprint for Safety grant, other professional service).

**Attachments:** [Attachment A - Blueprint for Safety](#)  
[Attachment B - Blueprint for Safety](#)  
[Attachment C - Blueprint for Safety](#)

**This Resolution was adopted unanimously.**

- 27. 15-0797R** RESOLUTION AUTHORIZING AGREEMENT WITH THE MINNESOTA NATIONAL GUARD FOR COUNTERDRUG SUPPORT FOR THE DULUTH POLICE DEPARTMENT.

**Body:** CITY PROPOSAL:

RESOLVED, that the proper city officers are hereby authorized to execute an agreement, substantially the same as that attached as Exhibit A, with the Minnesota National Guard which establishes the policies and procedures by which the Minnesota National Guard will provide counterdrug support to the Duluth police department as authorized by applicable state and federal law and regulations.

**Attachments:** [Exhibit A 15-0797R.pdf](#)

**This Resolution was adopted unanimously.**

### **BY COUNCILOR SIPRESS (RECREATION, LIBRARIES & AUTHORITIES)**

- 28. 15-0787** RESOLUTION AUTHORIZING DISBURSEMENT OF GRANT FUNDS IN THE AMOUNT OF \$52,000 FROM THE PARKS FUND NEIGHBORHOOD GRANT PROGRAM.

**Body:** CITY PROPOSAL:

RESOLVED, that the city council hereby authorizes the disbursement of grant funds from the parks fund neighborhood grants program to the following organizations in the following amounts, and further authorizes the proper city officials to execute a grant agreement, substantially the same as EXHIBIT A, with each organization receiving funds, amounts to be payable from Fund 205-130-1219-5439 (parks, community resources, parks operating, special projects and events):

**Organization Project Award**

Thester Bowl Improvement Club (CBIC) Ski Jumping Commemoration  
 \$4,000  
 OGGS (Cyclists of Gitchee Gummee Shores) Duluth Traverse Trail  
 Maintenance \$5,000  
 Duluth Community Garden Program Fond du Lac Fencing Project -

Edible Duluth \$2,823  
 Duluth Cross-Country Ski Club (DXC) Lester-Amity Chalet Accessibility and  
 Repair \$5,000  
 Friends of Dog Parks Eastern Dog Park \$4,000  
 HAND Development Alliance Rain Garden Plantings \$4,000  
 Hartley Nature Center Outdoor Pavilion \$4,000  
 Lake Superior Zoological Society Restore Barn Solar Hot Water System  
 \$3,800  
 Lincoln Park Children & Families Collaborative Music in Lincoln Park  
 Summer Concert Series \$5,000  
 Neighbors of Lower Chester Park Facility Maintenance Supplies \$ 577  
 Velch Center Inc., The Outdoor Winter Activities at Memorial Park \$5,000  
 Wheels on Trails Organization (ARC) Grassy Point Trail - Phase III  
 \$4,800  
 Woodland Amateur Hockey Association Public Rink Resurface Project  
 \$4,000  
  
 Total \$52,000

**Attachments:** [EXHIBIT A - 15-0787R.pdf](#)

This Resolution was adopted unanimously.

## END OF CONSENT AGENDA

The following entitled resolution is also to be considered:

### COMMITTEE 1

### BY COUNCILOR GARDNER (PERSONNEL)

29. 15-0810R RESOLUTION OPPOSING THE TRANS-PACIFIC PARTNERSHIP FREE TRADE AGREEMENT.

**Body:** CITY PROPOSAL:

WHEREAS, U.S. trade deals for the past 25 years have been corporate driven, which has seriously impacted working families; and

WHEREAS, the growing trade deficits, driven by the North American Free Trade Agreement ("NAFTA"), China's accession to the World Trade Organization, and the U.S.-Korea Free Trade Agreement, have displaced millions of jobs; and



WHEREAS, U.S. employment in manufacturing dropped by 5 million jobs from 2000 to 2015; and

WHEREAS, the city of Duluth unemployment rate is 4.4 percent; and

WHEREAS, the poverty rate in Duluth is 22.1 percent which requires the expenditure of public funds to assist families in crisis; and

WHEREAS, the offshoring of manufacturing and service jobs deprives local and state governments of needed revenues, jeopardizing the livelihoods of millions of workers whose jobs depend upon infrastructure building, repair and maintenance; and

WHEREAS, the disproportionate voice of powerful global corporations in the formation of U.S. "free trade" agreements has advanced an agenda that undermines the public interest and threatens democracy; and

WHEREAS, NAFTA and all but two of the U.S. trade deals that followed it include special legal rights for foreign investors, known as investor-to-state dispute settlements ("ISDS"), that allow foreign firms to bypass state and federal courts to challenge state and local laws, regulations, and administrative and judicial decisions in international tribunals; and

WHEREAS, the Trans-Pacific Partnership free trade agreement ("TPP") has been negotiated in secret, effectively shutting state and local governments out of the process, limiting our ability to influence its rules to ensure the people of Duluth can participate in the benefits of trade; and

WHEREAS, promoting economic growth with equity in Duluth requires an approach that reforms the trade negotiation process to ensure that voices of workers, farmers, small businesses, families and communities are heard and their interests addressed.

THEREFORE, BE IT RESOLVED, that the Duluth City Council calls upon our elected officials in the United States Senate and United States House of Representatives to oppose the TPP and any similar trade deals.

BE IT FURTHER RESOLVED, that the Duluth City Council calls upon our elected officials in the U.S. Senate and U.S. House of Representatives to support new trade deals such as the TPP only if they will:

- Exclude investor-to-state dispute settlement (ISDS) and other provisions that favor foreign companies over domestic ones and undermine public choices;
- Include strong rule of origin to promote economic growth and job

creation in the U.S.;

- Promote high standards of protection for workplaces, products, and natural resources rather than promoting a race to the bottom; and
- Put the interests of people and the planet over the interests of private profit.

Councilor Gardner moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

Mary Theure, Dan O'Neil, Tamara Jones and Zach Sias spoke in support of the resolution.

**A motion was made that this Resolution be adopted The motion carried by the following vote:**

**Yea:** 8 - Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Russ, Sipress and President Larson

**Nay:** 1 - Krug

## **INTRODUCTION AND CONSIDERATION OF ORDINANCES**

**The following entitled ordinance is to be read for the first time:**

### **COMMITTEE 2**

### **BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)**

- 30. 15-0885R** AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO MU-B, PROPERTY AT 3125 WEST ARROWHEAD ROAD (MINNESOTA POWER).

**Body:** CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That approximately 4.2 acres of land located at the northeast corner of Rice Lake Road and Arrowhead Road, at 3125 West Arrowhead Road, and as more particularly described as follows:

All that part of Blocks 29 and 30, including those vacated streets and alleys lying within and adjacent to said blocks, CLIFTON HEIGHTS SECOND DIVISION, St. Louis County, Minnesota, lying southwesterly of Chester Creek, more specifically described as follows:

Beginning at the southwest corner of said plat of CLIFTON HEIGHTS SECOND DIVISION, said point also being known as the Southwest Corner of Section 9, T 50 N, R 14 W; thence South 89 degrees 59 minutes 52 seconds East, assigned bearing, along the south line of said section 9, a distance of 541 feet to the centerline of Chester Creek; thence northerly and northwesterly along the said Chester Creek centerline to the west line of said Section 9; thence South 00 degrees 39 minutes 28 seconds East a distance of 490 feet to the point of beginning and there terminating.

be reclassified from Residential-Traditional (R-1) to Mixed Use-Business (MU-B), and that the official zoning map of the City of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as shown in the attached document.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

Attachments: [Attachment A](#)

[Attachment B](#)

**This Ordinance was read for the first time.**

**The following entitled ordinances are to be read for the second time:**

## **COMMITTEE 2**

- 31. 15-092-O** AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-2 AND MU-N, PROPERTY AT 1243 88TH AVENUE WEST.

Body: CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That approximately 6.44 acres of land located on the eastern portion of 1243 88th Avenue West and as more particularly described as follows:

That part of Block 13, MORGAN PARK OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, bounded as follows:

On the South by the center line of Hilton Street as dedicated on said MORGAN PARK OF DULUTH.

On the West by the center line of 90th Avenue West as dedicated on said MORGAN PARK OF DULUTH.

On the North by the center line of Falcon Street as dedicated on said MORGAN PARK OF DULUTH.

On the East by a line 295.91 feet Easterly and parallel with the West line of Block 13, said MORGAN PARK OF DULUTH;

be reclassified from Residential-Traditional (R-1) to Residential-Urban (R-2), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as shown in the attached document.

Section 2. That approximately 5.58 acres of land located on the western portion of 1243 88th Avenue West and as more particularly described as follows:

That part of Block 13, MORGAN PARK OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, bounded as follows:

On the South by the center line of Hilton Street as dedicated on said MORGAN PARK OF DULUTH.

On the West by a line 295.91 feet Easterly and parallel with the West line of Block 13, said MORGAN PARK OF DULUTH.

On the North by the center line of Falcon Street as dedicated on said MORGAN PARK OF DULUTH.

On the East by the center line of 88th Avenue West as dedicated on said MORGAN PARK OF DULUTH;

be reclassified from Residential-Traditional (R-1) to Mixed Use-Neighborhood (MU-N), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as shown in the attached document.

Section 3. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

**Attachments:** [Map Attachment](#)  
[Staff Report](#)  
[Comments Received After Staff Report](#)

Councilor Russ moved to suspend the rules to hear speakers on this ordinance, which motion was seconded and unanimously carried.

Bruce Snyder, Rich Borich, Yvonne Baer, Lloyed Ethier, George Ruetschi and Susan Borich voiced opposition or concerns about the ordinance.

Sue Majewski, Bill Majewski and Andrew Schweiger, project developer expressed support for the ordinance.

Councilor Fosle moved to table the ordinance, which motion was seconded and failed upon the following vote: Yeas: 2 - Councilors Fosle and Julsrud. Nays: 8 - Councilors Filipovich, Gardner, Hanson, Krug, Russ, Sipress and President Larson.

**A motion was made that this Ordinance be adopted The motion carried by the following vote:**

**Yea:** 8 - Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson.

**Nay:** 1 - Councilor Fosle

## **COUNCILOR QUESTIONS AND COMMENTS**

## **COUNCILOR PREVIEW OF UPCOMING BUSINESS**

**The meeting was adjourned at 9:47 p.m.**



# City of Duluth

411 West First Street  
Duluth, Minnesota 55802

## Minutes

### City Council

**MISSION STATEMENT:** *The mission of the Duluth City Council is to develop effective public policy rooted in citizen involvement that results in excellent municipal services and creates a thriving community prepared for the challenges of the future.*

**TOOLS OF CIVILITY:** *The Duluth City Council promotes the use and adherence of the tools of civility in conducting the business of the council. The tools of civility will provide increased opportunities for civil discourse in order to find positive resolutions to the issues that face the city. These tools include: pay attention, listen, be inclusive, do not gossip, show respect, be agreeable, apologize, give constructive criticism and take responsibility. [Approved by the council on August 25, 2003]*

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Monday, December 7, 2015

7:00 PM

Council Chamber

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#### ROLL CALL

**Present:** - Councilors Zach Filipovich, Jay Fosle, Sharla Gardner, Howie Hanson, Jennifer Julsrud, Linda Krug, Barb Russ, and Joel Sipress

**Absent:** 1 – President Emily Larson

#### PLEDGE OF ALLEGIANCE

PUBLIC HEARINGS - 7 PM - 2016 BUDGET AND LEVY.  
Jerry Schlafer and Jim Halti expressed concerns about their property taxes.

PROPOSED CAPITAL IMPROVEMENT PLAN AMENDMENT. - No one appeared who wished to be heard.

PROPOSED ISSUANCE OF GENERAL OBLIGATION CAPITAL IMPROVEMENT BONDS IN AN AMOUNT NOT TO EXCEED \$1,400,000. – No one appeared who wished to be heard.

#### PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

1. **15-095** COMMUNICATIONS REGARDING THE REPEAL OF THE LAKESIDE AND LESTER PARK LIQUOR BAN (15-0839R)

**Attachments:** [KELLY AND MICHAEL BOEDIGHEIMER COMMUNICATION](#)  
[DAVE AND ANN KREAGER COMMUNICATION](#)  
[ROSEMARIE MITCHELL COMMUNICATION](#)  
[BEN & KATEY FORNEAR COMMUNICATION](#)  
[ROSEMARIE AND DENNIS MITCHELL COMMUNICATION](#)

This Petition/Other Communication was received.

**REPORTS FROM THE ADMINISTRATION****REPORTS OF BOARDS AND COMMISSIONS**

2.     **15-089**         Library board minutes of October 27, 2015, meeting.

Attachments: [Minutes Library Board 2015 10 27](#)

**This Board or Commission Report was received.**

3.     **15-090**         Duluth economic development authority minutes of October 28, 2015, meeting.

Attachments: [10-28-15 Mtg Minutes](#)

**This Board or Commission Report was received.**

4.     **15-091**         Duluth public library board minutes of September 22, 2015, meeting.

Attachments: [Minutes Library Board 2015 09 22](#)

**This Board or Commission Report was received.**

5.     **15-092**         Duluth public utilities commission resolutions establishing stormwater rates (15PUC-008) and clean water surcharges (15PUC-009).

Attachments: [15PUC-008 stormwater rates approved 11172015](#)  
[15PUC-009 clean water surcharge approved 11172015](#)

**This Board or Commission Report was received.**

6.     **15-093**         Duluth airport authority minutes of October 20, 2015, meeting.

Attachments: [10- October 20 2015](#)

**This Board or Commission Report was received.**

7.     **15-094**         Duluth public utilities commission minutes of October 20, 2015, meeting.

Attachments: [10202015 DPUC meeting minutes](#)

This Board or Commission Report was received.

## REPORTS OF COUNCIL COMMITTEES

## REPORTS OF COUNCIL OPEN ISSUES

## OPPORTUNITY FOR CITIZENS TO BE HEARD

Jerry Schlafer comment about what he felt were the current raw deals from the president.

## MOTIONS AND RESOLUTIONS

## CONSENT AGENDA

## COMMITTEE 1

### BY COUNCILOR HANSON (PURCHASING & LICENSING)

8.      **15-0816R**      RESOLUTION AUTHORIZING A 60 MONTH CONTRACT WITH WASTE MANAGEMENT FOR GARBAGE/REFUSE REMOVAL AND RECYCLING PICKUP AT AN ESTIMATED \$9,600 PER MONTH FOR AN ESTIMATED \$115,200 PER YEAR, AND A TOTAL ESTIMATED CONTRACT AMOUNT OF \$576,000.

**Body:** CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into a 60-month contract, in the form of that attached as Exhibit A, with Waste Management for garbage/refuse removal and recycling pickup services in accordance with city-approved specifications and vendor fees, beginning December 1, 2015, at an estimated \$9,600 per month, for a total 60-month contract amount of \$576,000, terms net 30, FOB job sites, and payable from various funds, agencies, organizations, and objects.

**Attachments:** [Exhibit A](#)  
[Exhibit B](#)

This Resolution was adopted unanimously.

### BY COUNCILOR GARDNER (PERSONNEL)

9.      **15-0805R**      RESOLUTION APPROVING PROPOSED AMENDMENTS TO THE SPECIFICATIONS FOR THE EXISTING CIVIL SERVICE CLASSIFICATION OF DEPUTY FIRE MARSHAL.

**Body:** CITY PROPOSAL:

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of deputy fire marshal, which were



approved by the civil service board on November 17, 2015, are approved. This classification shall remain subject to the city's collective bargaining agreement with its fire unit employees and compensated at Pay Range 230, \$5,707 per month.

**Attachments:** [Deputy Fire Marshal strikeout.pdf](#)  
[Deputy Fire Marshal](#)

This Resolution was adopted unanimously.

**10. 15-0806R** RESOLUTION APPROVING PROPOSED AMENDMENTS TO THE SPECIFICATIONS FOR THE EXISTING CIVIL SERVICE CLASSIFICATION OF LIBRARIAN II.

**Body:** CITY PROPOSAL:  
RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of librarian II, which were approved by the civil service board on November 17, 2015, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 133, \$4,143 to \$4,883 per month.

**Attachments:** [Librarian II strikeout.pdf](#)  
[Librarian II Final Draft.pdf](#)

This Resolution was adopted unanimously.

**11. 15-0819R** RESOLUTION APPROVING PROPOSED AMENDMENTS TO THE SPECIFICATIONS FOR THE EXISTING CIVIL SERVICE CLASSIFICATION OF STREET MAINTENANCE SUPERVISOR.

**Body:** CITY PROPOSAL:  
RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of street maintenance supervisor, which were approved by the civil service board on September 15, 2015, are approved; that said classification shall remain subject to the city's collective bargaining agreement with its supervisory unit employees, that the pay range will change from Pay Range 1080, \$5,114 to \$6,265, to Pay Range 1075-1090, \$4,985 to \$6,546 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

**Attachments:** [Street Maintenance Supervisor strikeout](#)  
[Street Maintenance Supervisor.pdf](#)

This Resolution was adopted unanimously.

12.     **15-0835R**     RESOLUTION ELECTING MEMBER TO THE BOARD OF MANAGERS OF THE DULUTH/NORTH SHORE SANITARY DISTRICT PURSUANT TO MINNESOTA STATUTES, SECTION 442A.14, SUBDIVISION 7.

Body: CITY PROPOSAL:

BE IT RESOLVED by the governing body of the city of Duluth, St. Louis County, Minnesota, as follows:

Section 1. Recitals.

1.01 The city of Duluth, the town of Duluth and the town of Lakewood, all in St. Louis County, Minnesota, in 1999 submitted a petition to the Minnesota pollution control agency (the "MPCA") requesting creation of the Duluth/North Shore Sanitary District (the "sanitary district") pursuant to Minnesota Statutes, Sections 115.18 through 115.37, as amended and recodified under Minnesota Statutes, Sections 442A.01 through 442A.29 (the "Act"). (The city of Duluth, the town of Duluth and the town of Lakewood are herein referred to collectively as the "municipalities.")

1.02 On January 25, 2000, the MPCA issued an order approving creation of the sanitary district (the "order"). The order was published in the *State Register* on January 31, 2000.

1.03 On March 1, 2000, the time for appeal of the order having expired, a certified copy of the order was duly filed with the Minnesota secretary of state, and creation of the sanitary district was thereupon deemed complete under the act.

1.04 The act requires that the municipalities elect a board of managers for the sanitary district (the "board of managers") as soon as practicable after creation of the sanitary district.

1.05 Pursuant to Section 442A.14, subdivision 7 of the act, the municipalities may elect a board member or members by resolutions adopted by all of them separately, concurring in the election of the same person or persons.

Section 2. Findings. It is in the best interests of the municipalities and of the sanitary district that the following person, who is a voter residing in the area of the sanitary district, be nominated for election to the board of managers for the term indicated:

- a. Kevin J. Bovee, of the town of Lakewood, Minnesota, whose term shall commence on January 1, 2016, and shall expire on January 1,

2019.

Section 3. Election of board of managers. Election of the above-named person to the board of managers of the sanitary district is approved and such person is elected for the terms indicated.

Section 4. Authorization and direction to clerk. Upon receipt of concurring resolutions from the town of Duluth and the town of Lakewood, the clerk is directed to certify the results of this election to the secretary of the MPCA and to the auditor of St. Louis County and make and transmit to the board member elected a certificate of the board member's election.

This Resolution was adopted unanimously.

## COMMITTEE 2

### BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)

13. 15-0836R RESOLUTION AUTHORIZING CITY OFFICIALS TO CONTRACT WITH THE STATE OF MINNESOTA FOR PROFESSIONAL STAFFING SERVICES PROVIDING ASSISTANCE TO JOB SEEKERS AND EMPLOYERS AS PART OF THE MINNESOTA ADVANCED MANUFACTURING PARTNERSHIP LEARN, WORK, EARN PROJECT.

Body: CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to execute a contract with the state of Minnesota, substantially in the form attached hereto, for professional staffing services in connection with the Minnesota Advanced Manufacturing Partnership, Learn, Work, Earn Project, the city's total financial obligation under the contract is \$35,740 payable from fund 268-031-6228-5441 (workforce development fund, grants division, miscellaneous workforce development grants, other services and charges).

Attachments: [Attachment - 15-0836R](#)

This Resolution was adopted unanimously.

### BY COUNCILOR KRUG (INTERGOVERNMENTAL RELATIONS)

14. 15-0828R RESOLUTION AUTHORIZING PROPER CITY OFFICIALS TO ENTER INTO A COOPERATIVE AGREEMENT WITH THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR FAIR HOUSING ENFORCEMENT AND ACCEPTING \$24,000 IN COOPERATIVE AGREEMENT FUNDING.

Body: CITY PROPOSAL:

RESOLVED, that proper city officials are authorized to accept \$24,000 in cooperative agreement funding from the U.S. department of housing and urban development, under the authority of City Contract No. 20095, in award funds providing for enforcement of federal fair housing laws and processing of related complaints by the city of Duluth human rights office and other related matters, funds to be deposited in Fund 110-121-1106-4209-02 (general, public administration, human resources).

Attachments: [FY2015 FHAP Funding Guidance.pdf](#)

This Resolution was adopted unanimously.

### BY PRESIDENT LARSON (COMMITTEE OF THE WHOLE)

15. 15-0838R RESOLUTION AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT WITH DULUTH-SUPERIOR PUBLIC ACCESS COMMUNITY TELEVISION, INC., FOR COMMUNITY ACCESS CABLECASTING, TRAINING, PRODUCTION AND ADMINISTRATION SERVICES IN 2016 IN THE NET AMOUNT OF \$182,000.

Body: CITY PROPOSAL:

RESOLVED, that the proper city officials are authorized to enter into an agreement substantially in the form of that attached hereto, with Duluth-Superior Public Access Community Television, Inc. (PACT) for providing cablecasting, training and production and administrative services in 2016 relating to public access television in the net amount of \$182,000, to be paid from 110-700-1414-5441 (General, Transfers and Other Functions, Public Access Television).

Attachments: [Attachment - 15-0838R](#)

This Resolution was adopted unanimously.

### COMMITTEE 3

### BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)

16. 15-0809R RESOLUTION EXTENDING THE CONTRACT WITH THE STATE OF MINNESOTA BOARD OF WATER AND SOIL RESOURCES (BWSR) FOR ONE YEAR FOR FLOOD DISASTER RECOVERY FUNDING FOR STREAM RESTORATION .

Body: CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to amend Contract No. 59776 with the Minnesota BWSR for stabilization of stream banks and hillsides as a result of the June 2012 flooding, extending the contract for one year to December 31, 2016. There is no change in the

grant amount or the scope of work. Payable from Disaster Recovery Fund 225, Department 125 (Finance), Division 1807 (Parks, Recreation and Other), Object 5303 (Engineering Services), city project no. 1186.

**This Resolution was adopted unanimously.**

17. **15-0815R** RESOLUTION AUTHORIZING AMENDMENT NO. 1 TO MNDOT AGREEMENT NO. 03376 TO INCREASE THE AMOUNT OF LOCAL ROAD AND BRIDGE DISASTER RELIEF BY \$112,541.33 FOR A NEW TOTAL OF \$424,775.73.

**Body:** CITY PROPOSAL:

THE CITY COUNCIL FINDS:

That in 2013 the city of Duluth applied to the commissioner of transportation for a grant from the Minnesota state transportation fund for the reconstruction of 45th Avenue East from Superior Street to Glenwood Street, city project no. 1250; and

That the grant was approved and the amount of the grant was \$312,234.40; and

That FEMA funding for this project has been reduced; and

That state bond funds will be used to replace the amount that FEMA was to contribute.

RESOLVED, that Amendment No. 1 to MnDOT Agreement No. 03376, increasing the amount of the grant by \$112,541.33 for a new total of \$424,775.73 is hereby authorized. To be deposited into Disaster Recovery Fund 225, Department/Agency 125 (Finance), Division 1808 (Disaster Aids and Revenues), Source 4220-05 (State of Minnesota Flood Bonds), city project no. 1250, S.A.P. 118-170-003.

**Attachments:** [15-0815R Amendment](#)

**This Resolution was adopted unanimously.**

18. **15-0837R** RESOLUTION AUTHORIZING THE 2012 ROAD AND BRIDGE DISASTER RELIEF BOND GRANT 1002126 AND ACCEPTING A GRANT FROM THE MINNESOTA STATE TRANSPORTATION FUND FOR THE MILL AND OVERLAY OF 52ND AVENUE EAST FROM SUPERIOR STREET TO OAKLEY STREET IN THE AMOUNT OF \$221,502.53.

**Body:** CITY PROPOSAL:

RESOLVED, that the city of Duluth has applied to the commissioner of transportation for a grant from the Minnesota state transportation fund for the mill and overlay of 52nd Avenue East from Superior Street to Oakley Street, city project no. 1037.

FURTHER RESOLVED, that the grant has been approved and that the amount of the grant is \$221,502.53.

FURTHER RESOLVED, that the city of Duluth agrees to the terms and conditions of the grant consistent with Minnesota Statutes, Section 174.50, subdivision 5, clause (3), and will pay any additional amount by which the cost exceeds the estimate, and will return to the Minnesota state transportation fund any amount appropriated for the project but not required. The proper city officials are hereby authorized to execute a grant agreement concerning the above referenced grant. Grant monies shall be deposited into Disaster Recovery Fund 225, Department/Agency 125 (Finance), Division 1808 (Disaster Aids and Revenues), Source 4220-03 (State of Minnesota Disaster Aid), city project no. 1037, S.A.P. 118-167-007, flood site no. 443.

Attachments: [15-0837R Map](#)  
[15-0837R Agreement](#)

This Resolution was adopted unanimously.

## BY COUNCILOR FOSLE (PUBLIC SAFETY)

19.    **15-0777R**    RESOLUTION AUTHORIZING PROPER CITY OFFICIALS TO ACCEPT A GRANT FROM THE UNITED STATES DEPARTMENT OF JUSTICE IN THE AMOUNT OF \$37,210 AND FURTHER AUTHORIZING EXECUTION OF GRANT AGREEMENT WITH ST. LOUIS COUNTY.

Body: CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to accept a FY15 Justice Assistance Grant Program award from the United States department of justice, bureau of justice assistance, office of justice programs, in the amount of \$37,210 to be used for state and local initiatives including First Witness Child Advocacy Center, Safe Haven Resource Center, Life House, and Duluth police department equipment; and further are authorized to execute a grant agreement substantially the same as the attached exhibit A and to accept said grant, funds to be deposited in Revenue Fund 215-200-2303-4209-02 (Duluth Police Grant Programs, Police, 2015 JAG, Direct Federal Grants Operating) and other expenses to be paid from Expense Funds #215-200-2303-5447 (Duluth Police Grant Programs, Police, 2015 JAG, Payment to Other Govt. Agencies; #215-200-2303-5241 (Duluth Police Grant Programs, Police, 2015 JAG, Small Equip-Office/Operating; #215-200-2303-5580 (Duluth Police Grant Programs, Police, 2015 JAG, Capital Equipment).

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially the same as the

attached exhibit B, with the St. Louis County sheriff's office, who is a partner of the city under this grant.

**Attachments:** [Exhibit A](#)  
[Exhibit B](#)

This Resolution was adopted unanimously.

## BY COUNCILOR SIPRESS (RECREATION, LIBRARIES & AUTHORITIES)

20.     **15-0802R**     RESOLUTION AUTHORIZING A CONTRACT WITH HAMMEL, GREEN, AND ABRAHAMSON, INC. FOR PROFESSIONAL DESIGN SERVICES FOR THE LAKE SUPERIOR ZOO AND FAIRMOUNT PARK REDESIGN IN AN AMOUNT NOT TO EXCEED \$128,400.

**Body:** CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to contract with Hammel, Green, and Abrahamson, Inc. (HGA), substantially in the format attached as Exhibit C, for professional design services in the amount of \$128,400, payable from Tourism & Recreational Projects 452; Finance 030; Improvements Other than Buildings 5530; Project: HANDHTAX-1502 - Half & Half Tax Projects, Fairmount Park/Zoo.

**Attachments:** [Exhibit A](#)  
[Exhibit B](#)  
[Exhibit C](#)  
[Exhibit D](#)

This Resolution was adopted unanimously.

21.     **15-0803R**     RESOLUTION ACCEPTING THE CONVEYANCE OF REAL PROPERTY FROM THE STATE OF MINNESOTA FOR PUBLIC PARK, BOULEVARD AND MUNICIPAL FOREST PURPOSES.

**Body:** CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to accept the conveyance of that certain real property legally described in Tract Nos. 1 and 3 on the attached Exhibit A, from the state of Minnesota, for public park, boulevard and municipal forest purposes, at no cost to the city. The state deed conveying the property is attached hereto as Exhibit B.

**Attachments:** [Elys Peak Exhibit A](#)  
[Elys Peak Exhibit B](#)

This Resolution was adopted unanimously.

**22. 15-0825R** RESOLUTION AUTHORIZING TWO PERMITS FROM MINNESOTA POWER FOR THE CONSTRUCTION, MAINTENANCE, AND USE OF A PUBLIC SNOWMOBILE TRAIL.

**Body:** CITY PROPOSAL:

WHEREAS, the state of Minnesota, through its department of natural resources, provides a snowmobile trails assistance program;

WHEREAS, the snowmobile trails assistance program provides grants to local units of government for the maintenance of the trails pursuant to Minn. Stat. § 84.83;

WHEREAS, the city of Duluth is designated as the local unit of government to act as a sponsor for Over the Hill Night Riders Snowmobile Club, a local snowmobile club;

WHEREAS, under the terms of the grant agreement, the city of Duluth is required to acquire the necessary real property interests for the development and maintenance of trails from the owners of land that the trail crosses;

WHEREAS, the city of Duluth does not hold all of the required real property interests for existing snowmobile trails that presently cross Minnesota Power property; and

WHEREAS, Minnesota Power is willing to permit the construction, maintenance, and use of the trails on its property.

RESOLVED, that the proper city officials are hereby authorized to execute and accept a permit, substantially in the same form attached as Exhibit A, with Minnesota Power, for the construction, maintenance, and use of a public snowmobile trail.

FURTHER RESOLVED, that the proper city officials are hereby authorized to accept the permit issued on January 29, 2015 and attached as Exhibit B, with Minnesota Power, for the construction, maintenance, and use of a public snowmobile trail.

**Attachments:** [Exhibit A](#)  
[Exhibit B](#)  
[Exhibit C](#)

This Resolution was adopted unanimously.

## END OF CONSENT AGENDA

The following entitled resolutions are also to be considered:



**COMMITTEE 1****BY COUNCILOR FILIPOVICH (FINANCE)**

23. 15-0811R RESOLUTION APPROVING CAPITAL IMPROVEMENT PLAN AND STATING INTENT TO ISSUE GENERAL OBLIGATION CAPITAL IMPROVEMENT BONDS UNDER MINNESOTA STATUTES, SECTION 475.521.

**Body:** CITY PROPOSAL:

BE IT RESOLVED, by the city council (the "Council") of the city of Duluth, Minnesota (the "City"), as follows:

Section 1. Capital improvement plan.

1.01 (a) Under and pursuant to Minnesota Statutes, Section 475.521 (the "Act"), the Council has authorized preparation of a capital improvement plan for the years 2016 through 2020 which has been presented to the Council in the section entitled "Capital Improvement Program Summary" in the document entitled "2016-2020 Capital Improvement Budget and Five-Year Plan" (the "Plan");

(b) A notice of public hearings has been published in accordance with the Act, and the Council has held on December 7, 2015, a public hearing as required by the Act, to provide an opportunity for residents to express their views on the Plan;

(c) The Council has considered the following for each project discussed in the Plan and for the overall Plan:

(1) The condition of the City's existing infrastructure, including the projected need for repair or replacement;

(2) The likely demand for the improvement;

(3) The estimated cost of the improvement;

(4) The available public resources;

(5) The level of overlapping debt in the City;

(6) The relative benefits and costs of alternative uses of the funds;

(7) Operating costs of the proposed improvements; and

(8) Alternatives for providing services more efficiently through shared facilities with other cities or local government units.

1.02 (a) Based on the considerations set forth in the Plan and Section 1.01(c) hereof, the Council finds that the Plan is desirable and beneficial to the City and its residents;

(b) The Council finds that the proposed improvements under the Plan will result in no unnecessary duplication of public facilities provided by other units of government in the region.

1.03 The Plan is approved.

Section 2. (a) Under and pursuant to the authority contained in the Act and Minnesota Statutes, Chapter 475, the City is authorized to issue capital improvement bonds to provide funds for capital improvements

pursuant to the Plan.

(b) The Council also held a public hearing on December 7, 2015, after notice of public hearing required by the Act, on the City's intention to issue general obligation capital improvement bonds, in an amount not to exceed \$1,400,000 for the purposes set forth in the notice of public hearing. All persons who desired to speak at the public hearing were heard and written comments were considered.

(c) The Council hereby finds and determines that it is necessary, expedient and in the best interests of the City's residents that the City issue, sell and deliver general obligation capital improvement bonds in the maximum amount of \$1,400,000 (the "Bonds"), for the purpose of providing funds for the following capital improvements under the Plan: improvements to eligible facilities (City Hall, libraries, public safety facilities and public works facilities) under the Act throughout the City, including improvements to the main library, Mt. Royal library, police multimodal substation building, 42nd tool house, Riley Road tool house, fleet building and Firehall #8, and for the payment of costs of issuance of the Bonds.

(d) If, within 30 days after December 7, 2015, a valid petition is filed with the City Clerk calling for a vote on the proposition of issuing the Bonds, signed by voters residing within the boundaries of the City equal to five percent of the votes cast in the City in the last general election, the Bonds shall not be issued until the question of their issuance has been authorized by a majority of the voters voting on the question at the next general or special election called to decide the question.

(e) This resolution constitutes a declaration of official intent under Treasury Regulations Section 1.150-2. The City reasonably expects to acquire or construct all or a portion of the capital improvements prior to the issuance of the capital improvement bonds and to reimburse expenditures incurred with respect to such capital improvement program with the proceeds of the capital improvement bonds.

**This Resolution was tabled unanimously.**

- 24. 15-0812R** RESOLUTION OF THE CITY OF DULUTH, MINNESOTA, STATING THE INTENT TO ISSUE GENERAL OBLIGATION CAPITAL EQUIPMENT NOTES, SERIES 2016, AND APPROVING THE CAPITAL EQUIPMENT LIST ASSOCIATED WITH THE NOTES IN THE APPROXIMATE AMOUNT OF \$4,900,000.

**Body:** CITY PROPOSAL:

BE IT RESOLVED, by the city council (the "Council") of the city of Duluth, Minnesota (the "City"), as follows:

Section 1. Under and pursuant to the provisions of Minnesota Statutes, sections 410.32 and 412.301 (the "Act"), and Minnesota Statutes, Chapter 475, and the City Charter, the City is authorized to issue its

general obligation capital equipment notes to provide funds to purchase capital equipment having an expected useful life at least as long as the term of the capital equipment notes.

Section 2. The Council declares the intent of the City to issue capital equipment notes in 2016 in an amount up to \$4,743,910 to finance the purchase of capital equipment authorized by the Act, together with an additional amount to pay costs of issuance of the capital equipment notes and discount in an amount estimated to be not more than \$156,090.

Section 3. The capital equipment to be financed includes those items of equipment set forth on the list attached hereto as Exhibit A, which list of equipment is hereby approved for purchase in 2016.

Section 4. The terms and conditions of the capital equipment notes and the sale thereof shall be established by further resolution of the Council.

Section 5. This resolution constitutes a declaration of official intent under Treasury Regulations Section 1.150-2. The City reasonably expects to acquire all or a portion of the capital equipment prior to the issuance of the capital equipment notes and to reimburse expenditures incurred with respect to such capital equipment purchase program with the proceeds of the capital equipment notes.

**Attachments:** [Exhibit A](#)

**A motion was made that this Resolution be adopted. The motion was carried by the following vote:**

**Yea:** 7 - Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, and Sipress

**Nay:** 1 - Councilor Fosle

**Absent:** 1 - President Larson

- 25. 15-0813R** RESOLUTION OF THE CITY OF DULUTH, MINNESOTA, TO REINSTATE A LOCAL BOARD OF APPEAL AND EQUALIZATION PURSUANT TO MINNESOTA STATUTE 274.014, SUBD. 3, PARAGRAPH C.

**Body:** CITY PROPOSAL:

Whereas, the City of Duluth has an established special board of review for acting as the local board of appeal and equalization pursuant to Minnesota Statute 274.01, Subd.2; and

Whereas, the City of Duluth's powers to act as the local board of appeal and equalization were transferred to the County of St. Louis pursuant to Minnesota Statute 274.014, Subd. 3, paragraph a; and

Whereas, said statute provides for the reinstatement of the local board of appeal and equalization by resolution of said city council and upon proof of compliance with Minnesota Statute 274.014, Subd. 2.

BE IT RESOLVED, by the City Council of the City of Duluth, Minnesota, to reinstate the City of Duluth Special Board of Review as the local board of appeal and equalization pursuant to the above-referenced statutes.

**A motion was made that this Resolution be adopted the motion carried by the following vote:**

**Yea:** 7 - Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, and Sipress

**Nay:** 1 - Councilor Fosle

**Absent:** 1 - President Larson

**26. 15-0830R RESOLUTION ESTABLISHING ANNUAL BONDING PLAN FOR 2016.**

**Body:** CITY PROPOSAL:

RESOLVED, that, pursuant to Section 20-33 of the Duluth City Code, 1959, as amended, the following is hereby established as the annual, ordinary course general obligation bonding plan for the city of Duluth for the year 2016.

General obligation bonds and notes to be issued in 2016  
\$14,450,000

General obligation bonds and notes scheduled to be retired in 2016  
\$16,116,000

Net anticipated decrease in general obligation bonding for 2016  
(\$1,666,000)

**Attachments:** [Exhibit A](#)

**A motion was made that this Resolution be adopted the motion carried by the following vote:**

**Yea:** 7 - Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, and Sipress

**Nay:** 1 - Councilor Fosle

**Absent:** 1 - President Larson

**27. 15-0831R RESOLUTION ADOPTING LICENSE, PERMIT, FINE, PENALTY AND OTHER CHARGES FOR 2016.**

**Body:** CITY PROPOSAL:

RESOLVED, pursuant to sections 31-6(a) and 31-8 of the Duluth City Code, 1959, as amended, and the authority otherwise granted in said Code and the Duluth City Charter, the charges for those permits, licenses, fines, penalties and other charges listed in Exhibit A are hereby established as those set forth in said exhibit, effective as of January 1, 2016.

RESERVED FURTHER, that any fees established by any prior resolution inconsistent or conflicting with those set forth in said fee schedule are hereby superseded as of January 1, 2016, and of no future effect.

**Attachments:** [Exhibit A](#)  
[Memo](#)

**This Resolution was tabled unanimously.**

- 28. 15-0833R** RESOLUTION APPROVING THE FISCAL YEAR JANUARY 1, 2016 TO DECEMBER 31, 2016, OPERATION BUDGET OF THE DULUTH AIRPORT AUTHORITY.

**Body:** CITY PROPOSAL:

RESOLVED, that the operations budget for the fiscal year January 1, 2016 to December 31, 2016, in the amount of \$25,618,660 for the Duluth Airport Authority is hereby approved.

**Attachments:** [Exhibit A](#)

**A motion was made that this Resolution be adopted the motion carried by the following vote:**

**Yea:** 7 - Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, and Sipress

**Nay:** 1 - Councilor Fosle

**Absent:** 1 - President Larson

- 29. 15-0834R** RESOLUTION APPROVING THE FISCAL YEAR JANUARY 1, 2016 TO DECEMBER 31, 2016, OPERATION BUDGET OF THE DULUTH TRANSIT AUTHORITY.

**Body:** CITY PROPOSAL:

RESOLVED, that the operation budget for the fiscal year January 1, 2016 to December 31, 2016, in the amount of \$15,304,686 for the Duluth Transit Authority is hereby approved.

**Attachments:** [Exhibit A](#)

This Resolution was tabled unanimously.

**BY COUNCILOR GARDNER (PERSONNEL)**

- 30. 15-0832R** RESOLUTION ADOPTING CITY CHARTER COMMISSION'S RECOMMENDATION FOR APPROPRIATE FEE PAID TO CITY COUNCIL MEMBERS FOR SERVICE ON THE CITY COUNCIL AND SETTING SAID FEE.

**Body:** BY COUNCILOR GARDNER:

WHEREAS, in the November 3, 2015, election, the citizens of Duluth voted to amend Chapter II, Section 5, of the Duluth City Charter concerning the fee paid to city council members for service on the city council; and

WHEREAS, Chapter II, Section 5 of the Duluth City Charter was amended to allow the Charter Commission to determine the fee paid to council members and recommend said fee to the city council for approval; and

WHEREAS, if the city council approves said fee by a two-thirds vote, the new fee will take effect the January after the next municipal election; and

WHEREAS, on November 24, 2015, the Charter commission determined that the appropriate monthly fee paid to city council members for service on the city council is \$1,150.

NOW, THEREFORE, BE IT RESOLVED that the Charter commission's recommendation for the appropriate monthly fee paid to city council members for service on the city council is adopted and the fee is set at \$1,150.

BE IT FURTHER RESOLVED that the new monthly fee will go into effect January 2018, the first January after the next municipal election.

**This Resolution was tabled as follows:**

Yea: Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, and Sipress.

Nay: Councilor Fosle

Absent: President Larson

- 31. 15-0843R** RESOLUTION AUTHORIZING PAY AND BENEFIT PLAN FOR THE MAYOR-APPOINTED COMMUNICATIONS AND POLICY OFFICER AND COMMUNITY RELATIONS OFFICER POSITIONS PURSUANT TO CHAPTER IV, SECTION 18, OF THE DULUTH HOME RULE CHARTER.

**Body:** CITY PROPOSAL:

RESOLVED, that pursuant to passage by citizen referendum vote held during the city general election on November 9, 2009, Chapter IV, Section 18 of the Duluth Home Rule Charter was amended to provide the mayor the ability to appoint a communications and policy officer and a community relations officer.

FURTHER RESOLVED, Section 22 of the Duluth Home Rule Charter provides that the pay plan for the positions must be adopted by city council resolution.

FURTHER RESOLVED, that council Resolution 12-0083 authorizing the current pay and benefits plan for the communications and policy officer and a community relations officer expires at the end of the current mayor's term on January 4, 2016.

FURTHER RESOLVED, the proper city official are hereby authorized to execute employment documents necessary to compensate the appointed communications and policy officer with monthly salary at Pay Range 1105-1110 for the job title communications and policy officer, Job Title Number 1324, and benefits not to exceed those found in the 2015-2017 collective bargaining agreement between the city and City of Duluth Supervisory Association, which is on file in the office of the city clerk as Public Document No. 15-0413-10.

FURTHER RESOLVED, the proper city official are hereby authorized to execute employment documents necessary to compensate the appointed community relations officer with monthly salary at Pay Range 1055-1085 for the customer relations supervisor, Job Title Number 1359, and benefits not to exceed those found in the 2015-2017 collective bargaining agreement between the city and City of Duluth Supervisory Association, which is on file in the office of the city clerk as Public Document No. 15-0413-10.

FURTHER RESOLVED, that said compensation shall remain in effect until further modified by council resolution.

RESOLVED FURTHER, that the provisions of Resolution 12-0083 are superseded by this resolution.

RESOLVED FURTHER, that all above-described compensation to the appointed communications and policy officer and community relations officer, if those positions are filled by the mayor, is payable from Fund No. 110-110-1102-5100 (general, legislative and executive, mayor's office).

**A motion was made that this Resolution be adopted the motion carried by the following vote:**

**Yea:** 7 - Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, and Sipress

**Nay:** 1 - Councilor Fosle

**Absent:** 1 - President Larson

**32. 15-0851R RESOLUTION APPOINTING THE MAYORAL SALARY REVIEW COMMITTEE.**

**Body:** BY COUNCILOR GARDNER:

WHEREAS, on November 25, 2013, the Duluth City Council passed Resolution 13-0580 establishing a mayor salary review committee (“committee”) to be comprised of the city council personnel committee and three community leaders who are selected and approved by the city council; and

WHEREAS, the committee is to meet annually and is charged with reviewing and establishing, by majority vote, recommendations regarding changes to the mayor’s salary, and then to present those recommendations to the city council; and

WHEREAS, it is important to have citizens with different economic backgrounds and expertise on the committee; and

WHEREAS, David Ross is a Duluth business leader and the president of the Duluth Area Chamber of Commerce; Dan O’Neill is the president of the Duluth Central Labor Council and serves on the Spirit Mountain recreation area authority board; and Dennis Lamkin is on the board of directors for Glensheen Mansion, Duluth Superior Symphony Orchestra, Depot Advisory Board, Great Lakes Aquarium and the city of Duluth Charter commission.

THEREFORE BE IT RESOLVED, that the city council hereby appoints David Ross and Dennis Lamkin to the mayor salary review committee for a term expiring on December 31, 2019, and appoints Dan O’Neill to the mayor salary review committee for a term expiring December 31, 2016.

BE IT FURTHER RESOLVED, that the chair of the city council personnel committee schedule the first committee meeting by May 1, 2016. At its first meeting, the committee shall appoint, by majority vote, a chairperson to preside over meetings, call future meetings and coordinate with the city council.

**Sponsors:** Gardner



**A motion was made that this Resolution be adopted the motion carried by the following vote:**

**Yea:** 7 - Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, and Sipress

**Nay:** 1 - Councilor Fosle

**Absent:** 1 - President Larson

### **BY COUNCILOR KRUG (INTERGOVERNMENTAL RELATIONS)**

- 33. 15-0839R** RESOLUTION RECOMMENDING THAT THE CITY ADMINISTRATION INCLUDE THE REPEAL OF THE LAKESIDE AND LESTER PARK LIQUOR BAN IN THE CITY'S LEGISLATIVE AGENDA.

**Body:** CITY PROPOSAL:

WHEREAS, under Special Laws 1891, Chapter 57, Chapter XII, Section 5, the issuance of licenses for the sale of intoxicating liquor in what was formerly known as the city of Lakeside neighborhood of Duluth has been prohibited;

WHEREAS, on August 10, 2015, the Duluth city council passed Resolution 15-0465 approving an advisory referendum on the sale of intoxicating liquor in the Lakeside and Lester Park neighborhoods to be placed on the ballot for the November 3, 2015, municipal election; and

WHEREAS, according to election results attached hereto as Exhibit A, all Duluth precincts had a majority of voters vote in favor of allowing the sale of intoxicating liquor in the Lakeside and Lester Park neighborhoods, including the precincts in the effected neighborhoods.

NOW, THEREFORE BE IT RESOLVED, that the city council recommends that the city administration include repealing Special law 1891, Chapter 57, Chapter XII, Section 5, to allow the sale of intoxicating liquor in the Lakeside and Lester Park neighborhoods, on the 2016 legislative agenda for the city of Duluth.

**Attachments:** [Exhibit A](#)

Motion was made, seconded and unanimously carried to suspend the rules to hear speakers on the resolution.

Nathan Windschill and Tim Allen spoke in opposition of the resolution.

**A motion was made that this Resolution be adopted the motion carried by the following vote:**

**Yea:** 7 - Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, and Sipress

**Nay:** 1 - Councilor Fosle

**Absent:** 1 - President Larson

**INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinances are to be read for the first time:

**COMMITTEE 1****BY COUNCILOR FILIPOVICH (FINANCE)**

34. 15-096-O AN ORDINANCE DETERMING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL PARKS FUND LEVY FOR THE YEAR 2016.

Body: CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the sum to be raised by taxation for the year 2016 for the special parks fund levy is hereby determined to be the sum of \$2,600,000 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following section.

Section 2. That pursuant to Ordinance 10134, approved by voter referendum on November 9, 2011, pursuant to the authority contained in Laws of Minnesota, 1983, Chapter 560, Section 1, there will be levied for the parks fund the sum of \$2,600,000.

Section 3. That this ordinance shall take effect January 1, 2016.

**This Ordinance was read for the first time.**

35. 15-099-O AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2016.

Body: CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the sum to be raised by taxation for the year 2016 for general operations is hereby determined to be the sum of \$21,630,792 which sum is levied against the taxable property of the City of Duluth and appropriated to the various accounts of the city, as set forth in the following sections.

Section 2. That there will be levied for the support of the general fund the sum of \$14,128,900.

Section 3. That there will be levied for the support of the street lighting fund the sum of \$647,592.

Section 4. That for the payment of debt, there will be levied for the general obligation debt fund the sum of \$6,574,300.

Section 5. That pursuant to Laws of Minnesota 1971, Chapter 824, to pay for the portion of the cost of local improvements which will not sustain a special assessment, there will be levied for the permanent improvement fund the sum of \$280,000.

Section 6. That this ordinance shall take effect January 1, 2016.

**This Ordinance was read for the first time.**

- 36. 15-100-O** AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2016.

**Body:** CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the sum to be raised by taxation for the year 2016 for Duluth Transit Authority taxing district's operations is hereby determined to be the sum of \$1,491,900 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following sections, viz:

Section 2. That pursuant to Minnesota Statutes, Section 458A.31, Subd.1, there will be levied for transit operations the sum of \$1,491,900.

Section 3. That this ordinance shall take effect January 1, 2016.

**This Ordinance was read for the first time.**

- 37. 15-101-O** AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2016 APPROPRIATING MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

**Body:** CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That in accordance with Section 58 of the 1912 Home Rule Charter of the City of Duluth, and all amendments thereof and law supplementary thereto, and for the fiscal year beginning January 1 and ending December 31, 2016, the city council hereby budgets, determines and states the amount of money required to meet the principal and interest of maturing obligations comprising the outstanding indebtedness of such city; the amounts of money necessary to be provided for each such fund and each department of such city; and estimates the amount of income from all other sources and revenues, exclusive of taxes upon property, together with the probably amount required to be levied and raised by taxation to defray all expenses and obligations of such city during such fiscal year.

That the monies as so budgeted and hereafter set forth shall be paid upon the presentation of properly verified vouchers bearing thereon the budget distribution for which such expenditures are to be charged in accordance with the detailed classification of accounts and the explanatory information of such as set forth in ordinance in effect governing same, excepting, however, payments for interest and sinking funds, which shall be paid in the manner set forth in Section 53 of the City Charter.

That any monies received by the several city departments as reimbursement for damages or repairs to city property or work done for others and not anticipated in the original budget may be credited to and added to the appropriate budget item upon approval of the chief administrative officer or their designee.

That use of general fund balance that has been assigned for a specific purpose in a prior year, must be approved by the city council if used for a purpose other than what has been specified.

That grants which have been approved by the appropriate state or federal agency and accepted by resolution of the city council may be added to the respective budget items upon approval of the city auditor.

That the parks fund prior year unexpended budget appropriation not anticipated in the original budget shall be added to the current year budget appropriation as approved by the chief administrative officer or designee.

Section 2. That the city auditor be authorized to approve the payments of \$3,011,200 from the gas and steam public utility funds to the general fund for administrative services; comprised of \$2,876,000 or seven percent of the gross revenues of the gas utility fund to the general fund; and \$135,200 from public utilities steam fund to the general fund.

Section 3. That the mayor or the chief administrative officer or their designees may make transfers from budget item to budget item as may be considered necessary for the proper administration of the city government for the year. However, the total of any transfers to or from any budget item in excess of ten percent of the appropriation therefore as herein made shall be made only upon approval of the city council. For the purpose of the

Section, the term budget item shall mean the amount appropriated to the various funds delineated as fixed charges in the budget summary, the accounts numbers 110 through the 700 series shall each be considered budget items within the general fund, as defined in Chapter 8, Section 54 of the City Charter, the account numbered 205 in the parks fund, and 290 in the Street system Maintenance Utility, the accounts numbered 510 in the water division, 520 in the gas division, 530 and 532 in the sewer division, 535 in the stormwater division, 540 in the steam division, 550 in the street light division, 503 in the golf division, 505 and 506 in the parking division.

Section 4. That the salaries shall be in accordance with the pay plan in effect as provided by Section 22 of the City Charter, as amended.

Section 5. That the city auditor may create or abolish an accounting fund when required by law or proper accounting procedures.

Section 6. That the city auditor be authorized to make temporary loans to and from the city's various funds as needed in the conduction of the day-to-day operations of the city.

Section 7. That the appropriations as set forth in this section constitutes the budget of the City of Duluth for the calendar year of 2016.

#### GENERAL FUND

10 Legislative and executive - total \$ 3,048,700  
 21 Public administration - total \$23,796,600  
 25 Finance - total \$ 2,659,400  
 32 Planning and construction services - total \$ 2,385,500  
 35 Business and economic development - total \$ 596,500  
 50 Fire - total \$15,546,600  
 60 Police - total \$20,328,700  
 00 Public works - total \$ 1,816,500  
 00 Transfers and other functions - total \$ 9,827,700  
 Total General Fund \$80,006,200

#### PARKS FUND

05 Community Resources \$ 2,721,000

#### PUBLIC ENTERPRISE

03 Golf fund - total \$ 2,234,889  
 05 Parking fund - total \$ 4,932,780  
 06 W Superior St Parking Facility \$ 1,711,104

#### PUBLIC UTILITIES

10 Water fund - total \$15,175,800

20 Gas fund - total \$43,443,400  
 30 & 532 Sewer and clean water fund - total \$19,222,700  
 35 Stormwater fund - total \$ 6,291,700  
 40 Steam fund - total \$ 7,777,100  
 50 Street lighting - total \$ 2,753,900  
 90 Street System Maintenance Utility \$ 2,774,500

Section 8. That the chief administrative officer or their designee shall provide the council with a final budget report within three months of the end of the budget year setting forth the original approved and the modified budgets for each line item included in this ordinance and explaining in narrative form the reasons for any significant differences between the original approved and the modified budgets.

Section 9. That the city will review all state and federal grants prior to acceptance and determine the program's funding status. A statement should be included on each grant resolution outlining items such as whether the grant represents a one-time revenue, an ongoing funding source, or a partial funding source with a local match required. The future fiscal impact of the program on the budget will be discussed prior to acceptance of the grant.

The programs funded by state and federal grants shall be reduced or eliminated accordingly if state or federal revenue are reduced or eliminated and another funding source is not secure. Local funding will be available after a full review to determine whether the program should be continued.

Section 10. That this ordinance shall take effect January 1, 2016.

This Ordinance was read for the first time.

## COMMITTEE 2

### BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)

38. 15-095-O AN ORDINANCE CONFIRMING THE LEGAL DESCRIPTION FOR THE AREA SURROUNDING LOWER CONGDON PARK.

**Body:** CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the subject properties located on located on the eastern and northeast portions of the City and as more particularly described as follows:

That part of the Re-Arrangement of Part of East Duluth and of First Addition to East Duluth according to the recorded plat thereof in St. Louis County,

bounded by the following:

Beginning at the intersection of the west line of the Northeast Quarter of Section 13, Township 50 North, Range 50 West and the southeasterly extension of the southwest right of way line of the North 33rd Avenue East as platted in Third Re-Arrangement of Congdon Park Division of the recorded plat thereof;

Thence southeasterly along said southeasterly extension of the southwest right of way line of the North 33rd Avenue East to the southwesterly extension of the center line of East 1st Street, as platted in said Re-Arrangement of Part of East Duluth and of First Addition to East Duluth; Thence easterly deflecting to the left 38 degrees to a line that is parallel and offset 66.00 feet southwest of the southwest lines of Lots 7 and 8, Block 6 of said Re-Arrangement of Part of East Duluth and of First Addition to East Duluth;

Thence southeasterly along said line parallel with southwest lines of Lots 7 and 8 to the northwest right of way of Superior Street as platted in said Re-Arrangement of Part of East Duluth and of First Addition to East Duluth; Thence southeast on a line perpendicular to said northwest right of way of Superior Street to the southeast right of way of Superior Street;

Thence northeasterly along said southeast right of way of Superior Street to a line that is parallel and 130.00 feet southwest of the northeast line of Lot 8, Block 10, Re-Arrangement of Part of East Duluth and of First Addition to East Duluth;

Thence southeasterly along said parallel line 130.00 feet southwest of the northeast line of Lot 8 to a line that is parallel and 150.00 feet southeast of the southeast right of way of Superior Street;

Thence northeasterly along said parallel line 150.00 feet southeast of the southeast right of way of Superior Street 130.00 feet to the west corner of lot 11 of said Block 10;

Thence southeasterly along southwest line of said Lot 11 to the south corner of said Lot 11;

Thence southeasterly to the corner of Lot 7, Block 16 of said Re-Arrangement of Part of East Duluth and of First Addition to East Duluth that is the intersection of the southeast right of way of Greysolon Place and the west line of said Lot 7;

Thence southerly along the west lines of Lots 7-11, Block 16 and southeasterly around the radius of Lot 10 to the northwest right of way of Greysolon Road, Re-Arrangement of Part of East Duluth and of First Addition to East Duluth;

Thence southwesterly along said northwest right of way of Greysolon Road

to the intersection with the northwesterly extension of the northeast right of way of 33rd Avenue East;  
Thence southeast along said northwesterly extension of the northeast right of way of 33rd Avenue East to the southeast right of way of Greysolon Road;  
Thence southwesterly along southeast right of way of Greysolon Road to the northeast right of way of 32nd Avenue East;  
Thence northwesterly to the south corner of Lot 9, Block 17, Re-Arrangement of Part of East Duluth and of First Addition to East Duluth;  
Thence northerly to the south corner of Lot 3 of said Block 17;  
Thence northerly along the east line of said Lot 3 to a line that is a southeasterly extension of the northeast line of Lot 27, Block 9, Re-Arrangement of Part of East Duluth and of First Addition to East Duluth;  
Thence northwesterly along said northeast line of Lot 27 and its extension to the east corner of Lot 1 of said Block 9;  
Thence northwesterly along the northeast line of said Lot 1 to the north corner of said Lot 1;  
Thence northwest to the east corner of Lot 13, Block 7, Re-Arrangement of Part of East Duluth and of First Addition to East Duluth;  
Thence northwesterly along northeast line of said Lot 13 to the east corner of Lot 1 of said Block 7;  
Thence westerly along the northerly lines of Lots 1 and 2, said Block 7, to said west line of the Northeast Quarter of Section 13;  
Thence north along said west line of the Northeast Quarter of Section 13 to the point of beginning.  
Be reclassified from Residential-Traditional (R-1) to Park and Open Space (P-1), and that the official zoning map of the City of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows: (See Attachment 1)  
Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

**Attachments:** [Attachment 1](#)  
[Attachment 2](#)

**This Ordinance was read for the first time.**

- 39. 15-097-O** AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1, RR-1, R-2 AND F-6 TO P-1, FOR



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ARLINGTON ATHLETIC COMPLEX, CASCADE PARK, DULUTH HEIGHTS COMMUNITY RECREATION CENTER, HILL TOP PARK, JOLLYSTONE PARK, LILLIPUT PARK, AND STRICKLAND PARK

**Body:** CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the subject properties located in the central portion of the city and as more particularly described as follows:

10-0890-00710 010-2710-06540 010-0890-06170  
10-0890-00810 010-2710-05930 010-0890-06520  
10-0890-02070 010-2710-05940 010-0890-06180  
10-0890-02080 010-2710-05920 010-0890-06510  
10-0890-02340 010-2710-06540 010-1270-04100  
10-0890-02350 010-2710-06545 010-1010-00610  
10-0890-02230 010-3170-00050 010-1040-00120  
10-0890-01900 010-3170-00500 010-3740-00380  
10-0890-01720 010-3170-00420 010-1350-04780  
10-0890-02260 010-3170-00250 010-1290-01150  
10-0890-01560 010-3170-00190 010-0890-06170  
10-0890-01550 010-3170-00210 010-0710-00015  
10-0890-01520 010-3170-00260 010-0710-00025  
10-0890-01500 010-3170-00220 010-0710-00035  
10-0890-05680 010-3170-00070 010-1370-01775  
10-0890-05840 010-3170-00060 010-1370-03170  
10-0890-06160 010-1010-00630 010-2710-03641  
10-0890-06530 010-1010-00620 010-4120-00510

Be reclassified from Residential-Traditional (R-1), Residential-Rural 1(RR-1), Residential-Urban (R-2) and Form District 6 (F-6) Mid-Rise Neighborhood Shopping to Park and Open Space (P-1), and that the official zoning map of the City of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:  
(See Attachment 1)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

**Attachments:** [Attachment 1](#)  
[Attachment 2](#)

**This Ordinance was read for the first time.**

- 40. 15-098-O** AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RR-1 TO RI, PROPERTY AT THE WEST END OF DEVONSHIRE STREET PARCEL ID# 010-2700-00050 (ST. LOUIS COUNTY TAX FORFEIT PROPERTY).

**Body:** CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That approximately 4.6 acres of land located at the west end of Devonshire Street, Parcel ID# 010-2700-00050, and as more particularly described as follows:

S1/2 OF SW1/4 OF NE1/4 OF NW1/4 EX ELY 25 FT OF SLY 141 FT & EX PART N OF & ADJACENT TO LOT 6 BLK 1 BRYANT ADDN 3RD DIV LYING BETWEEN THE EXTENDED E & W LOT LINES OF LOT 6 AND WITHIN 80 FT OF THE N LINE OF LOT 6 AND EX PART N OF & ADJACENT TO LOT 7 BLK 1 BRYANT ADDN 3RD DIV LYING BETWEEN THE EXTENDED E & W LOT LINES OF LOT 7 & WITHIN 80 FT OF THE N LINE OF LOT 7 & EX PART N OF & ADJACENT TO LOT 8 BLK 1 BRYANT ADDN 3RD DIV LYING BETWEEN THE EXTENDED E & W LINES OF LOT 8 & WITHIN 80 FT OF THE N LINE OF LOT 8 & EX PART N OF AND ADJACENT TO LOT 9 BLK 1 BRYANT ADDN 3RD DIV LYING BETWEEN THE EXTENDED E & W LINES OF LOT 9 & WITHIN 80 FT OF THE N LINE OF LOT 9 & EX THAT PART OF S1/2 OF SW1/4 OF NE1/4 OF NW1/4 BEG AT NW COR OF S1/2 OF SW1/4 OF NE1/4 OF NW1/4 THENCE N89DEG06'03"E ALONG THE N LINE OF SAID S1/2 OF SW1/4 OF NE1/4 OF NW1/4 A DISTANCE OF 63.67 FT

THENCE S39DEG01'38"W A DISTANCE OF 99.5 FT TO A PT ON W LINE OF SAID S1/2 OF SW1/4 OF NE1/4 OF NW1/4 THENCE N0DEG45'17"W ALONG SAID W LINE 76.31 FT TO PT OF BEG

Sec 5 Twp 49 Rge 14

be reclassified from Residential-Rural 1 (RR-1) to Residential-Traditional (R-1), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as shown in the attached document.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

**Attachments:** [Attachment 1](#)

[Attachment 2](#)

This Ordinance was read for the first time.

**The following entitled ordinance is to be read for the second time:**

## **COMMITTEE 2**

### **BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)**

- 41. 15-0885R** AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO MU-B, PROPERTY AT 3125 WEST ARROWHEAD ROAD (MINNESOTA POWER).

**Body:** CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That approximately 4.2 acres of land located at the northeast corner of Rice Lake Road and Arrowhead Road, at 3125 West Arrowhead Road, and as more particularly described as follows:

All that part of Blocks 29 and 30, including those vacated streets and alleys lying within and adjacent to said blocks, CLIFTON HEIGHTS SECOND DIVISION, St. Louis County, Minnesota, lying southwesterly of Chester Creek, more specifically described as follows:

Beginning at the southwest corner of said plat of CLIFTON HEIGHTS SECOND DIVISION, said point also being known as the Southwest Corner of Section 9, T 50 N, R 14 W; thence South 89 degrees 59 minutes 52 seconds East, assigned bearing, along the south line of

said section 9, a distance of 541 feet to the centerline of Chester Creek; thence northerly and northwesterly along the said Chester Creek centerline to the west line of said Section 9; thence South 00 degrees 39 minutes 28 seconds East a distance of 490 feet to the point of beginning and there terminating.

be reclassified from Residential-Traditional (R-1) to Mixed Use-Business (MU-B), and that the official zoning map of the City of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as shown in the attached document.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

**Attachments:** [Attachment A](#)

[Attachment B](#)

**This ordinance was adopted unanimously.**

**Meeting adjourned at 7:52 p.m.**



# City of Duluth

411 West First Street  
Duluth, Minnesota 55802

## Minutes

### City Council

**MISSION STATEMENT:** *The mission of the Duluth City Council is to develop effective public policy rooted in citizen involvement that results in excellent municipal services and creates a thriving community prepared for the challenges of the future.*

**TOOLS OF CIVILITY:** *The Duluth City Council promotes the use and adherence of the tools of civility in conducting the business of the council. The tools of civility will provide increased opportunities for civil discourse in order to find positive resolutions to the issues that face the city. These tools include: pay attention, listen, be inclusive, do not gossip, show respect, be agreeable, apologize, give constructive criticism and take responsibility. [Approved by the council on August 25, 2003]*

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Monday, December 14, 2015

7:00 PM

Council Chamber

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#### ROLL CALL

**Present:** 9 - Councilor Filipovich, Councilor Fosle, Councilor Gardner, Councilor Hanson, Councilor Juslrud, Councilor Krug, Councilor Russ, Councilor Sypress and President Larson.

#### PLEDGE OF ALLEGIANCE

#### PUBLIC HEARING – LIQUOR LICENSE FEES

Mike Ronning, Round Up Bar and Grill, spoke of his concerns over the same level of fees for all establishments regardless of how small ones operation is and that fees should be based on sales or seating capacity to level the playing field.

#### PROPERTY TAX ABATEMENT REGARDING CIRRUS DESIGN CORPORATION PROJECT

Linda Ross - Sellner spoke of her concerns for this and claimed that there are errors in some of the information presented.

#### CIRRUS DESIGN CORPORATION PROJECT - BUSINESS STUDY

Brian Hanson and David Ross, Executive Director Duluth Area Chamber of Commerce, spoke in support of Cirrus Design.

#### REPORTS FROM THE ADMINISTRATION

Deputy Police Chief Mike Tusken accepted from the Security Industry Alarm Coalition representative an award for the Duluth Police Departments false alarm program.

## REPORTS FROM OTHER OFFICERS

1. **15-096** Clerk application for exempt permit submitted to the Minnesota gambling control board from Duck's Unlimited for raffle on February 26, 2015.

Attachments: [DUCK'S UNLIMITED APPLICATION](#)

This Other Officers Report was received.

## REPORTS OF COUNCIL COMMITTEES

### REPORTS OF COUNCIL OPEN ISSUES

City Council President Larson presented the Duluth City Council December 2015 Duluth Distinguished Artists award to Penny Perry.

Mr. Perry thanked the council for this honor.

Councilor Filipovich announced that he wished to be considered for 2016 City Council President

Councilor Sipress announced that he wished to be considered for 2016 City Council Vice President.

### OPPORTUNITY FOR CITIZENS TO BE HEARD

Jude Gossens, Vice President of the Duluth Delegation of Youth in Government, described what their organization is involved in.

## RESOLUTIONS TABLED

### COMMITTEE 1

#### BY COUNCILOR FILIPOVICH (FINANCE)

2. **15-0811R** RESOLUTION APPROVING CAPITAL IMPROVEMENT PLAN AND STATING INTENT TO ISSUE GENERAL OBLIGATION CAPITAL IMPROVEMENT BONDS UNDER MINNESOTA STATUTES, SECTION 475.521.

Body: CITY PROPOSAL:

BE IT RESOLVED, by the city council (the "Council") of the city of Duluth, Minnesota (the "City"), as follows:

Section 1. Capital improvement plan.

1.01 (a) Under and pursuant to Minnesota Statutes, Section 475.521 (the "Act"), the Council has authorized preparation of a capital improvement plan for the years 2016 through 2020 which has been

presented to the Council in the section entitled "Capital Improvement Program Summary" in the document entitled "2016-2020 Capital Improvement Budget and Five-Year Plan" (the "Plan");

(b) A notice of public hearings has been published in accordance with the Act, and the Council has held on December 7, 2015, a public hearing as required by the Act, to provide an opportunity for residents to express their views on the Plan;

(c) The Council has considered the following for each project discussed in the Plan and for the overall Plan:

(1) The condition of the City's existing infrastructure, including the projected need for repair or replacement;

(2) The likely demand for the improvement;

(3) The estimated cost of the improvement;

(4) The available public resources;

(5) The level of overlapping debt in the City;

(6) The relative benefits and costs of alternative uses of the funds;

(7) Operating costs of the proposed improvements; and

(8) Alternatives for providing services more efficiently through shared facilities with other cities or local government units.

1.02 (a) Based on the considerations set forth in the Plan and Section 1.01(c) hereof, the Council finds that the Plan is desirable and beneficial to the City and its residents;

(b) The Council finds that the proposed improvements under the Plan will result in no unnecessary duplication of public facilities provided by other units of government in the region.

1.03 The Plan is approved.

Section 2. (a) Under and pursuant to the authority contained in the Act and Minnesota Statutes, Chapter 475, the City is authorized to issue capital improvement bonds to provide funds for capital improvements pursuant to the Plan.

(b) The Council also held a public hearing on December 7, 2015, after notice of public hearing required by the Act, on the City's intention to issue general obligation capital improvement bonds, in an amount not to exceed \$1,400,000 for the purposes set forth in the notice of public hearing. All persons who desired to speak at the public hearing were heard and written comments were considered.

(c) The Council hereby finds and determines that it is necessary, expedient and in the best interests of the City's residents that the City issue, sell and deliver general obligation capital improvement bonds in the maximum amount of \$1,400,000 (the "Bonds"), for the purpose of providing funds for the following capital improvements under the Plan: improvements to eligible facilities (City Hall, libraries, public safety facilities and public works facilities) under the Act throughout the City, including improvements to the main library, Mt. Royal library, police multimodal substation building, 42nd tool house, Riley Road tool house, fleet building and Firehall #8, and

for the payment of costs of issuance of the Bonds.

(d) If, within 30 days after December 7, 2015, a valid petition is filed with the City Clerk calling for a vote on the proposition of issuing the Bonds, signed by voters residing within the boundaries of the City equal to five percent of the votes cast in the City in the last general election, the Bonds shall not be issued until the question of their issuance has been authorized by a majority of the voters voting on the question at the next general or special election called to decide the question.

(e) This resolution constitutes a declaration of official intent under Treasury Regulations Section 1.150-2. The City reasonably expects to acquire or construct all or a portion of the capital improvements prior to the issuance of the capital improvement bonds and to reimburse expenditures incurred with respect to such capital improvement program with the proceeds of the capital improvement bonds.

**A motion was made, seconded and unanimously carried to remove the resolution from the table.**

**A motion was made that this Resolution be adopted the motion carried by the following vote:**

**Yea:** 8 - Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson.

**Nay:** 1 - Councilor Fosle

**3. 15-0831R RESOLUTION ADOPTING LICENSE, PERMIT, FINE, PENALTY AND OTHER CHARGES FOR 2016.**

**Body:** CITY PROPOSAL:

RESOLVED, pursuant to sections 31-6(a) and 31-8 of the Duluth City Code, 1959, as amended, and the authority otherwise granted in said Code and the Duluth City Charter, the charges for those permits, licenses, fines, penalties and other charges listed in Exhibit A are hereby established as those set forth in said exhibit, effective as of January 1, 2016.

RESOLVED FURTHER, that any fees established by any prior resolution inconsistent or conflicting with those set forth in said fee schedule are hereby superseded as of January 1, 2016, and of no future effect.

[Exhibit A](#)

**Attachments:**

**A motion was made, seconded and unanimously carried to remove the resolution from the table.**

[Memo](#)

**A motion was made that this Resolution be adopted the motion carried by the following vote:**

**Yea: 7-** Councilors Filipovich, Gardner, Hanson, Julsrud, Russ, Sipress and President Larson.



**Nay:** 2 - Councilors Fosle and Krug

4. **15-0834R** RESOLUTION APPROVING THE FISCAL YEAR JANUARY 1, 2016 TO DECEMBER 31, 2016, OPERATION BUDGET OF THE DULUTH TRANSIT AUTHORITY.

**Body:** CITY PROPOSAL:

RESOLVED, that the operation budget for the fiscal year January 1, 2016 to December 31, 2016, in the amount of \$15,304,686 for the Duluth Transit Authority is hereby approved.

**Attachments:** [Exhibit A](#)

**A motion was made, seconded and unanimously carried to remove the resolution from the table.**

**A motion was made that this Resolution be adopted the motion carried by the following vote:**

**Yea:** 7 - Councilors Filipovich, Gardner, Julsrud, Krug, Russ, Sipress and President Larson.

**Nay:** 1 - Councilor Fosle

**Abstain:** 1 - Councilor Hanson

#### **BY COUNCILOR GARDNER (PERSONNEL)**

5. **15-0832R** RESOLUTION ADOPTING CITY CHARTER COMMISSION'S RECOMMENDATION FOR APPROPRIATE FEE PAID TO CITY COUNCIL MEMBERS FOR SERVICE ON THE CITY COUNCIL AND SETTING SAID FEE.

**Body:** BY COUNCILOR GARDNER:

WHEREAS, in the November 3, 2015, election, the citizens of Duluth voted to amend Chapter II, Section 5, of the Duluth City Charter concerning the fee paid to city council members for service on the city council; and

WHEREAS, Chapter II, Section 5 of the Duluth City Charter was amended to allow the Charter Commission to determine the fee paid to council members and recommend said fee to the city council for approval; and

WHEREAS, if the city council approves said fee by a two-thirds vote, the new fee will take effect the January after the next municipal election; and

WHEREAS, on November 24, 2015, the Charter commission determined that the appropriate monthly fee paid to city council members for service on the city council is \$1,150.

NOW, THEREFORE, BE IT RESOLVED that the Charter commission's recommendation for the appropriate monthly fee paid to city council members for service on the city council is adopted and the fee is set at \$1,150.

BE IT FURTHER RESOLVED that the new monthly fee will go into effect January 2018, the first January after the next municipal election.

**A motion was made, seconded and unanimously carried to remove the resolution from the table.**

**A motion was made that this Resolution be adopted the motion carried by the following vote:**

**Yea:** 7 - Councilors Filipovich, Gardner, Krug, Julsrud, Russ, Sipress and President Larson.

**Nay:** 2 - Councilor Fosle and Hanson

## MOTIONS AND RESOLUTIONS

### CONSENT AGENDA

### COMMITTEE 1

### BY COUNCILOR FILIPOVICH (FINANCE)

6. **15-0842R** RESOLUTION APPROVING DULUTH STEAM DISTRICT NO. 1 THERMAL ENERGY HOT WATER RATE FOR EASTERN CANAL PARK.

**Body:** CITY PROPOSAL:

WHEREAS, Ever-Green Energy, Inc. ("EGE"), the city's manager of Duluth Energy Systems, has recommended a modification of the district heating hot water rate for customers connected to the eastern Canal Park hot water system to a rate of \$6.99 per million Btu for thermal energy service; and

WHEREAS, the city has determined that such rate is reasonable and necessary to defray the costs of operating the subject system.

RESOLVED, that pursuant to section 2.3.7 of the energy system management services agreement between the city and EGE, the city council hereby approves the rate of \$6.99 per million Btu for thermal energy services provided to customers connected to the eastern Canal Park Hot water system, effective on and after January 1, 2016.

**This Resolution was adopted unanimously.**

7. **15-0849R** RESOLUTION RELATING TO A TAX ABATEMENT; GRANTING THE

## ABATEMENT FOR THE CIRRUS DESIGN CORPORATION PROJECT.

**Body:** CITY PROPOSAL:

BE IT RESOLVED, by the City Council (the "City Council") of the city of Duluth, St. Louis County, Minnesota (the "City"), as follows:

Section 1. Purpose and Authorization.

1.01 The City, pursuant to the provisions of Minnesota Statutes, Sections 469.1812 to 469.1815, as amended (the "Act"), is authorized to grant an abatement of the property taxes imposed by the City on a parcel of property, if certain conditions are met, through the adoption of a resolution specifying the terms of the abatement.

1.02 Cirrus Development Corporation ("Cirrus") is a major manufacturer of general aviation aircraft with its main manufacturing facilities and related offices located at the Duluth International Airport (the "Airport"). Cirrus desires to expand its manufacturing and assembly facilities at the Airport to include facilities to manufacture the new Vision SF50 personal jet and to develop needed research and development facilities adjacent thereto. Cirrus desires to relocate its painting and finishing operations for its product lines to a new location so that it may repurpose its existing facilities for manufacture and assembly of the new Vision SF50 personal jet and for development of its research and design operations. Cirrus proposes to develop a new approximately 68,000 square foot facility, which is expected to be used for such painting and finishing operations, and to construct certain on-site and off-site improvements relating to such facility (the "Project").

1.03 Pursuant to the Act, on the date hereof, the City Council conducted a public hearing on the desirability of granting an abatement of property taxes on certain properties expected to be benefitted by the proposed Project, which properties are identified on the list attached hereto Exhibit A (the "Properties"). Notice of the public hearing was duly published as required by law in the *Duluth News Tribune*, the official newspaper of the City, on December 2, 2015, which date is no fewer than 10 and no more than 30 days prior to the date hereof.

Section 2. Findings. On the basis of the information compiled by the City and elicited at the public hearing referred to in Section 1.03, it is hereby found, determined and declared:

2.01 The Project is in the public interest because it will increase and preserve tax base in the City, will provide employment opportunities in the City, and will redevelop unused real property.

2.02 The City expects that the benefits of the proposed abatement are not less than the costs of the proposed abatement. The public benefits

that the City expects to result from the abatement are the increase in tax base by an estimated amount of \$4,588,700 created by the Project, the increase of 150 jobs resulting from the Project, the retention of the 689 jobs currently employed at the existing Cirrus facilities at or near the Airport, and will redevelop unused real property.

2.03 The Properties are not located in a tax increment financing district.

2.04 The granting of the proposed abatement will not cause the aggregate amount of abatements granted by the City under the Act in any year to exceed the greater of (i) 10% of the City's net tax capacity for the taxes payable in the years to which the abatement applies, or (ii) \$200,000.

2.05 It is in the best interests of the City to grant the tax abatement authorized in this Resolution.

2.06 Under Section 469.1813, subdivision 9 of the Act, it is not necessary for the City to obtain the consent of any owner of any of the Properties to grant an abatement.

### Section 3. Granting of Tax Abatement.

3.01 A property tax abatement (the "Abatement") is hereby granted in respect of property taxes levied by the City on the Properties for 15 years, commencing with taxes payable in 2017 and concluding with taxes payable in 2031. The Abatement will reduce all of the City's portion of the taxes for each of the Properties, and the Abatement will not exceed \$566,667 per year and a total aggregate amount of \$8,500,000.

3.02 The City shall retain the Abatement and apply it to payment of a portion of the costs of constructing the Project and/or to the payment of bonds of the City issued to finance costs of constructing the Project.

3.03 The Abatement may be modified or terminated any time by the Council in accordance with the Act.

**Attachments:** [Exhibit A](#)

This Resolution was adopted unanimously.

## **BY COUNCILOR HANSON (PURCHASING & LICENSING)**

8. 15-0840R RESOLUTION APPROVING THE EXEMPTION OF A RAFFLE LICENSE AND WAIVING THE 60 DAY WAITING PERIOD FOR THE MINNESOTA BALLET.

**Body:** CITY PROPOSAL:

BE IT RESOLVED, that the Duluth City Council hereby approves of the

Minnesota gambling control board issuing a lawful gambling exemption to the Minnesota Ballet and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemption.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a copy of this resolution to the Minnesota gambling control board immediately after its passage.

**This Resolution was adopted unanimously.**

9. **15-0863R** RESOLUTION AWARDING A CONTRACT TO DE LAGE LANDEN PUBLIC FINANCE LLC FOR THE FOUR-YEAR SEASONAL LEASE OF GOLF CARS AND MAINTENANCE/UTILITY VEHICLES AT AN ANNUAL TOTAL OF \$86,111.40 FOR 2016, 2017, 2018, AND 2019, AND A POTENTIAL TOTAL CONTRACT AMOUNT OF \$344,445.60.

**Body:** CITY PROPOSAL:

RESOLVED, that that the proper city officials are hereby authorized to enter into a lease agreement with De Lage Landen Public Finance LLC (DLL) for a four-year seasonal (May - October) lease of one hundred-forty 2016 Club Car Precedent EFI gas golf cars and ten Club Car CarryAll 100 EFI gas maintenance and utility vehicles for the Lester and Enger Park golf courses, in accordance with city-approved specifications and Club Car's low bid of \$86,111.40 for each of the years 2016, 2017, 2018, and 2019, and a total potential contract amount of \$344,445.60, sales tax collected with each rental, said \$86,111.40 for year 2016 to be paid as follows:

\$43,055.70 from Golf Fund 503, Dept 400 (Parks & Recreation), Division ENGR (Golf Course Enger), Object 5415 (Enger-Vehicle/Equip. rental-short-term);

\$43,055.70 from Golf Fund 503, Dept 400 (Parks & Recreation), Division LSTR (Golf Course Lester), Object 5415 (Lester-Vehicle/Equip. rental-short-term)

SOLVED FURTHER that this four-year lease is subject to the availability of funds.

**Attachments:** [Exhibit A](#)

**This Resolution was adopted unanimously.**

10. **15-0864R** RESOLUTION AUTHORIZING A SOLE SOURCE PURCHASE OF WATER METER PARTS FROM BADGER METER, INC., IN THE AMOUNT OF \$91,402.86.

**Body:** CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorizing the sole source purchase of water meter parts from Badger Meter, Inc., in the amount of \$91,402.86, payable from Water 510, Public Works and Utilities

500, Customer Services 1940, Service 2410, Utility System Mtc Supplies 5227.

**This Resolution was adopted unanimously.**

11. **15-0875R** RESOLUTION AUTHORIZING THE PURCHASE OF TIRE REPAIR PARTS AND LABOR FROM DULUTH TIRE & OIL, INC., FOR A TOTAL AMOUNT OF \$140,000.

**Body:** CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to purchase tire repair parts and labor from Duluth Tire & Oil, Inc., Minnesota State Contract 43183, for a total amount of \$140,000, payable as follows:

Fleet Services 660, Public Administration 015, Equipment Repair Supplies 5221

Fleet Services 660, Public Administration 015, Equipment/Machinery Repair & Mtc 5404

**This Resolution was adopted unanimously.**

12. **15-0876R** RESOLUTION APPROVING AGREEMENT WITH THE LAW FIRM OF LOCKRIDGE GRINDAL NAUEN P.L.L.P. FOR LEGAL SERVICES REPRESENTING THE CITY IN REGARD TO CLASS ACTION LITIGATION INVOLVING THE SALE AND PURCHASE OF LIQUID ALUMINUM SULFATE.

**Body:** CITY PROPOSAL:

RESOLVED that the proper city officials are hereby authorized to execute an agreement, substantially the same as that attached hereto as Exhibit A, with Lockridge Grindal Nauen P.L.L.P., under which that firm will represent the city in regard to class action antitrust litigation involving the sale and purchase of liquid aluminum sulfate. Attorneys' fees and expenses will be paid from any funds recovered on behalf of the class and/or the city as ordered by the court or on a one-third contingency basis, payable from Fund 610-036-1652-5304 (Self Insurance Fund, Insurance Accounts, Water & Gas, Legal Services).

**Attachments:** [Exhibit A - 15-0876R](#)

**This Resolution was adopted unanimously.**

13. **15-0883R** RESOLUTION AUTHORIZING AN AMENDMENT TO CONTRACT 22549 WITH BURNS & MCDONNELL ENGINEERING COMPANY, INC. AND A

NEW CONTRACT TOTAL NOT TO EXCEED \$685,000.

**Body:** CITY PROPOSAL:

RESOLVED, that the proper city officials are authorized to execute an amendment to contract 22549 with Burns & McDonnell Engineering Company, Inc., and a new contract amount not to exceed \$685,000, payable from Fund 412-030-5520 (Cirrus building, finance department, buildings & structures).

**Attachments:** [EXHIBIT A](#)

This Resolution was adopted unanimously.

**BY COUNCILOR GARDNER (PERSONNEL)**

14.     **15-0844R**     RESOLUTION APPROVING SETTLEMENT IN THE MATTER OF GREEN, ET AL. v. RAMSAY, ET AL., AND ACCEPTING VOLUNTARY SURRENDER OF THE ON-SALE INTOXICATING LIQUOR LICENSE PREVIOUSLY HELD BY WESSMAN ESTATE, LLC

**Attachments:** [Exhibit A \(15-0844R\)](#)

This Resolution was adopted unanimously.

**COMMITTEE 2**

**BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)**

15.     **15-0846R**     RESOLUTION OF APPLICATION AND ACCEPTANCE FOR THE 2016 WORKFORCE HOUSING GRANT FROM THE MINNESOTA DEPARTMENT OF EMPLOYEMENT AND ECONOMIC DEVELOPMENT.

**Body:** CITY PROPOSAL:

Resolved that the city of Duluth is acting as the legal sponsor for a 2016 Workforce Housing Grant from the Minnesota Department of Employment and Economic Development for a 72 rental housing development (aka Miller Hill Flats) to serve workforce income employees of businesses within the Duluth area.

Further resolved that the amount of this grant will be matched as per program requirements by the city of Duluth and St. Louis County with at least \$1 for every \$2 provided in grant funds. As per requirements of the grant, there will be no income restricted subsidies invested in this project.

**Attachments:** [Attachment 1](#)

**This Resolution was adopted unanimously.**

**16. 15-0852R RESOLUTION ACCEPTING THE PRELIMINARY DESIGN FOR SUPERIOR STREET.**

**Body: CITY PROPOSAL:**

WHEREAS, the city of Duluth started the Preliminary Design for the Superior Street Reconstruction Project in October 2013; and

WHEREAS, the project's comprehensive public involvement program included six public meetings, questionnaires and surveys to capture public opinion, stakeholder meetings, press and media presence, and a web site and email subscription list; and

WHEREAS, design options were vetted throughout the process and subsequently narrowed to the preferred design referred to as the "District Concept;" and

WHEREAS, on September 28, 2015, city council passed a resolution determining that the Superior Street preliminary design shall include designation as an on-road bike route but not include bike lanes; and

WHEREAS, the city council further determined that an on-street bike facility shall be included on Michigan Street or First Street; and

WHEREAS, the Superior Street Preliminary Design and Public Involvement Summary Document is a final memorandum documenting the preliminary design process and preferred street layout, streetscape design, and amenities; and

WHEREAS, the next stage in the design process is to embark on a final design of the proposed street;

THEREFORE, BE IT RESOLVED, that the Superior Street Preliminary Design and Public Involvement Summary Document be hereby adopted as the official preliminary design for the Superior Street Reconstruction Project; and

BE IT FURTHER RESOLVED that the Superior Street Preliminary Design be used as the design guide in the future Final Design phase.

Motion was seconded and unanimously carried to hear speakers on the resolution. Ruurd Schoolderman and Shawna Mullen Eardley expressed their safety concerns associated with angled parking and the need for bike lanes.

**A motion was made that this Resolution be adopted the motion carried by the following vote:**

**Yea:** 8 - Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Russ, Sipress and President Larson.

**Nay:** 1 - Krug

**17. 15-0853R RESOLUTION VACATING PLATTED RIGHT OF WAY FOR UNIMPROVED ALLEY BETWEEN 40TH AND 41ST AVENUE EAST, AND JAY AND DODGE STREET.**

**Body: CITY PROPOSAL:**

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (d) 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 this portion of the street easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, December 8, 2015 regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the platted ally easement, described below:

VACATION DESCRIPTION

The 20.00 foot wide alley lying in Block 104, LONDON ADDITION TO DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota. Said Alley vacation contains 8000 sq. or 0.18 Acres.

(e) 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 showing the platted easement to be vacated.

**Attachments:** [Attachment 1](#)

[Attachment 2](#)

**This Resolution was adopted unanimously.**

- 18. 15-0856R** RESOLUTION AUTHORIZING AN APPLICATION TO THE STATE OF MINNESOTA FOR A MINNESOTA INVESTMENT FUND GRANT IN THE AMOUNT OF \$4,000,000.

**Body:** CITY PROPOSAL:

BE IT RESOLVED, that the city of Duluth (city) act as the legal sponsor for the project contained in the Minnesota investment fund application to be submitted on December 15, 2015, and that the mayor and chief administrative officer of the city are hereby authorized to apply to the Minnesota department of employment and economic development (DEED) for funding of this project on behalf of the city.

FURTHER RESOLVED, that the city has the legal authority to apply for financial assistance, and the institutional, managerial, and financial capability to ensure professional administration of the grant.

FURTHER RESOLVED, that the city has not violated any federal, state, or local laws pertaining to fraud, bribery, kickbacks, collusion, conflict of interest or other unlawful or corrupt practice.

FURTHER RESOLVED, that upon approval of its application by the

state, the city may enter into an agreement with the state of Minnesota for the above-referenced project and that the city certifies that it will comply with all applicable laws and regulations as stated in all contract agreements.

FURTHER RESOLVED, that the city has obtained credit reports and credit information from Cirrus Design Corporation, DBA Cirrus Aircraft (Cirrus). The city and its city auditor have reviewed the reports and information and found no adverse findings or concerns regarding, but not limited to, tax liens, judgments, court actions and filings with state, federal and other regulatory agencies are identified. Failure to disclose any such adverse information could result in revocation or other legal action.

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute such agreements, and amendments thereto, as are necessary to implement the project on behalf of the city.

**This Resolution was adopted unanimously.**

### **COMMITTEE 3**

#### **BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)**

19. 15-0814R RESOLUTION AUTHORIZING AN AMENDMENT TO THE CONTRACT WITH TKDA FOR PROFESSIONAL SERVICES INCREASING THE AMOUNT PAYABLE THEREUNDER, AWARDING A CONTRACT TO HIBBING EXCAVATING, INC., AND ACCEPTING REIMBURSEMENT OF SAID CONTRACTS FROM DEDA SUBJECT TO DEDA AUTHORIZATION OF SUCH REIMBURSEMENT, ALL RELATED TO THE 59TH AVENUE WEST STREET AND UTILITY IMPROVEMENT PROJECT.

**Body:** CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to contract no. 22637 with TKDA for the 59th Avenue West Street and Utility Improvement Project increasing the amount payable by \$66,167 for a total amount payable of \$92,067, payable from Fund 530-500-1905-5533 (Sanitary Sewer Fund, Public Works and Utilities, Capital, Capital Improvements - Revenue).

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Hibbing Excavating, Inc. for the 59th Avenue West Street and Utility Improvement Project in the amount of \$866,781, payable from Fund 530-500-1905-5533 (Sanitary Sewer Fund, Public Works and Utilities, Capital, Capital Improvements - Revenue), city project no. 1487.

FURTHER RESOLVED, that the authorization to enter into the TKDA

contract and the Hibbing Excavating, Inc. contract is subject to the Duluth Economic Development Authority ("DEDA") authorizing reimbursement by resolution of actual city costs under these contracts up to the amount of \$1,170,000.

FURTHER RESOLVED, that pursuant to the requirements of Resolution 10-0229, DEDA's authorization by resolution to reimburse the city for the actual costs of the TKDA contract and the Hibbing Excavating, Inc. contract, is hereby approved.

FURTHER RESOLVED, that the city hereby accepts reimbursement from DEDA for the actual costs of the TKDA contract and the Hibbing Excavating, Inc. contract payable into Fund 530-500-1900-4670 (Sanitary Sewer Fund, Public Works and Utilities, Public Works Director's Office, Share of Improvements) subject to DEDA authorizing reimbursement of the same by resolution.

FURTHER RESOLVED, that pursuant to the requirements of Resolution 09-0324, DEDA's authorization to reimburse the city of the actual costs of the TKDA contract and the Hibbing Excavating, Inc. contract, when approved by DEDA, is hereby approved.

**Attachments:** [15-0814R Map](#)  
[15-0814R Agreement Amendment](#)  
[15-0814R Original Signed Contract](#)  
[15-0814R TKDA Proposal](#)

**This Resolution was adopted unanimously.**

20.    **15-0823R**    RESOLUTION ORDERING THE CLOSURE OF COMMONWEALTH AVENUE FROM IDAHO STREET TO GRAND AVENUE.

**Body:** CITY PROPOSAL:  
RESOLVED, that the city council of the city of Duluth directs the public works and utilities department to physically close Commonwealth Avenue from Idaho Street to a point 300 feet south of the Grand Avenue intersection.

**Attachments:** [15-0823R Maps](#)

**This Resolution was adopted unanimously.**

21.    **15-0847R**    RESOLUTION AMENDING A CONTRACT WITH LHB, INC. TO PROVIDE PROFESSIONAL ENGINEERING SERVICES FOR CONGDON BOULEVARD SLOPE REPAIR, TO INCREASE THE AMOUNT BY \$9,580

FOR A NEW TOTAL OF \$117,140.

**Body:** CITY PROPOSAL:

RESOLVED, that contract 22217 with LHB, Inc. for professional engineering services for design of the Congdon Boulevard Slope Repair to be constructed from 7801 Congdon Boulevard to 89th Avenue East be amended to include the construction phase and to increase the amount by the estimated amount of \$9,580 for a new total of \$117,140, payable from Disaster Recovery Fund 225, Department 125 (Finance), Division 1808 (Disaster Aid Revenues), Object 5530 (Improvements Other than Buildings), city project no. 1324.

**Attachments:** [15-0847R Map](#)  
[15-0847R Change Order](#)

**This Resolution was adopted unanimously.**

- 22. 15-0855R** RESOLUTION AMENDING A CONTRACT WITH LHB, INC. TO PROVIDE PROFESSIONAL ENGINEERING SERVICES FOR LOWELL TO LAKEWALK TRAIL PHASE 1 TO INCREASE THE AMOUNT BY \$33,410 FOR A NEW TOTAL OF \$155,677.

**Body:** CITY PROPOSAL:

RESOLVED, that contract 22292 with LHB, Inc. for professional engineering services for design of the Lowell to Lakewalk Trail Phase 1 be amended to increase the amount by the estimated amount of \$33,410 for a new total of \$155,677, payable from Capital Improvement Fund 450, Department 030 (Finance), Object 5530 (Improvements Other than Buildings), city project no. 1327.

**Attachments:** [15-0855R Change Order](#)

**This Resolution was adopted unanimously.**

- 23. 15-0857R** RESOLUTION AMENDING A CONTRACT WITH A PLUS LANDSCAPING, LLC FOR WATER AND GAS MAIN REPLACEMENTS WITH NEW POLYETHYLENE PIPE AT 26TH AVENUE WEST FROM COURTLAND STREET TO HELM STREET IN THE AMOUNT OF \$62,933.99 FOR A NEW TOTAL OF \$238,568.99.

**Body:** CITY PROPOSAL:

RESOLVED, that contract no. 22527 with A Plus Landscaping, LLC for water and gas main replacements at 26th Avenue West from Helm Street to Courtland Street be amended in the amount of \$62,933.99 for a new total of \$238,568.99, payable out of Gas Fund 520, Department 500 (Public Works & Utilities), Division 1905 (Capital), Object 5533 (Capital Improvements - Revenue), city project no. 1309.

Attachments: [15-0857R Map](#)

This Resolution was adopted unanimously.

**BY COUNCILOR FOSLE (PUBLIC SAFETY)**

24.     **15-0845R**     RESOLUTION AUTHORIZING PROPER CITY OFFICIALS TO ACCEPT A DONATION FROM THE NORTHLAND LAW ENFORCEMENT K-9 FOUNDATION IN THE AMOUNT OF \$5,000.

Body: CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to accept a donation from the Northland Law Enforcement K-9 Foundation in the amount of \$5,000 for the Duluth police department's purchase and training of an explosive detection canine, to be deposited in Fund No. 210-030-3123-4660 (Police Special Project, Finance, K-9 Account, Gifts & Donations).

This Resolution was adopted unanimously.

25.     **15-0854R**     RESOLUTION ADOPTING THE 2012 EDITION OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE AS THE HOUSING AND PROPERTY MAINTENANCE CODE OF THE CITY OF DULUTH.

Body: CITY PROPOSAL:

RESOLVED, that pursuant to Duluth City Code Sec. 29A-1, the city of Duluth does hereby adopt by reference the year 2012 edition of the International Property Maintenance Code as the Housing and Property Maintenance Code for the city of Duluth.

This Resolution was adopted unanimously.

26.     **15-0865R**     RESOLUTION CREATING A VACANT BUILDING REGISTRATION FUND WITHIN THE CITY'S SPECIAL PROJECTS SPECIAL REVENUE FUND AND COMMITTING CERTAIN RESOURCES FOR COST ASSOCIATED WITH THE REMOVAL OF BLIGHT FROM ABANDONED AND/OR DILAPIDATED PROPERTIES, AND THE ABATEMENT OF NUISANCE BUILDINGS.

Body: CITY PROPOSAL: WHEREAS, the City receives vacant building registration fees from owners of residential property which meet the registration criteria listed in Article II, Section 10-3 of the Legislative Code. WHEREAS, the City desires to establish a dedicated fund within the Special Projects Fund to pay for costs associated with enforcement of

codes related to solid waste compliance and minimum standards for residential properties.

WHEREAS, Governmental Accounting Standards Board Statement #54 requires the City Council to take action to commit resources for a designated purpose.

THEREFORE, be it resolved by the Duluth City Council that a Vacant Building Registration Fund be created within the City's Special Projects Special Revenue Fund 210-030-3137 (Special Projects Fund, Finance, Vacant Building Registration) to pay for costs associated with vacant buildings including removal of blight from exterior yard areas, securing property to trespass, facilitating remediation for homeowners struggling with hoarding issues or other maintenance issues and collaborating with the building official on the demolition of condemned structures.

BE IT FURTHER RESOLVED by the Duluth City Council that revenues from vacant building registration fees be committed as the funding source for the newly created vacant building registration fund.

**This Resolution was adopted unanimously.**

#### **BY COUNCILOR SIPRESS (RECREATION, LIBRARIES & AUTHORITIES)**

27.     **15-0841R**     RESOLUTION AUTHORIZING THREE YEAR LEASE AGREEMENT WITH THE DULUTH AMATEUR YOUTH BASKETBALL ASSOCIATION FOR USE OF SPACE IN THE WASHINGTON RECREATION CENTER.

**Body:** CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into a three year lease agreement, substantially in the form as the lease agreement attached as Exhibit 1, with the Duluth Amateur Youth Basketball Association (DAYBA) for the exclusive use of a certain space at the Washington Recreation Center and non-exclusive use of the gymnasium for DAYBA's basketball program. Rent payments for the exclusive space shall be payable to Fund 110, Public Administration 121, Property and Facilities Management 1222, Rent for Buildings 4622. Rent payments for the non-exclusive space shall be payable to Special Projects Fund 210, Finance 030, Special League 3190, Rent of Athletic Fields Washington Center Gym 4625-07.

**Attachments:** [Lease Agreement 11-2015](#)

**This Resolution was adopted unanimously.**

28.     **15-0862R**     RESOLUTION AUTHORIZING A SECOND AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF DULUTH AND THE ARROWHEAD ZOOLOGICAL SOCIETY, INC.

**Body:** CITY PROPOSAL:

WHEREAS, the city of Duluth ("City") and the Arrowhead Zoological Society ("Society") entered into a three year agreement (2012-2014) on or about December 20, 2011 (City Contract No. 21527), for the operation and management of the City's Lake Superior Zoological Gardens.

AND WHEREAS, the parties entered into an amendment to the agreement on or about December 9, 2014 (City Contract No. 21527-1), to: (i) extend the term of the agreement for a period of one year through December 31, 2015, (ii) modify the reimbursement procedures, and (iii) provide a dollar amount for working capital to assist the society with cash flow between the society's submission of reimbursement paperwork and the release of reimbursement funds by the city.

AND WHEREAS, the parties desire to further amend the agreement to extend its term for an additional six months through June 30, 2016.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute a second amendment to the agreement, substantially in the form attached hereto as Exhibit A, to extend the term of the agreement and amendment until June 30, 2016.

**Attachments:** [Exhibit A--Second Amendment to Agreement](#)

This Resolution was adopted unanimously.

**END OF CONSENT AGENDA**

The following entitled resolutions are also to be considered:

**COMMITTEE 1****BY COUNCILOR FILIPOVICH (FINANCE)**

29. 15-0848R RESOLUTION APPROVING THE FISCAL YEAR JANUARY 1, 2016 TO DECEMBER 31, 2016 BUDGETS OF THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY.

**Body:** CITY PROPOSAL:

RESOLVED, that the DEDA operating fund, debt service fund, capital projects fund, MRO maintenance fund, and storefront loan fund budgets, attached in Exhibit A are hereby approved.

**Attachments:** [Exhibit A](#)

A motion was made that this Resolution be adopted the motion carried by the following vote:

Yea: 8 - Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson.

**Nay:** 1 - Councilor Fosle

- 30. 15-0867R** RESOLUTION APPROPRIATING \$200,000 TO THE GREAT LAKES AQUARIUM TOWARDS THE CONSTRUCTION OF A NEW EXHIBIT - THE AMAZING WORLD OF THE UNSALTED SEAS.

**Body:** CITY PROPOSAL:

WHEREAS; the city council approved \$360,000 as an operating subsidy to Great Lakes Aquarium in resolution 15-0791R passed on November 23, 2015 that appropriated the estimated 2016 hotel-motel and food and beverage tourism taxes.

WHEREAS; tourism tax collections for the year 2015 have significantly exceeded budget estimates and are available to assist with the construction costs of the proposed exhibit.

RESOLVED, that the proper city officials are authorized to increase the appropriation to Great Lakes Aquarium by \$200,000 from tourism tax fund balance to provide a match towards the funding for the construction of The Amazing World of the Unsalted Seas exhibit.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form of Exhibit A in an amount not to exceed \$560,000 comprised of \$360,000 for operating assistance and \$200,000 for the construction of the amazing world of the unsalted seas exhibit.

**Attachments:** [Exhibit A](#)  
[Funding Request](#)

**A motion was made that this Resolution be adopted the motion carried by the following vote:**

**Yea:** 8 - Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson.

**Nay:** 1 - Councilor Fosle

### **BY COUNCILOR HANSON (PURCHASING & LICENSING)**

- 31. 15-0866R** RESOLUTION AWARDDING A CONTRACT TO COLLECTIVE DATA INC FOR THE PURCHASE AND IMPLEMENTATION OF A FLEET INFORMATION MANAGEMENT SOFTWARE SYSTEM, INCLUDING ONE YEAR OF FREE PREMIUM SOFTWARE MAINTENANCE AND SUPPORT SERVICES, FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED \$65,450.00.

**Body:** CITY PROPOSAL:



RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Collective Data Inc. for the purchase of a Fleet Information Management System, implementation services, training, and one year of premium software support services, for a total amount not to exceed \$ 65,450.00, payable from Fund 660 (Fleet Services); Department 015 (Public Administration); Capital Equipment 5580.

**Attachments:** [Exhibit A](#)

**A motion was made that this Resolution be adopted the motion carried by the following vote:**

**Yea:** 8 - Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson.

**Nay:** 1 - Councilor Fosle

- 32. 15-0877R** RESOLUTION AWARDING A CONTRACT TO CITIES DIGITAL INC. FOR THE PURCHASE AND IMPLEMENTATION OF AN ENTERPRISE LEVEL LASERFICHE DOCUMENT MANAGEMENT SYSTEM, INCLUDING FIVE YEARS OF SOFTWARE MAINTENANCE AND SUPPORT SERVICES, FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED \$356,760.00.

**Body:** CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Cities Digital Inc. for the purchase of an Enterprise Level Laserfiche Document Management System, implementation services, training, and five years of maintenance and software support services, for a total amount not to exceed \$ 356,760.00, payable as follows:

\$250,000.00 from Capital Fund 250 (Capital Equipment); Department 015 (Public Administration); Division 2014 (Year 2014); Capital Equipment 5580 Project Code E1404

\$106,760.00 from Capital Fund 250 (Capital Equipment); Department 015 (Public Administration); Division 2015 (Year 2015); Capital Equipment 5580 Project Code E1505.

**Attachments:** [Exhibit A](#)

**A motion was made that this Resolution be adopted the motion carried by the following vote:**

**Yea:** 8 - Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson.

**Nay:** 1 - Councilor Fosle

## COMMITTEE 2

**BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)**

33.     **15-0858R**     RESOLUTION APPROVING THE 2016 ANNUAL ACTION PLAN AND AUTHORIZING A REQUEST FOR HUD FEDERAL COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG), HOME PROGRAM AND EMERGENCY SOLUTIONS GRANT PROGRAM (ESGP) PROGRAM FUNDS.

**Body:** CITY PROPOSAL:

WHEREAS, Regulation 24 CFR Part 91 issued by the U.S. department of housing and urban development (HUD) requires the city to submit and receive HUD approval of an annual action plan as part of a HUD-approved five-year consolidated plan for the city of Duluth; and

WHEREAS, Title 1 of the Housing and Community Development Act of 1974, as amended, establishes a community development block grant (CDBG) program for the purpose of developing viable urban communities by providing decent housing and suitable living environment and expanding economic opportunities and preventing and/or eliminating conditions of slum and blight, principally for persons of low and moderate income; and

WHEREAS, the city of Duluth desires to continue to carry out HUD-funded programs;

NOW, THEREFORE, BE IT RESOLVED, that the FY 2016 action plan portion of FY 2015-2019 city of Duluth consolidated plan for housing and community development required by HUD federal legislation are hereby adopted and approved.

BE IT FURTHER RESOLVED that the City of Duluth hereby makes a finding that expenditures as set forth in Resolution 15-0859R are

necessary and appropriate and, further, that said expenditures for the CDBG program will serve to assist low- and moderate-income individuals/families (no less than 70 percent as described in federal regulations) and/or serve to prevent or eliminate conditions of slum or blight in the community.

BE IT FURTHER RESOLVED, that the city of Duluth hereby makes a finding that expenditures as set forth in resolutions 15-0861R and 15-0860R are necessary and appropriate and, further, that said expenditures for the HOME and ESG programs will serve to assist low- and moderate-income people.

BE IT FURTHER RESOLVED, that the city of Duluth and its officials are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of HUD issued pursuant thereto and authorizing appropriate city officials to execute any documents with HUD to implement the program. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and emergency shelter grant programs.

**A motion was made that this Resolution be adopted The motion carried by the following vote:**

**Yea:** 7 - Councilors Filipovich, Fosle, Gardner, Hanson, Krug, Russ, and Sipress.

**Abstain:** 2 - Councilor Julsrud and President Larson

- 34. 15-0859R RESOLUTION AUTHORIZING A REQUEST FOR HUD FEDERAL COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS FOR**

THE 2016 PROGRAM YEAR AND AUTH-ORIZING AGREEMENTS WITH APPROPRIATE AGENCIES.

Body: CITY PROPOSAL:

WHEREAS, City Council Resolution No. 15-0858R, adopted December 14, 2015, approved FY 2016 annual Action Plan portion of the 2015-2019 Consolidated Plan; and

WHEREAS, the secretary of HUD is authorized to make grants to cities and/or counties to finance local community development programs, approved in accordance with the provisions of Title I of said Act, as well as grants under the Cranston-Gonzales National Affordable Housing Act of 1990, as amended, (the HOME program) and the Stewart B. McKinney Homeless Assistance Act of 1987, as amended (the Emergency Solutions Grant - ESG - program);

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to make and submit appropriate documentation to HUD for those projects and corresponding funding levels as set forth below:

2016 CITY OF DULUTH COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM-FUND 262, AGENCY 020, OBJECT 5434 PROJECT CD16CD

SUB

PROJECTACTIVITY    AMOUNT                    PROJECTS

HOUSING PROJECTS

1734            \$ 614,500 Housing Resource Connection -

6915 \$ 200,000 Gateway Multi-family  
 Development - One Roof

6787 \$ 30,000 Energy Services & Vol  
 Coord - Ecolibrium3

ECONOMIC DEVELOPMENT PROJECTS

ECDV 2412 \$ 272,000 SOAR Duluth At Work  
 Collaborative - SOAR

Career Solutions

2264 \$ 64,000 Growing Neighborhood Businesses - Northeast  
 Entrepreneur Fund, Inc.

PUBLIC FACILITY IMPROVEMENT PROJECTS

1974 \$ 153,000 Homeless Youth Building Rehab- Life House

1050 \$ 150,500 Trepanier Hall/Gimaajii Improve- AICHO

PUBLIC SERVICE PROJECTS

PSVC 1244 \$ 70,000 Duluth Hunger Project - CHUM

1929 \$ 30,000 Access to Dental Health Services - Lake Superior  
 Community Health Center

2805 \$ 20,000 JET Food Program- Neighborhood

1974	\$ 28,000	Basic Needs Center for Homeless Youth - Life House
1226	\$ 19,550	Supportive Housing Programs - Center City
2509	\$ 7,800	Battered Women's Shelter Program - Safe Haven Shelter
2511	\$ 5,250	Family Transitional Housing Program - Salvation Army
2109	\$ 9,150	Homeless and At-Risk Vets Stabilization/Outreach - MACV
1050	\$ 18,250	Transitional and Permanent Housing Services - AICHO
1244	\$ 36,800	Duluth Shelter Project - CHUM
HO07	\$ 12,000	Coordinated Assessment*
6915	\$ 27,368	Tenant Landlord Connection - One Roof

PLANNING/PROGRAM ADMINISTRATION

AD01	\$ 422,042	CDBG Program Administration
AD02	\$ 20,000	Neighborhood Revitalization Planning

BE IT FURTHER RESOLVED, that the following are hereby designated as the financial resources for the above program:

SOURCE OF FUNDING

Year 2016	CDBG Grant - city	<u>\$2,210,210</u>
	Total	<u>\$2,210,210</u>

BE IT FURTHER RESOLVED, that the city of Duluth and its officials are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of HUD issued pursuant thereto. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and ESG programs.

BE IT FURTHER RESOLVED, that the appropriate city officials are authorized to execute the appropriate agreements with these agencies upon receipt of HUD funds.

**Attachments:** [Attachment 1](#)  
[Attachment 2](#)  
[Attachment 3](#)  
[Attachement 4](#)  
[Amendment to 15-0859](#)

Councilor Sipress moved to amend the resolution, which motion was seconded and carried upon the following vote:

Yeas: 6 - Councilors Filipovich, Gardner, Hanson, Krug, Russ and Sipress

Nays: 1 - Councilor Fosle

Abstentions: 2 - Councilor Julsrud and President Larson

**A motion was made that this Resolution be adopted as amended and the motion carried by the following vote:**

**Yea:** 7 - Councilors Filipovich, Fosle, Gardner, Hanson, Krug, Russ, and Sipress

**Abstain:** 2 - Councilors Julsrud and Larson

**35. 15-0861R RESOLUTION AUTHORIZING A REQUEST FOR HUD HOME FUNDS FOR THE 2016 PROGRAM YEAR AND AUTHORIZING CONTRACTS.**

**Body:** CITY PROPOSAL:

WHEREAS, City Council Resolution No. 15-0858R, adopted December 14, 2015, approved FY 2016 annual Action Plan portion of the 2015-2019 Consolidated Plan; and

WHEREAS, the secretary of HUD is authorized to make grants to cities and/or counties to finance local community development programs, approved in accordance with the provisions of Title I of said Act, as well as grants under the Cranston-Gonzales National Affordable Housing Act of 1990, as amended, (the HOME program) and the Stewart B. McKinney Homeless Assistance Act of 1987, as amended (the Emergency Solutions Grant - ESG - program);

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to make and submit appropriate documentation to HUD for those projects and corresponding funding levels as set forth below:

2016 HOME PROGRAM - FUND 260, AGENCY 020, OBJECT 5434,  
PROJECT CD16HM

SUB

ACTIVITY PROJECTS

AMOUNT



GN14	1736	Homeless Rental Asst. Program (TBRA)- HRA	\$
		115,000	
GN14	1737	TBRA Admin - HRA	\$ 7,500
	1738	Housing Rehab - Housing Resource	
		Connection - HRA	\$ 45,306
CH14	6915	CHDO CLT Acquisition/Rehabilitation -	
		One Roof	\$ 72,500
GN14	2001	Center for Changing Lives- LSS	\$ 200,000
GN14	AD01	Program Administration (City)	<u>\$ 40,590</u>
		Total	<u>\$ 480,896</u>

BE IT FURTHER RESOLVED, the following are hereby designated as the financial sources for the above program:

Year 2016	HOME Grant	<u>\$ 480,896</u>
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BE IT FURTHER RESOLVED, that the city of Duluth and its officials are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of HUD issued pursuant thereto. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and ESG programs.

BE IT FURTHER RESOLVED that the appropriate city officials are authorized to execute the appropriate agreements with these agencies upon receipt of

approval of  
HUD funds.

**Attachments:** [Attachment 1](#)  
[Attachment 2](#)  
[Attachment 3](#)  
[Attachment 4](#)

**This resolution was adopted unanimously.**

- 36. 15-0874R** RESOLUTION AUTHORIZING A DEVELOPMENT AGREEMENT WITH CIRRUS DESIGN CORPORATION RELATED TO THE CIRRUS COMPLETION CENTER EXPANSION.

**Body:** CITY PROPOSAL:

WHEREAS, Cirrus Design Corporation (“Cirrus”) wishes to expand its manufacturing and assembly capacity at the Duluth International Airport (“Airport”) to add manufacturing and painting capacity for its Vision SF50 personal jet and to expand and reconfigure its research and development facilities into its existing building facilities; and

WHEREAS, Cirrus will lease land at the Airport from the Duluth Airport Authority (“DAA”) upon which Cirrus has proposed constructing an approximately 68,000 square foot Cirrus Completion Center Expansion Project (“Project”) which is expected to be used for painting and finishing operations for Cirrus’s airplane product lines, including the new Vision SF50 personal jet; and

WHEREAS, Cirrus has requested financial assistance from the City consisting of a loan in a maximum amount of \$8,150,000 which will be funded through the City’s issuance of its taxable General Obligation (“GO”) backed tax abatement bonds; and

WHEREAS, the City has determined that the interests of the citizens of the City of Duluth and the well-being and quality of life in the City of Duluth would be enhanced by nurturing and encouraging the Project.

NOW, THEREFORE, BE IT RESOLVED, that the proper City officials are hereby authorized to enter in a Development Agreement with Cirrus, substantially in the form of that attached hereto as Exhibit A hereto together with the City’s documents attached to the Development Agreement,

pursuant to which the City agrees to loan Cirrus a maximum amount of \$8,150,000 which will be funded through the City's issuance of GO Tax Abatement Bonds, payable from Fund 412-030-5458 (Cirrus Building Fund, Finance, Payments to Developers).

**Attachments:** [Motion to Amend 15-0874R JS - Failed](#)  
[141201505-development agreement](#)

**This resolution was adopted unanimously.**

### COMMITTEE 3

- 37. 15-0860R** RESOLUTION AUTHORIZING A REQUEST FOR HUD EMERGENCY SOLUTIONS GRANT PROGRAM (ESGP) FUNDS FOR THE 2016 PROGRAM YEAR AND AUTHORIZING CONTRACTS.

**Body:** CITY PROPOSAL:

WHEREAS, City Council Resolution No. 15-0858R, adopted December 14, 2015, approved FY 2016 annual Action Plan portion of the 2015-2019 Consolidated Plan; and

WHEREAS, the secretary of HUD is authorized to make grants to cities and/or counties to finance local community development programs, approved in accordance with the provisions of Title I of said Act, as well as grants under the Cranston-Gonzales National Affordable Housing Act of 1990, as amended, (the HOME program) and the Stewart B. McKinney Homeless Assistance Act of 1987, as amended (the Emergency Solutions Grant - ESG - program);

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to make and submit appropriate documentation to HUD for those projects and corresponding funding levels as set forth

below:

2016 ESG PROGRAM - FUND 262, AGENCY 020, OBJECT 5434,  
PROJECT CD16ES

<u>SUBPROJECT</u>	<u>PROJECTS</u>	<u>AMOUNT</u>
1244	CHUM Emergency Shelter	\$ 14,800
2109	MACV - Duluth	\$ 3,150
2511	Transitional Housing-Salvation Army	\$ 5,250
2509	Safe Haven D.V. Shelter	\$ 7,800
1226	Supportive Housing - Center City Housing Corp	\$ 11,550
1050	Transitional Housing & Shelter - AICHO	\$ 3,750
6092	HMIS Data Administration - Wilder Foundation	\$
	4,000	
AD-05	Prevention & Rapid Re-housing Assistance - HRA	\$ 70,000
AD-01	Program Administration - City	\$ 14,873
HS-08	Housing Stabilization Benchmarks	<u>\$ 63,132</u>
	Total	<u>\$198,305</u>

BE IT FURTHER RESOLVED, that the following is hereby designated as the financial resource for the above program:

Source of Funding

2016 ESGP Grant	<u>\$198,305</u>
Total	<u>\$198,305</u>

BE IT FURTHER RESOLVED, that the city of Duluth and its officials are

authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of HUD issued pursuant thereto. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and ESG programs.

BE IT FURTHER RESOLVED that the appropriate city officials are authorized to execute the appropriate agreements with these agencies upon receipt of approval of HUD funds.

Attachments: [Attachment 1](#)

This resolution was adopted unanimously.

## **BY COUNCILOR JULSRUD (PUBLIC WORKS & UTILITIES)**

- 38. 15-0850R** RESOLUTION AUTHORIZING A ONE-YEAR EXTENSION TO CONTRACT 21844 WITH OUT THERE ADVERTISING INC., IN THE AMOUNT OF \$51,600, AND A NEW CONTRACT TOTAL NOT TO EXCEED \$340,000.

Body: CITY PROPOSAL:

WHEREAS, the Duluth city council previously approved Resolution 13-0065R on February 11, 2013, authorizing Contract 21844 with Out There Advertising, Inc. for public awareness services for the City's Public Works and Utilities Department;

WHEREAS, the city desires to continue its relationship with Out There Advertising, Inc. by extending the contract for one year, beginning January 1, 2016, and ending December 31, 2016.

RESOLVED, that the proper city officials are authorized to execute a one-year extension of Contract 21844 with Out There Advertising, Inc. to provide marketing and public awareness services in the amount of \$51,600 in year 2016 to be paid from Gas Fund 520, Dept./Agency 500 (Public Works and Utilities), Object 5340 (Advertising & Promotion).

Attachments: [Exhibit A](#)

This resolution was adopted unanimously.

## BY COUNCILOR SIPRESS (RECREATION, LIBRARIES & AUTHORITIES)

39. 15-0817R RESOLUTION AUTHORIZING APPLICATION TO, AND ACCEPTANCE OF IF OFFERED, THE MINNESOTA DEPARTMENT OF TRANSPORTATION - TRANSPORTATION ALTERNATIVES PROGRAM TO PROVIDE A MULTI-USE PATH THROUGH BRIGHTON BEACH PARK.

Body: CITY PROPOSAL:

THE CITY COUNCIL FINDS:

(a) That the city of Duluth is undertaking a project to provide a multi-use path through Brighton Beach Park to connect the Lakewalk with designated bike lanes along the North Shore Scenic Byway creating a continuous commuter trail the length of Duluth; and

(b) The estimated cash cost for design and construction of this project is \$557,743. Federal transportation alternative funds are currently programmed for construction in 2020. The Minnesota department of transportation has grant monies available through its transportation alternative program that are intended for on- and off-road pedestrian and bicycle facilities and other alternative transportation projects; and

(c) To receive this money, the city must submit the transportation alternative application to the Arrowhead Regional Development Commission (Exhibit A).

RESOLVED, that the proper city officials are hereby authorized to submit an application to the Minnesota department of transportation for funding of the multi-use path as described in the application.

FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the money, and the financial, technical and managerial capacity to ensure proper construction, operation and maintenance of the project for no less than 20 years.

FURTHER RESOLVED, that the city of Duluth estimates the grant amount to be \$387,995 and available on an 80/20 percent local matching basis, and has the required \$169,748 cash match funds available.

FURTHER RESOLVED, that if the city of Duluth is awarded a grant by

the Minnesota Department of Transportation, the city of Duluth agrees to accept the grant award and enter into an agreement with the state of Minnesota for the above referenced project. The city of Duluth will comply with all applicable laws, environmental requirements and regulations stated in the grant agreement.

FURTHER RESOLVED, that the city council of the city of Duluth names the fiscal agent for the city of Duluth for this project as: Wayne Parson, City Auditor, City of Duluth, 411 West First Street, Duluth, MN 55802.

**Attachments:** [EXHIBIT A - 15-0817R.pdf](#)  
[EXHIBIT B - 15-0817R.pdf](#)

**A motion was made that this Resolution be adopted and the motion carried by the following vote:**

**Yea:** 8 - Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson.

**Nay:** 1 - Councilor Fosle

## INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances are to be read for the second time:

### COMMITTEE 1

#### BY COUNCILOR FILIPOVICH (FINANCE)

40. 15-096-O AN ORDINANCE DETERMING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL PARKS FUND LEVY FOR THE YEAR 2016.

**Body:** CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the sum to be raised by taxation for the year 2016 for the special parks fund levy is hereby determined to be the sum of \$2,600,000 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following section.

Section 2. That pursuant to Ordinance 10134, approved by voter referendum on November 9, 2011, pursuant to the authority contained in Laws of Minnesota, 1983, Chapter 560, Section 1, there will be levied for the parks fund the sum of \$2,600,000.

Section 3. That this ordinance shall take effect January 1, 2016.

**A motion was made that this Ordinance be adopted and the motion carried by the following vote:**

**Yea:** 8 - Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson.

**Nay:** 1 - Councilor Fosle

**41. 15-099-O AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2016.**

**Body:** CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the sum to be raised by taxation for the year 2016 for general operations is hereby determined to be the sum of \$21,630,792 which sum is levied against the taxable property of the City of Duluth and appropriated to the various accounts of the city, as set forth in the following sections.

Section 2. That there will be levied for the support of the general fund the sum of \$14,128,900.

Section 3. That there will be levied for the support of the street lighting fund the sum of \$647,592.

Section 4. That for the payment of debt, there will be levied for the general obligation debt fund the sum of \$6,574,300.

Section 5. That pursuant to Laws of Minnesota 1971, Chapter 824, to pay for the portion of the cost of local improvements which will not sustain a special assessment, there will be levied for the permanent improvement fund the sum of \$280,000.

Section 6. That this ordinance shall take effect January 1, 2016.

**A motion was made that this Ordinance be adopted and the motion carried by the following vote:**

**Yea:** 7 - Councilors Filipovich, Gardner, Hanson, Julsrud, Russ, Sipress and President Larson.

**Nay:** 2 - Councilor Fosle and Krug

**42. 15-100-O AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT**



## AUTHORITY, FOR THE YEAR 2016.

**Body:** CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the sum to be raised by taxation for the year 2016 for Duluth Transit Authority taxing district's operations is hereby determined to be the sum of \$1,491,900 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following sections, viz:

Section 2. That pursuant to Minnesota Statutes, Section 458A.31, Subd.1, there will be levied for transit operations the sum of \$1,491,900.

Section 3. That this ordinance shall take effect January 1, 2016.

**A motion was made that this Ordinance be adopted and the motion carried by the following vote:**

**Yea:** 7 - Councilors Filipovich, Gardner, Julsrud, Krug, Russ, Sipress and President Larson.

**Nay:** 1 - Councilor Fosle

**Abstain:** 1 - Councilor Hanson

- 43. 15-101-O** AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2016 APPROPRIATING MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

**Body:** CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That in accordance with Section 58 of the 1912 Home Rule Charter of the City of Duluth, and all amendments thereof and law supplementary thereto, and for the fiscal year beginning January 1 and ending December 31, 2016, the city council hereby budgets, determines and states the amount of money required to meet the principal and interest of maturing obligations comprising the outstanding indebtedness of such city; the amounts of money necessary to be provided for each such fund and each department of such city; and estimates the amount of income from all other sources and revenues, exclusive of taxes upon property, together with the probably amount required to be levied and raised by taxation to defray all expenses and obligations of such city during such fiscal year.

That the monies as so budgeted and hereafter set forth shall be paid upon the presentation of properly verified vouchers bearing thereon the budget distribution for which such expenditures are to be charged in accordance with the detailed classification of accounts and the explanatory information of such as set forth in ordinance in effect governing same, excepting, however, payments for interest and sinking funds, which shall be paid in the manner set forth in Section 53 of the City Charter.

That any monies received by the several city departments as reimbursement for damages or repairs to city property or work done for others and not anticipated in the original budget may be credited to and added to the appropriate budget item upon approval of the chief administrative officer or their designee.

That use of general fund balance that has been assigned for a specific purpose in a prior year, must be approved by the city council if used for a purpose other than what has been specified.

That grants which have been approved by the appropriate state or federal agency and accepted by resolution of the city council may be added to the respective budget items upon approval of the city auditor.

That the parks fund prior year unexpended budget appropriation not anticipated in the original budget shall be added to the current year budget appropriation as approved by the chief administrative officer or designee.

Section 2. That the city auditor be authorized to approve the payments of \$3,011,200 from the gas and steam public utility funds to the general fund for administrative services; comprised of \$2,876,000 or seven percent of the gross revenues of the gas utility fund to the general fund; and \$135,200 from public utilities steam fund to the general fund.

Section 3. That the mayor or the chief administrative officer or their designees may make transfers from budget item to budget item as may be considered necessary for the proper administration of the city government for the year. However, the total of any transfers to or from any budget item in excess of ten percent of the appropriation therefore as herein made shall be made only upon approval of the city council. For the purpose of the Section, the term budget item shall mean the amount appropriated to the various funds delineated as fixed charges in the budget summary, the accounts numbers 110 through the 700 series shall each be considered budget items within the general fund, as defined in Chapter 8, Section 54 of the City Charter, the account numbered 205 in the parks fund, and 290 in the Street system Maintenance Utility, the accounts numbered 510 in the water division, 520 in the gas division, 530 and 532 in the sewer division, 535 in the stormwater division, 540 in the steam division, 550 in the street light division, 503 in the golf division, 505 and 506 in the parking division.

Section 4. That the salaries shall be in accordance with the pay plan in effect as provided by Section 22 of the City Charter, as amended.

Section 5. That the city auditor may create or abolish an accounting fund when required by law or proper accounting procedures.

Section 6. That the city auditor be authorized to make temporary loans to and from the city's various funds as needed in the conduction of the day-to-day operations of the city.

Section 7. That the appropriations as set forth in this section constitutes the budget of the City of Duluth for the calendar year of 2016.

#### GENERAL FUND

10 Legislative and executive - total \$ 3,048,700  
21 Public administration - total \$23,796,600  
25 Finance - total \$ 2,659,400  
32 Planning and construction services - total \$ 2,385,500  
35 Business and economic development - total \$ 596,500  
50 Fire - total \$15,546,600  
60 Police - total \$20,328,700  
00 Public works - total \$ 1,816,500  
00 Transfers and other functions - total \$ 9,827,700  
Total General Fund \$80,006,200

#### MARKS FUND

05 Community Resources \$ 2,721,000

#### PUBLIC ENTERPRISE

03 Golf fund - total \$ 2,234,889  
05 Parking fund - total \$ 4,932,780  
06 W Superior St Parking Facility \$ 1,711,104

#### PUBLIC UTILITIES

10 Water fund - total \$15,175,800  
20 Gas fund - total \$43,443,400  
30 & 532 Sewer and clean water fund - total \$19,222,700  
35 Stormwater fund - total \$ 6,291,700  
40 Steam fund - total \$ 7,777,100  
50 Street lighting - total \$ 2,753,900  
90 Street System Maintenance Utility \$ 2,774,500

Section 8. That the chief administrative officer or their designee shall provide the council with a final budget report within three months of the end of the budget year setting forth the original approved and the modified budgets for each line item included in this ordinance and explaining in

narrative form the reasons for any significant differences between the original approved and the modified budgets.

Section 9. That the city will review all state and federal grants prior to acceptance and determine the program's funding status. A statement should be included on each grant resolution outlining items such as whether the grant represents a one-time revenue, an ongoing funding source, or a partial funding source with a local match required. The future fiscal impact of the program on the budget will be discussed prior to acceptance of the grant.

The programs funded by state and federal grants shall be reduced or eliminated accordingly if state or federal revenue are reduced or eliminated and another funding source is not secure. Local funding will be available after a full review to determine whether the program should be continued.

Section 10. That this ordinance shall take effect January 1, 2016.

**A motion was made that this Ordinance be adopted and the motion carried by the following vote:**

**Yea:** 8 - Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson.

**Nay:** 1 - Councilor Fosle

## COMMITTEE 2

### BY COUNCILOR RUSS (PLANNING & ECONOMIC DEVELOPMENT)

44. **15-095-O** AN ORDINANCE CONFIRMING THE LEGAL DESCRIPTION FOR THE AREA SURROUNDING LOWER CONGDON PARK.

**Body:** CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the subject properties located on located on the eastern and northeast portions of the City and as more particularly described as follows:

That part of the Re-Arrangement of Part of East Duluth and of First Addition to East Duluth according to the recorded plat thereof in St. Louis County, bounded by the following:

Beginning at the intersection of the west line of the Northeast Quarter of Section 13, Township 50 North, Range 50 West and the southeasterly extension of the southwest right of way line of the North 33rd Avenue East as platted in Third Re-Arrangement of Congdon Park Division of the

recorded plat thereof;

Thence southeasterly along said southeasterly extension of the southwest right of way line of the North 33rd Avenue East to the southwesterly extension of the center line of East 1st Street, as platted in said Re-Arrangement of Part of East Duluth and of First Addition to East Duluth; Thence easterly deflecting to the left 38 degrees to a line that is parallel and offset 66.00 feet southwest of the southwest lines of Lots 7 and 8, Block 6 of said Re-Arrangement of Part of East Duluth and of First Addition to East Duluth;

Thence southeasterly along said line parallel with southwest lines of Lots 7 and 8 to the northwest right of way of Superior Street as platted in said Re-Arrangement of Part of East Duluth and of First Addition to East Duluth; Thence southeast on a line perpendicular to said northwest right of way of Superior Street to the southeast right of way of Superior Street;

Thence northeasterly along said southeast right of way of Superior Street to a line that is parallel and 130.00 feet southwest of the northeast line of Lot 8, Block 10, Re-Arrangement of Part of East Duluth and of First Addition to East Duluth;

Thence southeasterly along said parallel line 130.00 feet southwest of the northeast line of Lot 8 to a line that is parallel and 150.00 feet southeast of the southeast right of way of Superior Street;

Thence northeasterly along said parallel line 150.00 feet southeast of the southeast right of way of Superior Street 130.00 feet to the west corner of lot 11 of said Block 10;

Thence southeasterly along southwest line of said Lot 11 to the south corner of said Lot 11;

Thence southeasterly to the corner of Lot 7, Block 16 of said Re-Arrangement of Part of East Duluth and of First Addition to East Duluth that is the intersection of the southeast right of way of Greysolon Place and the west line of said Lot 7;

Thence southerly along the west lines of Lots 7-11, Block 16 and southeasterly around the radius of Lot 10 to the northwest right of way of Greysolon Road, Re-Arrangement of Part of East Duluth and of First Addition to East Duluth;

Thence southwesterly along said northwest right of way of Greysolon Road to the intersection with the northwesterly extension of the northeast right of way of 33rd Avenue East;

Thence southeast along said northwesterly extension of the northeast right of way of 33rd Avenue East to the southeast right of way of Greysolon Road;

Thence southwesterly along southeast right of way of Greysolon Road to the northeast right of way of 32nd Avenue East;  
Thence northwesterly to the south corner of Lot 9, Block 17, Re-Arrangement of Part of East Duluth and of First Addition to East Duluth;  
Thence northerly to the south corner of Lot 3 of said Block 17;  
Thence northerly along the east line of said Lot 3 to a line that is a southeasterly extension of the northeast line of Lot 27, Block 9, Re-Arrangement of Part of East Duluth and of First Addition to East Duluth;  
Thence northwesterly along said northeast line of Lot 27 and its extension to the east corner of Lot 1 of said Block 9;  
Thence northwesterly along the northeast line of said Lot 1 to the north corner of said Lot 1;  
Thence northwest to the east corner of Lot 13, Block 7, Re-Arrangement of Part of East Duluth and of First Addition to East Duluth;  
Thence northwesterly along northeast line of said Lot 13 to the east corner of Lot 1 of said Block 7;  
Thence westerly along the northerly lines of Lots 1 and 2, said Block 7, to said west line of the Northeast Quarter of Section 13;  
Thence north along said west line of the Northeast Quarter of Section 13 to the point of beginning.  
Be reclassified from Residential-Traditional (R-1) to Park and Open Space (P-1), and that the official zoning map of the City of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows: (See Attachment 1)  
Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

**Attachments:** [Attachment 1](#)  
[Attachment 2](#)

**This ordinance was adopted unanimously.**

- 45. 15-097-O** AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1, RR-1, R-2 AND F-6 TO P-1, FOR ARLINGTON ATHLETIC COMPLEX, CASCADE PARK, DULUTH HEIGHTS COMMUNITY RECREATION CENTER, HILL TOP PARK, JOLLYSTONE PARK, LILLIPUT PARK, AND STRICKLAND PARK

**Body:** CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the subject properties located in the central portion of the city and as more particularly described as follows:

010-0890-00710 010-2710-06540 010-0890-06170  
010-0890-00810 010-2710-05930 010-0890-06520  
010-0890-02070 010-2710-05940 010-0890-06180  
010-0890-02080 010-2710-05920 010-0890-06510  
010-0890-02340 010-2710-06540 010-1270-04100  
010-0890-02350 010-2710-06545 010-1010-00610  
010-0890-02230 010-3170-00050 010-1040-00120  
010-0890-01900 010-3170-00500 010-3740-00380  
010-0890-01720 010-3170-00420 010-1350-04780  
010-0890-02260 010-3170-00250 010-1290-01150  
010-0890-01560 010-3170-00190 010-0890-06170  
010-0890-01550 010-3170-00210 010-0710-00015  
010-0890-01520 010-3170-00260 010-0710-00025  
010-0890-01500 010-3170-00220 010-0710-00035  
010-0890-05680 010-3170-00070 010-1370-01775  
010-0890-05840 010-3170-00060 010-1370-03170  
010-0890-06160 010-1010-00630 010-2710-03641  
010-0890-06530 010-1010-00620 010-4120-00510

Be reclassified from Residential-Traditional (R-1), Residential-Rural 1(RR-1), Residential-Urban (R-2) and Form District 6 (F-6) Mid-Rise Neighborhood Shopping to Park and Open Space (P-1), and that the

official zoning map of the City of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:  
(See Attachment 1)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

**Attachments:** [Attachment 1](#)  
[Attachment 2](#)

**This ordinance was adopted unanimously.**

- 46. 15-098-O** AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RR-1 TO RI, PROPERTY AT THE WEST END OF DEVONSHIRE STREET PARCEL ID# 010-2700-00050 (ST. LOUIS COUNTY TAX FORFEIT PROPERTY).

**Body:** CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That approximately 4.6 acres of land located at the west end of Devonshire Street, Parcel ID# 010-2700-00050, and as more particularly described as follows:

S1/2 OF SW1/4 OF NE1/4 OF NW1/4 EX ELY 25 FT OF SLY 141 FT & EX PART N OF & ADJACENT TO LOT 6 BLK 1 BRYANT ADDN 3RD DIV LYING BETWEEN THE EXTENDED E & W LOT LINES OF LOT 6 AND WITHIN 80 FT OF THE N LINE OF LOT 6 AND EX PART N OF & ADJACENT TO LOT 7 BLK 1 BRYANT ADDN 3RD DIV LYING BETWEEN THE EXTENDED E & W LOT LINES OF LOT 7 & WITHIN 80 FT OF THE N LINE OF LOT 7 & EX PART N OF & ADJACENT TO LOT 8 BLK 1 BRYANT ADDN 3RD DIV LYING BETWEEN THE EXTENDED E & W LINES OF LOT 8 & WITHIN 80 FT OF THE N LINE OF LOT 8 & EX PART N OF AND ADJACENT TO LOT 9 BLK 1 BRYANT ADDN 3RD DIV LYING BETWEEN THE EXTENDED E & W LINES OF LOT 9 & WITHIN 80 FT OF THE N LINE OF LOT 9 & EX THAT PART OF S1/2 OF SW1/4 OF NE1/4 OF NW1/4 BEG AT NW COR OF S1/2 OF SW1/4 OF NE1/4 OF NW1/4 THENCE N89DEG06'03"E ALONG THE N LINE OF SAID S1/2 OF SW1/4 OF NE1/4 OF NW1/4 A DISTANCE OF 63.67 FT



THENCE S39DEG01'38"W A DISTANCE OF 99.5 FT TO A PT ON W LINE OF SAID S1/2 OF SW1/4 OF NE1/4 OF NW1/4 THENCE N0DEG45'17"W ALONG SAID W LINE 76.31 FT TO PT OF BEG

Sec 5 Twp 49 Rge 14

be reclassified from Residential-Rural 1 (RR-1) to Residential-Traditional (R-1), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as shown in the attached document.

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

Attachments: [Attachment 1](#)

[Attachment 2](#)

**This ordinance was adopted unanimously.**

**Meeting adjourned at 9:39 p.m.**