



CITY
OF
DULUTH
**PROCEEDINGS OF THE
CITY COUNCIL
2014**

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, January 13, 2014, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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ELECTION OF OFFICERS

Councilors Larson and Fosle made comments about why they should be chosen as vice president for the year 2014.

Councilor Larson was elected vice president of the Duluth City Council for the year 2014 upon the following vote:

Councilor Fosle: Councilor Fosle -- 1

Councilor Larson: Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Larson, Russ and President Boyle -- 8

Councilor Krug made comments about why she should be chosen as president for the year 2014.

Councilor Krug was elected president of the Duluth City Council for the year 2014 on a unanimously vote.

Outgoing council president Boyle reviewed that the major issues during the past year were: leading the nation on a ban on synthetic drugs, the Maurice's corporate building, the Duluth Transit Authority hub, a zero budget increase for 2014 and proceeding with a street improvement plan.

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

The minutes of council meetings held on June 24, July 1, July 15, August 12 and August 26, 2013, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

14-0013-12 Duluth Local Initiatives Support Corporation (LISC) communication regarding community development block grant funding (14-0030R). -- Received

14-0113-11 Jerome and Rosemary Heideman communication regarding the appeal of the denial of a shoreline setback variance for a 12x20 storage shed at 2401 Hutchinson Road (14-0039R and 14-0040R). -- Received

14-0113-01 Chris and Laura Jacobson appeal of the planning commission decision regarding the denial of a shoreline setback variance for a 12x20 storage shed (2401 Hutchinson Road) (14-0039R and 14-0040R). -- Committee 2 (planning and economic development)

14 -0113-13 Loaves and Fishes petition (supported by 972 signatures) regarding establishment of a homeless bill of rights (14-0042R). -- Received

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REPORTS FROM OTHER OFFICERS

14-0113-02 Clerk applications for exempt permits (raffles) to the Minnesota gambling control board from: (a) Ducks Unlimited University of Minnesota Duluth Chapter on February 28, 2014; (b) Minnesota Bluegrass & Old-Time Music Association on March 22, 2014; (c) Ridgeview Country Club on April 26, 2014. -- Received

14-0113-03 Purchasing agent emergency order for the purchase of trackless snow removal equipment. -- Received

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REPORTS OF BOARDS AND COMMISSIONS

14-0113-04 Duluth citizen review board minutes of November 19, 2013, meeting. -- Received

14-0113-05 Duluth economic development authority minutes of November 20, 2013, meeting. -- Received

14-0113-06 Duluth human rights commission minutes of: (a) September 11; (b) October 9, 2013, meetings. -- Received

14-0113-07 Duluth public utilities commission: (a) Minutes of November 19, 2013, meeting; (b) Resolution requesting that city council amend Section 43-09 of the City Code to make the sprinkler credit applicable from May 1 through September 30 (13PUC-012). -- Received

14-0113-08 Duluth transit authority minutes of September 25, 2013, meeting. -- Received

14-0113-09 Entertainment and convention center authority minutes of: (a) July 30; (b) August 27; (c) September 24, 2013, meetings. -- Received

14-0113-10 Parks and recreation commission minutes of November 13, 2013, meeting. -- Received

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At this time, 7:10 p.m., the public hearing on the proposed issuance of general obligation capital improvement bonds not to exceed \$1,850,000 began.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

No one appeared who wished to be heard and at 7:11 p.m. the public hearing was declared closed.

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At this time, 7:12 p.m., the public hearing on the Northstar Aerospace loan amendment began.

At this time, 7:13 p.m., the public hearing was declared closed and the regular order of business resumed.

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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 Krug 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 2014, payable as follows:

- | | |
|----------|--|
| \$26,000 | Water Fund 510, Department/Agency 500 (public works and utilities), Division 1940 (customer services), Cost Center 2400 (customer accounts), Object 5310 (contract services); |
| \$39,000 | Gas Fund 520, Department/Agency 500 (public works and utilities), Division 1940 (customer services), Cost Center 2400 (customer accounts), Object 5310 (contract services); |
| \$23,000 | Sewer Fund 530, Department/Agency 500 (public works and utilities), Division 1940 (customer services), Cost Center 2400 (customer accounts), Object 5310 (contract services); |
| \$12,000 | Stormwater Fund 535, Department/Agency 500 (public works and utilities), Division 1940 (customer services), Cost Center 2400 (customer accounts), Object 5310 (contract services). |

Resolution 14-0009 was unanimously adopted.

Approved January 13, 2014

DON NESS, Mayor

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WHEREAS, the Duluth JPE Trust set dental rates at substantially reduced rates for 2014 due to accumulated plan net assets in excess of the amounts needed to fund dental plan costs, the reduced premium rates will result in substantial premium cost savings to the city for 2014; and

WHEREAS, the city desires, as part of its commitment to improve employee health, to establish a dedicated account within the special projects fund to pay for costs associated with employee wellness which will result in reduced future health care costs and reduced future health insurance premiums; and

WHEREAS, Governmental Accounting Standards Board Statement No. 54 requires the city council to take action to commit resources for a designated purpose.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

NOW, THEREFORE, BE IT RESOLVED, by the Duluth City Council that a wellness account be created within the city's special projects special revenue fund (Fund 210-030-3151) to pay for costs associated with employee wellness.

BE IT FURTHER RESOLVED, by the Duluth City Council that 2014 city employer dental premium cost savings estimated not to exceed \$200,000 be committed as the funding source for the newly created wellness fund.

Resolution 14-0010 was unanimously adopted.

Approved January 13, 2014

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 St. James Church 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 14-0001 was unanimously adopted.

Approved January 13, 2014

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 year 2013.

RESOLVED, that the proper city officials are authorized to execute renewal of the annual contract with Holiday Stationstores in year 2014, the third year of a potential five-year contract, for purchase and delivery of service station fuels during year 2014 for an amount not to exceed \$1,200,000, payable from Fleet Services Fund 660, Department/Agency 015 (public administration), Object 5212 (motor fuels).

Resolution 14-0014 was unanimously adopted.

Approved January 13, 2014

DON NESS, Mayor

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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	Twins Bar, 501 East Fourth Street

Resolution 14-0023 was unanimously adopted.

Approved January 13, 2014

DON NESS, Mayor

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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, 2014, subject to departmental approvals, and the payment of sales and property taxes:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

The Greens Duluth, Inc. (The Greens Duluth), 212 West Superior Street, with Daniel Witzman, 100 percent owner, transferred from Lucky Break, Inc. (Horseshoe Billiards), 2415 West Superior Street.

Resolution 14-0024 was unanimously adopted.

Approved January 13, 2014

DON NESS, Mayor

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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, 2014, subject to departmental approvals and the payment of sales and property taxes:

Oakwells Commuter Rail, LLC (Arrowhead Tap House), 4701 Grinden Avenue, licensed premises to include approximately 1,891 square feet located on the second floor of the airport terminal, with Michael J. Reilly, manager.

Resolution 14-0025 was unanimously adopted.

Approved January 13, 2014

DON NESS, Mayor

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WHEREAS, the Duluth City Council, on September 9, 2013, approved Resolution 13-0438 and a contract with North American Salt Company for the purchase of 4,000 tons of road salt for \$252,909 from October-December of year 2013.

RESOLVED, that the proper city officials are hereby authorized to amend Resolution 13-0438 and increase the original purchase order issued to North American Salt Company by an additional 2,000 tons of salt for \$126,454.50 (including sales tax), for a total contract amount of \$379,363.50 for the same period, based on the Minnesota State Contract 62343, Release S-803(5), and payable from General Fund 110, Department/Agency 121 (public administration), Division 1217 (maintenance operations), Cost Center 2140 (street maintenance), Object 5223-01 (salt/sand salt).

Resolution 14-0038 was unanimously adopted.

Approved January 13, 2014

DON NESS, Mayor

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RESOLVED, that SFM Risk Solutions, Inc., is hereby awarded a contract, substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0113-14, for professional services in the third party administration of workers' compensation insurance for the human services division in accordance with the consultant's quote of \$51,000, payable from the Self Insurance Fund 605, Insurance Accounts 036, Insurance Administration 1650, Other Professional Services 5319.

Resolution 14-0043 was unanimously adopted.

Approved January 13, 2014

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness of Kenneth D. Butler to the Duluth airport authority for a term expiring on July 1, 2015, replacing Robert Pearson, is confirmed.

Resolution 14-0022 was unanimously adopted.

Approved January 13, 2014

DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

RESOLVED, that the appointment of Linda Krug by Mayor Ness to the Duluth economic development authority for a term expiring on January 4, 2016, replacing Daniel Hartman, is confirmed.

Resolution 14-0045 was unanimously adopted.

Approved January 13, 2014

DON NESS, Mayor

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RESOLVED, that the city council of the city of Duluth hereby adopts the amended community development program citizens participation plan dated January 2014, a copy of which is on file in the office of the city clerk as Public Document No. 14-0113-15.

Resolution 14-0028 was unanimously adopted.

Approved January 13, 2014

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 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 2014 action plan portion of the FY 2010-2014 city of Duluth consolidated plan for housing and community development required by HUD federal legislation is hereby adopted and approved.

BE IT FURTHER RESOLVED, that the city of Duluth hereby makes a finding that expenditures as set forth in Resolution 14-0030 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 14-0031 and 14-0032 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 14-0029 was unanimously adopted.

Approved January 13, 2014

DON NESS, Mayor

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WHEREAS, City Council Resolution No. 14-0029, adopted January 13, 2014, approved FY 2014 annual action plan portion of the 2010-2014 consolidated plan; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 - ESGT - 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:

2014 HOME PROGRAM - FUND 260, AGENCY 020, OBJECT 5434, PROJECT CD14HM

<u>SUB PROJECT</u>	<u>ACTIVITY</u>	<u>PROJECTS</u>	<u>AMOUNT</u>
GN14	1736	Homeless Rental Asst. Program (TBRA) - HRA	\$123,000
GN14	1737	TBRA Admin - HRA	\$7,000
GN14	1738	Housing Rehab - Housing Resource Connection - HRA	\$222,243
CH14	6905	Housing Predevelopment - One Roof	\$20,000
CH14	6906	Rehab - Resale - One Roof	\$90,000
GN14	AD03	Program Administration (City)	\$43,583
		Total	\$505,826

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

Year 2014	HOME Grant	\$505,826
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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 program 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 14-0031 was unanimously adopted.
 Approved January 13, 2014
 DON NESS, Mayor

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WHEREAS, City Council Resolution No. 14-0029, adopted January 13, 2014, approved FY 2014 annual action plan portion of the 2010-2014 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

McKinney Homeless Assistance Act of 1987, as amended (the Emergency Solutions Grant - ESGT - 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:

2014 HOME PROGRAM - FUND 262, AGENCY 020, OBJECT 5434, PROJECT CD14ES

<u>SUBPROJECT</u>	<u>PROJECTS</u>	<u>AMOUNT</u>
1244	CHUM Emergency Shelter/Safe Haven Women's Shelter	\$ 37,640
2109	MACV - Duluth	\$ 15,000
2511	Transitional housing - Salvation Army	\$ 16,710
1226	Transitional housing - Center City Housing Corp/Lifehouse	\$ 28,000
1050	Transitional housing and shelter - AICHO	\$ 7,200
6092	HMIS data administration - Wilder Foundation	\$ 4,000
AD-05	Prevention and rapid re-housing assistance	\$ 35,737
AD-04	Program administration	<u>\$ 11,699</u>
	Total	\$155,986

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

<u>Source of funding</u>	
2014 ESGP Grant	<u>\$155,986</u>
Total	\$155,986

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 program 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 14-0032 was unanimously adopted.
 Approved January 13, 2014
 DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to accept a grant from the Minnesota historical society (MHS) in the amount of \$644.20, for the purpose of reimbursing the heritage preservation commission for attendance at the Annual Statewide Historic

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Preservation Commission; funds to be deposited in 110-132-1301-4220-02 (general fund, planning and construction services, planning and development, state of Minnesota operating).

Resolution 14-0036 was unanimously adopted.

Approved January 13, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a ninth amendment to the MIF loan agreement and a ninth promissory note modification agreement substantially in the form of those on file in the office of the city clerk as Public Document Nos. 14-0113-16(a) and 14-0113-16(b) with Northstar Machine and Tool, Inc., d.b.a Northstar Aerospace ("Northstar"), allowing Northstar to make payments of interest plus an amount equal to one-fourth of the principal payment provided for under the note for a one-year period, from January 1, 2014, through December 31, 2014, and extending the date for repayment of entire unpaid principal and interest to December 31, 2014.

Resolution 14-0041 was unanimously adopted.

Approved January 13, 2014

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 2014 in accordance with city-approved specifications and the vendor's low bid of \$1.8348 per gallon, for a total of \$155,958, terms net 30, FOB destination, payable from Water Fund 510, Department/Agency 500 (public works and utilities), Organization 1955 (water treatment and pumping), Object 5216-05 (chemicals - liquid caustic soda).

Resolution 14-0004 was unanimously adopted.

Approved January 13, 2014

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 2014 in accordance with city-approved specifications and the vendor's low bid of \$1.2774 per gallon, for a total of \$159,675, payable from the Water Fund 510, Department/Agency 500 (public works and utilities), Organization 1955 (water treatment and pumping), Object 5216-04 (chemicals liquid aluminum sulfate).

Resolution 14-0005 was unanimously adopted.

Approved January 13, 2014

DON NESS, Mayor

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RESOLVED, that plans for Project 69-689-004/69-689-010 showing proposed alignments, profiles, grades and cross sections for the construction, reconstruction or improvement of County State Aid Highway No. 89 (57th Avenue West and Highland Street) within the limits of the city as a state aid project have been prepared and presented to the city, and that said plans be in all things approved.

Resolution 14-0015 was unanimously adopted.

Approved January 13, 2014

DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

RESOLVED, that the proper city officials are authorized to accept a grant from the University of Minnesota, regional sustainable development partnerships program, in the amount of \$5,000, on file in the office of the city clerk as Public Document No. 14-0113-17, said funds to be deposited in 257-015-4220-02 (energy management fund, public administration, state of Minnesota operating grants), and to execute any documents required for such acceptance, funds shall be used for supporting site and technical assessment phases for four or more small-scale solar electric system installations at community park buildings, gardens, and public locations throughout the city.

Resolution 14-0035 was unanimously adopted.

Approved January 13, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into Agreement No. 5268, a copy of which is on file with the office of the city clerk as Public Document No. 14-0113-18, with the Minnesota department of transportation to provide compensation to the city of Duluth in the estimated amount of \$15,391.22 for maintenance and road life consumed as part of the T.H. 35 detour, S.P. 6982-69887E (T.H. 35 = 390).

Resolution 14-0037 was unanimously adopted.

Approved January 13, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept a grant from the state of Minnesota, commissioner of public safety, office of justice programs, in the amount of \$300,813 for the grant term beginning January 1, 2014, and ending December 31, 2014, and to execute a grant agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 14-0113-19, for the purpose of supporting the operations of the Lake Superior drug and violent crime task force, funds to be deposited in Fund 215-200-2208-4220-02 (Duluth police grant programs, police, violent crime enforcement teams, state of Minnesota operating).

Resolution 14-0017 was unanimously adopted.

Approved January 13, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to accept an emergency management performance grant agreement for Grant No. A-EMPG-2013-DULUTHCI-00208, a copy of which is on file in the office of the city clerk as Public Document No. 14-0113-20, 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).

Resolution 14-0020 was unanimously adopted.

Approved January 13, 2014

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Document No. 14-0113-21, with the Fond du Lac Band of Lake Superior Chippewa (Fond du Lac) for the weekly use of space in Washington Recreation Center for Fond du Lac's elder exercise program with rent payments payable to Fund 205 (parks fund), 130 (community resources), 1219 (parks operating), 4622 (rent for buildings).

Resolution 14-0008 was unanimously adopted.

Approved January 13, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a three year lease agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0113-22, with Independent School District 709 (ISD 709) for the lease of space in Washington Recreation Center for ISD 709's Head Start and Early Childhood Family Education programs with rent payments payable to Fund 205-130-1219-4622.

Resolution 14-0012 was unanimously adopted.

Approved January 13, 2014

DON NESS, Mayor

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The following resolutions were also considered:

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 authority contained in Minnesota Statutes, Chapter 475 and Section 475.521 (collectively the "act"), the city is authorized to issue general obligation capital improvement bonds to provide funds for capital improvements pursuant to a capital improvement plan approved by the council on December 16, 2013 (the "plan").

Section 2. The city council held a public hearing on January 13, 2014, on the city's intention to issue bonds in 2014 in an amount not to exceed \$1,850,000 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 accepted.

Section 3. 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 its General Obligation Capital Improvement Bonds, Series 2014 (the "bonds"), in an amount not to exceed \$1,850,000, for the purpose of providing funds for the acquisition and betterment of the following projects: improvements to eligible facilities under the act (City Hall, libraries, public safety facilities and public works facilities) throughout the city, including window replacements, energy conservation measures, furnace/boiler replacements, masonry repair, overhead door replacements and roof replacements; ventilation for 40th and 42nd Avenues West toolhouses; modernization/remodeling for City Hall; tuckpoint/repair steps - City Hall; desktop re-cabling - City Hall; generator - City Hall; Firehall improvements, including Firehall #1 driveway, Firehall #7 brick repair, Firehall overhead doors, Firehall access approaches and Firehall ventilation; and payment of discount and costs of issuance of the bonds.

Section 4. If, within 30 days after the date of adoption of this resolution, 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Section 5. This resolution constitutes a declaration of official intent under Treasury Regulations Section 1.150-2. The city reasonably expects to construct all or a portion of the capital improvement projects prior to the issuance of the bonds and to reimburse expenditures incurred with respect to such capital improvements with the proceeds of the bonds.

Resolution 14-0002 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved January 13, 2014

DON NESS, Mayor

- - -

Resolution 14-0013, authorizing renewal of an annual contract with Inter-City Oil Company, Inc., for purchase and delivery of bulk fuels during year 2014 for an amount not to exceed \$200,000, was introduced by Councilor Hanson.

Councilor Hanson stated he would be abstaining from resolution because he sells advertising to this company.

Resolution 14-0013 was adopted as follows:

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 year 2013.

RESOLVED, that the proper city officials are hereby authorized to execute renewal of the annual contract with Inter-City Oil Company, Inc., in year 2014, the third year of a potential five-year contract, for purchase and delivery of bulk fuels during year 2014 for an amount not to exceed \$200,000, payable from Fleet Services Fund 660, Department/Agency 015 (public administration), Object 5212 (motor fuels).

Resolution 14-0013 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: Councilor Hanson -- 1

Approved January 13, 2014

DON NESS, Mayor

- - -

Resolution 14-0021, by Councilor Gardner, appointing _____ to the Duluth public utilities commission, replacing Jim Stauber, was introduced for discussion.

Councilor Gardner moved to amend the resolution by inserting the name of "Zack Filipovich" in the resolution, which motion was seconded and unanimously carried.

Resolution 14-0021, as amended, was adopted as follows:

BY COUNCILOR GARDNER:

RESOLVED, that the city council hereby appoints and reappoints Zack Filipovich (city councilor) to the Duluth public utilities commission, replacing Jim Stauber, for terms expiring on March 31, 2015, and March 31, 2018.

Resolution 14-0021, as amended, was unanimously adopted.

Approved January 13, 2014

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Resolution 14-0042, by Councilor Gardner, supporting the principles of the petition to establish a homeless bill of rights, was introduced for discussion.

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

Mike Hoemke, Steve Gallagher, Shannon Redbrook and Lee Stewart expressed support for the resolution by: presenting a petition signed by approximately 1,000 citizens supporting this initiative (Public Document No. 14-0113-13); noting that being homeless is one of the greatest social issues today; support for this is greatly appreciated; not having affordable housing for a family is very stressful and this bill of rights calls out to the community to work together to solve this issue.

Councilors commented at length on aspects of support for this resolution.

Resolution 14-0042 was adopted as follows:

BY COUNCILOR GARDNER:

RESOLVED, that the Duluth City Council hereby recognizes the issues reflected in the petition for a Duluth homeless bill of rights put forward by The Coalition To End Homelessness as set forth on Public Document No. 14-0113-23.

FURTHER RESOLVED, that it is the intent of the council to put these issues before the Duluth human rights commission with the charge of identifying solutions that focus on addressing hunger, homelessness and poverty in Duluth.

Resolution 14-0042 was unanimously adopted.

Approved January 13, 2014

DON NESS, Mayor

- - -

Resolution 14-0030, authorizing a request for HUD federal community development block grant (CDBG) funds for the 2014 program year as well as approving the reallocation of certain prior CDBG funds and authorizing agreements with appropriate agencies, was introduced by Councilor Boyle.

Councilor Larson stated that she would be abstaining on this resolution because she does consulting work with some of the agencies referred to in this resolution.

Councilors Gardner and Hanson moved to amend the resolution as follows:

(a) Housing Resource Connection – One Roof/HRA: Change the amount from “\$917,800” to “\$885,800”;

(b) Add the project “Circles at Work – Community Action Duluth” at “\$32,000,” which motion was seconded and discussed.

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

Angie Miller urged support for the Circles at Work program, describing at length where four single moms can get training for a job and all that goes with running a household.

Councilors discussed at length the amendment, noting the merits of this program versus the detailed process that preceded the lead up to the resolution.

The amendment carried as follows:

Yeas: Councilors Boyle, Filipovich, Gardner, Hanson, Larson and Russ -- 6

Nays: Councilors Fosle and President Krug -- 2

Abstention: Councilor Larson -- 1

Resolution 14-0030, as amended, was adopted as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

WHEREAS, City Council Resolution No. 14-0029, adopted January 13, 2014, approved FY 2014 annual action plan portion of the 2010-2014 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:

2014 CITY OF DULUTH COMMUNITY DEVELOPMENT BLOCK
GRANT (CDBG) PROGRAM-FUND 262, AGENCY 020, OBJECT 5434 PROJECT CD14CD

<u>SUB</u>			
<u>PROJECT</u>	<u>ACTIVITY</u>	<u>AMOUNT</u>	<u>PROJECTS</u>
<u>HOUSING PROJECTS</u>			
HOUS	1734	\$ 885,800	Housing Resource Connection - One Roof/HRA
<u>ECONOMIC DEVELOPMENT PROJECTS</u>			
ECDV	2412	\$ 128,000	SOAR Duluth At Work - SOAR Career Solutions
ECDV	1244	\$ 72,000	CHUM Support Services for Employment - Churches United in Ministry
ECDV	2264	\$ 64,000	Growing Neighborhood Businesses – Northeast Entrepreneur Fund, Inc.
ECDV	1974	\$ 40,000	Futures Program - Life House
ECDV	1291	\$ 32,000	Circles at Work - Community Action Duluth
<u>PUBLIC FACILITY IMPROVEMENT PROJECTS</u>			
PFAC	PF04	\$ 250,000	UDAC Building Reformation
<u>PUBLIC SERVICE PROJECTS</u>			
PSVC	1244	\$ 72,000	Duluth hunger project - CHUM
PSVC	1929	\$ 61,685	Primary health care services - Lake Superior Community Health Center
PSVC	1974	\$ 20,000	Basic Needs Center for Homeless Youth - Life House
PSVC	1226	\$ 26,000	Supportive housing programs - Center City
PSVC	2509	\$ 45,000	Battered Women’s Shelter program - Safe Haven Shelter/CHUM
PSVC	2511	\$ 12,000	Family transitional housing program - Salvation Army
PSVC	1168	\$ 30,000	Feeding Kids Through Youth programs - YMCA

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

PSVC	2109	\$ 15,000	Homeless and at-risk vets stabilization/ outreach - MACV/CHUM
PSVC	1050	\$ 3,000	Transitional and permanent housing services - AICHO
PSVC		\$ 54,000	Housing and stabilization services fund

PLANNING/PROGRAM ADMINISTRATION

ADMC	AD01	\$ 432,621	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 2014	CDBG grant - city	\$2,263,106
<hr/>		
Total		\$2,263,106

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 14-0030, as amended, was adopted upon the following vote:

Yeas: Councilors Boyle, Filipovich, Gardner, Hanson, Julsrud, Russ and President Krug -- 7

Nays: Councilor Fosle -- 1

Abstention: Councilor Larson -- 1

Approved January 13, 2014

DON NESS, Mayor

- - -

Resolutions 14-0039 and 14-0040, by Councilor Boyle, affirming and reversing, respectively, the decision of the planning commission to deny the application for a variance by Chris and Laura Jacobson from the shoreland setback of Section 50-18.1 of the Duluth City Code, were introduced for discussion.

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

Richard Misiewicz spoke in support of Resolution 14-0039, noting the applicant already has a huge two stall garage and that the water from the creek comes up way beyond the high water mark levels that are stated in the Code.

Chris and Laura Jacobson noted that they do have water problems in the basement, but mostly for lack of a sump pump.

Councilors discussed the merits of approving the variance noting: a hardship needs to exist versus the diligence of work the planning commission puts into reviewing variance requests and the requirements of the department of natural resources.

Resolution 14-0039 failed upon the following vote (Public Document No. 14-0113-24):

Yeas: Councilors Fosle, Larson and President Krug -- 3

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Nays: Councilors Boyle, Filipovich, Gardner, Hanson, Julsrud and Russ -- 6

Councilor Gardner moved to amend subparagraph (d) of Resolution 14-0040 by adding the following language declaring the hardship of "there is no reasonable place for the shed structure other than the back yard because of the 150 foot setback," adding that this is not a trout stream, which motion was seconded and carried as follows:

Yeas: Councilors Boyle, Filipovich, Gardner, Hanson, Julsrud and Russ -- 6

Nays: Councilors Fosle, Larson and President Krug -- 3

Various councilors commented at length that there is political persuasion here.

Resolution 14-0040, as amended, was adopted as follows:

RESOLVED, that the city council finds as follows:

(a) Chris and Laura Jacobson's property is located at 2401 Hutchinson Road and the proposed structure is within the 150 foot shoreland setback from the ordinary high water level;

(b) On November 5, 2013, the applicant applied for a variance that would allow them to construct a detached accessory structure of 20 feet by 12 feet, to be set back 100 feet from the ordinary high water level. The planning commission, at its December 10, 2013, meeting, considered the request and voted to table it to allow the applicant to provide more information. At its December 17, 2013, meeting, the commission voted to deny the request. The basis for the commission's decision was its conclusion that:

(1) Section 50-37.9.C. of the City Code prohibits the granting of a variance that does not demonstrate a practical difficulty which is unique to the property. The shoreland structure setback of 150 feet limits placement of structures on approximately 50 percent of the lot. The lot does not have wetland, slope, bedrock or other topographical conditions that present a practical difficulty;

(2) The property owner currently enjoys reasonable use of their property with a single family home and a two car detached accessory garage;

(3) The requested variance is not necessary for the preservation and enjoyment of a substantial property right;

(c) The applicant was provided written notice of the commission's action on December 18, 2013, and filed an appeal of the commission's decision to the city council on December 23, 2013, pursuant to Section 50-37.1.O.4. of the City Code;

(d) The city council heard the appeal on January 13, 2014, and based on the facts presented determined a practical difficulty exists as there is no reasonable place for the shed structure other than the back yard because of the 150 foot setback.

RESOLVED FURTHER, that the decision of the planning commission to deny the application for variance is reversed with the following conditions:

(a) Proposed shed is to have a setback of at least 110 feet from Merrit Creek;

(b) Water garden is to be created as per recommendations of South St. Louis County Soil and Water Conservation District.

Resolution 14-0040, as amended, was adopted upon the following vote:

Yeas: Councilors Boyle, Filipovich, Gardner, Hanson, Julsrud and Russ -- 6

Nays: Councilors Fosle, Larson and President Krug -- 3

Approved January 13, 2014

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

The city council finds as follows:

(a) The city desires to establish the following as bonding priorities for the 2014 legislative session:

- Support for bonding requests by the Spirit Mountain recreation area authority for a water supply project;
- Support for state bond funding for renovation of Duluth's municipal baseball stadium (Wade Stadium);
- Support for state bond funding for public infrastructure elements of the NorShor Theatre renovation;

(b) The city additionally expresses its support for state bond funding for flood-related repairs and planning at the Lake Superior Zoo.

Resolution 14-0046 was unanimously adopted.

Approved January 13, 2014

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR BOYLE

14-002 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$5,745,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL WATER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

- - -

INTRODUCED BY COUNCILOR BOYLE

14-004 - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR YEAR 2013 BY INCREASING THE BUDGET AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE AND REDISTRIBUTING APPROVED 2013 APPROPRIATION.

- - -

INTRODUCED BY COUNCILOR BOYLE

14-003 - AN ORDINANCE DESIGNATING THE FORMER CHESTER PARK UNITED METHODIST CHURCH, 819 NORTH 18TH AVENUE EAST, AS A DULUTH HERITAGE PRESERVATION LANDMARK.

- - -

INTRODUCED BY COUNCILOR JULSRUD

14-001 - AN ORDINANCE CHANGING MONTHS FOR SPRINKLING CREDIT TO MAY THROUGH SEPTEMBER, AMENDING SECTION 43-9 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR JULSRUD

13-082 (10273) - AN ORDINANCE AMENDING TERMS FOR ISSUANCE OF YEARLY STREET OBSTRUCTION PERMITS, AMENDING SECTION 45-18.1 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 8:47 p.m.

JEFFREY J. COX, City Clerk

ORDINANCE NO. 10273

AN ORDINANCE AMENDING TERMS FOR ISSUANCE OF YEARLY STREET OBSTRUCTION PERMITS, AMENDING SECTION 45-18.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 45-18.1 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 45-18.1. Yearly permit for certain types of vehicular obstructions.

(a) Notwithstanding any provision in this Article to the contrary, the city engineer may issue yearly vehicular obstruction permits allowing vehicles for which such permits have been issued to obstruct street, alleys or sidewalks subject to the restrictions set forth herein. Such permit shall authorize such obstructions only when the city engineer determines that such obstruction is reasonably necessary to allow the permit holder to construct, repair, improve or demolish a building or structure immediately adjacent to the affected street, alley or sidewalk. The fee for such permit shall be set in accordance with Section 31-6(a) of this Code. No such permit shall be issued unless the applicant has first filed a bond and insurance required by Section 45-19 in this Article. Such permit shall authorize a vehicle displaying such permit to obstruct streets, alleys or sidewalks where such obstruction meets the following criteria:

(1) No obstruction shall last longer than eight hours, and the permittee shall not obstruct that area or the surrounding 100 feet for at least five days thereafter;

(2) No part of any street or alley shall be obstructed unless one unobstructed lane of traffic at least 12 feet wide is maintained in each direction, and, in the case of sidewalks, at least a five foot width of sidewalk or boulevard shall remain unobstructed for pedestrian passage;

(3) No excavations shall be involved;

(4) The area obstructed shall not exceed 350 square feet, at any location;

(5) No mobile machinery shall be moved onto an obstructed sidewalk;

(6) Only equipment and mobile machinery needed for maintenance purposes may be placed in a street or alley;

(7) All street and alley obstructions must be signed and/or protected by traffic control devices as set forth in the Minnesota manual on uniform traffic control devices and its appendices;

(8) Such permit shall not be valid to permit obstruction of any street, alley or sidewalk within 50 feet of any property owned or controlled by the permit holder or any entity legally related to the permit holder;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(9) The city engineer may impose any other conditions on the permit deemed necessary to protect public safety, including a requirement that the city be notified of street obstructions;

(b) In addition to the permit authorized by this Section, the holder of such permit shall be required to take out permits pursuant to this Article for any obstruction or excavation not meeting the criteria set forth in Subdivision (a) of this Section;

(c) The holder of a permit issued under this Section shall post such permit or a copy thereof on each vehicle using said permit to authorize any applicable obstruction.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: February 14, 2014)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed January 13, 2014
Approved January 13, 2014
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, January 27, 2014, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Larson, Russ and President Krug -- 8

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

14-0127-01 Councilor Patrick Boyle resignation from the office of Second District City Councilor. -- Received

14-0127-13 The following communications regarding the proposed resolution regarding alternatives for the Lakewalk at Water Street from 21st to 23rd avenues East (14-0016R): (a) Alison Clarke; (b) Denny and Jackie Falk; (c) Jerry Kimball; (d) Diane Peterson; (e) Jim Rogers. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Loren Martell commented on the amount of money that is levied by the school district, citing examples which he feels causes them to mask academic problems and continue to operate inefficiently.

- - -

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 Krug 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. 14-0127-02, with the Historic Union Depot, Inc. (Depot), in an amount not to exceed \$176,800, payable from Fund 258, Agency 030, Account 5436-03 (tourism taxes, finance, tourism tax allocation Historic Union Depot).

Resolution 14-0050 was unanimously adopted.

Approved January 27, 2014

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. 14-0127-03, with the Lake Superior Center dba Great Lakes Aquarium, in an amount not to exceed \$350,000, payable from Fund 258, Agency 030, Account 5436-08 (tourism taxes, finance, tourism tax allocation Great Lakes Aquarium).

Resolution 14-0051 was unanimously adopted.

Approved January 27, 2014

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 6, 2014, with Willy McManus, Managing Director.

Resolution 14-0061 was unanimously adopted.

Approved January 27, 2014

DON NESS, Mayor

- - -

RESOLVED, Section 2-176 of the Duluth City Code, 1959, as amended requires that prior to any city-owned property being offered for sale or conveyance the city council shall, by resolution, state its intention to sell or convey such property.

FURTHER RESOLVED, that the Duluth City Council hereby states its intention to offer for sale or conveyance property in the Spirit Valley neighborhood shown on Public Document No. 14-0127-04, legally described as Lot E, Block 39, Hunter & Markells Grassy Point Addition to Duluth, including riparian rights, subject to an easement for public park recreational area purposes, St. Louis County, Minnesota.

Resolution 14-0054 was unanimously adopted.

Approved January 27, 2014

DON NESS, Mayor

- - -

RESOLVED, that Contract 21698 with MSA Professional Services, Inc., for construction administration and inspection for flood 2012 various locations be amended to increase the amount by \$31,052 for a new total of \$281,052. This increase is due to increased damage at flood sites identified after the 2012 flood, and is payable from Disaster Recovery Fund 225, Department/Agency 125 (finance), Organization 1803 (roads and bridges), Object 5303 (engineering services), City Project 1144/1167.

Resolution 14-0044 was unanimously adopted.

Approved January 27, 2014

DON NESS, Mayor

- - -

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. 14-0127-05, with St. Louis County pursuant to a 2012 Operation Stonegarden grant 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 July 1, 2013, through August 31, 2014.

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 \$40,628.32, funds to be deposited in Fund Number 215-200-2297-4210-02 (Duluth police grant programs, police, 2012 Operation Stonegarden).

Resolution 14-0026 was unanimously adopted.

Approved January 27, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a grant from the Duluth Superior Area Community Foundation in the total amount of \$24,000 to support the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Duluth police department mounted patrol, and to execute a grant agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 14-0127-06, funds to be deposited in Fund 210-030-3135-4270 (special projects, finance, mounted patrol, other grants).

Resolution 14-0048 was unanimously adopted.

Approved January 27, 2014

DON NESS, Mayor

- - -

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 2014 in the amount of \$17,293.75, said agreement to be substantially in the form of Public Document No. 14-0127-07 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 14-0055 was unanimously adopted.

Approved January 27, 2014

DON NESS, Mayor

- - -

The following resolutions were also considered:

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. 14-0127-08, with Duluth Sister Cities International, Inc. (DSCI), in an amount not to exceed \$30,000, payable from Fund 258, Agency 030, Account 5436-05 (tourism taxes, finance, tourism tax allocation sister cities).

Resolution 14-0049 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved January 27, 2014

DON NESS, Mayor

- - -

RESOLVED, that the city council hereby approves the 2014 budget and cost sharing formula for the Minneapolis-Duluth/Superior passenger rail, a copy of which is on file in the office of the city clerk as Public Document No. 14-0127-09, 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 2014 budget in the amount of \$12,500 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 rail alliance 5436-09.

Resolution 14-0058 was adopted upon the following vote:

Yeas: Councilors Filipovich, Gardner, Hanson, Larson, Russ and President Krug -- 6

Nays: Councilors Fosle and Julsrud -- 2

Approved January 27, 2014

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Suit, LLC, substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0127-10, for office space layout, design and coordination services in the phase one remodeling of Duluth City Hall, first floor and part of fourth floor, in accordance with city-approved plans and specifications, and the consultant's proposal of \$45,000, dated December 15, 2013, terms net 30, payable from the Capital Improvements Fund 450, Department/Agency 025 (Stimulus Act ARRA), Object 5520 (buildings and structures), Project CP2009-0929b, 2009 capital projects, City Hall remodeling.

Resolution 14-0056 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved January 27, 2014

DON NESS, Mayor

- - -

Resolution 14-0059, by Councilor Gardner, establishing a procedure for selecting a candidate to fill the vacancy of the Second District Council Seat of Patrick Boyle, was introduced for discussion.

Councilor Gardner moved to amend subparagraph (b) of the resolution to read as follows:

“(b) The city council shall conduct interviews with applicants on February 6, 2014, at 5:00 p.m. in the City Council Chamber. Following the interviews each councilor shall rank their top three candidates with #1 receiving three points, #2 receiving two points and #3 receiving one point. Councilors will submit their selections to the city clerk no later than 2:00 p.m. on February 7, 2014. The city clerk will then rank the councilor selections from one to three based on points received. At a special council meeting at 5:00 p.m. on February 10, 2014, the city council shall conduct interviews with the top three candidates. The top three candidates will then be voted on by the council and the candidate receiving a majority vote shall be appointed to the vacant Second District seat;”
which motion was seconded and unanimously carried.

Resolution 14-0059, as amended, was adopted as follows:

BY COUNCILOR GARDNER:

RESOLVED, that the city council desires to establish a procedure for selecting a candidate for the Second District council seat previously held by Patrick Boyle as follows:

(a) Candidate applications shall be immediately available in the city clerk's office and must be submitted to the city clerk by 4:30 p.m. on January 31, 2014;

(b) The city council shall conduct interviews with applicants on February 6, 2014, at 5:00 p.m. in the City Council Chamber. Following the interviews each councilor shall rank their top three candidates with #1 receiving three points, #2 receiving two points and #3 receiving one point. Councilors will submit their selections to the city clerk no later than 2:00 p.m. on February 7, 2014. The city clerk will then rank the councilor selections from one to three based on points received. At a special council meeting at 5:00 p.m. on February 10, 2014, the city council shall conduct interviews with the top three candidates. The top three candidates will then be voted on by the council and the candidate receiving a majority vote shall be appointed to the vacant Second District seat;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(c) If in the event the council president determines that the council is not able to agree upon a candidate using the process described above, the council shall proceed to ranked choice voting to select a winner.

Resolution 14-0059, as amended, was unanimously adopted.

Approved January 27, 2014

DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council hereby grants Stacey Dimberio an interim use permit to operate a dance studio and arts center (“personal service and repair, small - less than 10,000 sq. ft.” on Table 50-19.8 in the Duluth City Code) located at 819 North 18th Avenue East and as described by the following:

Lots 13, 14, 15 and 16, Block 4, Park Drive Division; Lot 16, Block 3, Park Drive Division; and Lot 16, Block 28, Highland Park Addition to Duluth; 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) Section 50-20.7 of the Duluth City Code allows for adaptive reuse of local historic landmarks under the interim use permit process; and

(d) This property is under consideration as a local historic landmark and has a preservation plan approved by the heritage preservation commission; and

(e) Applicant held a neighborhood meeting on November 17, 2013; and

(f) 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

(g) The interim use permit shall remain in effect for up to ten years following the effective date of this resolution; and

(h) Pursuant to Section 50-20.7 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 13-163); the commission gave due notice of public hearing and considered the application during a public hearing occurring on January 14, 2014; and

(i) The city planning commission, at their regular meeting on January 14, 2014, considered the application’s consistency with the use specific standards for adaptive reuse and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for a dance and arts center (“personal service and repair, small”) 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) Property be designated as a local historic landmark and follow the approved preservation plan. No expansion to the building shall be allowed; and

(b) The interim use permit be in effect for a period of ten years. Applicant may apply for a subsequent interim use permit at the end of that time; and

(c) The facility will not be open before 6:00 a.m. or after 10:00 p.m.; and

(d) 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 approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(e) If either of the parking lots (adjacent to the church and across 18th Avenue East) is rebuilt or reconstructed, such lots must conform to all applicable UDC standards; and

(f) Applicant agrees that:

(1) Approval of the permit will not result in increased costs to the city if the property is later acquired by the city through eminent domain; and

(2) The use will be terminated at the applicant's expense on the date(s) stated in the permit; and

(3) The termination of the interim use as stated in the permit will create no rights to a nonconforming use and no rights to compensation for termination of the use or for the value of any structures or improvements related to the use.

Resolution 14-0057 was unanimously adopted.

Approved January 27, 2014

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCE

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR RUSS

14-003 (10276) - AN ORDINANCE DESIGNATING THE FORMER CHESTER PARK UNITED METHODIST CHURCH, 819 NORTH 18TH AVENUE EAST, AS A DULUTH HERITAGE PRESERVATION LANDMARK.

At this time Councilor Russ moved to suspend the rules to consider the ordinance, which motion was seconded and unanimously carried.

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

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MOTIONS AND RESOLUTIONS

Resolution 14-0016, authorizing application to the Minnesota department of transportation for the transportation alternatives program for Water Street from 21st to 23rd avenues East, was introduced by Councilor Filipovich for discussion.

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

Alison Clarke, Carol Burns, Judy Gordon and Will Munger commented at length on: the history of this issue; questioning the intent of where the Lakewalk will go eastwardly at 20th Avenue East; how it would be paid for; concern for safety and the need for a comprehensive review of this missing link of the project.

Councilors discussed at great length: the option of tabling the resolution; that safety must be considered; the 2007 resolution option number four and that concurrent work also needs to be done in the front area near the lake;.

Chief Administrative Officer David Montgomery reviewed the deadlines and possible future grants and that the community discussions could still continue.

Councilor Fosle reviewed the content of the 2007 and 2008 resolutions and expressed concern as to what was agreed upon at that time.

Councilor Hanson moved to amend the resolution by adding the following:

"FURTHER RESOLVED, that the city council reaffirms previously passed resolutions 07-0446 and 08-0171 and further expresses a commitment to concurrently

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

undertake efforts to seek public input and find solutions for completion of the Lakewalk between 20th and 25th avenues East,” which motion was seconded and discussed.

The amendment carried as follows:

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

Nays: Councilor Fosle – 1

Resolution 14-0016, as amended, was adopted as follows:

THE CITY COUNCIL FINDS:

(a) That the city of Duluth is undertaking a project to construct the Lakewalk on Water Street between 21st Avenue East and 23rd Avenue East in 2017;

(b) The estimated cost for design and construction of this portion of the Lakewalk is \$312,942. Federal transportation alternative funds are currently programmed for construction in 2017. 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;

(c) To receive this money, the city must submit the transportation alternative application to the Arrowhead regional development commission.

RESOLVED, that the proper city officials are hereby authorized to submit an application to the Minnesota department of transportation for funding of the Lakewalk on Water Street 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 \$185,447, and is available on an 80 percent/20 percent local matching basis 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, Minnesota 55802.

FURTHER RESOLVED, that the city council reaffirms previously passed Resolutions 07-0446 and 08-0171 and further expresses a commitment to concurrently undertake efforts to seek public input and find solutions for completion of the Lakewalk between 20th and 25th avenues East.

Resolution 14-0016, as amended, was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved January 27, 2014

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

RESOLVED, that Resolution 13-0593 adopting license, permit, fine, penalty and other charges for 2014, be amended by amending the miscellaneous permit - occupy or obstruct street or sidewalk - base fees per day per square foot of area, effective immediately.

Public Works & Utilities		
Fee Name	Previous Fee	New 2014 Fee
Occupy or obstruct street or sidewalk - base fee per day per square foot of area (Downtown)	\$.13 per day	\$.0043 per day
Occupy or obstruct street or sidewalk - base fee per day per square foot of area (residential)	\$.07 per day	\$.0023 per day

Resolution 14-0047 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1
 Approved January 27, 2014
 DON NESS, Mayor

- - -

Resolution 14-0052, authorizing the 2012 Road and Bridge Disaster Relief Bond Grant 03787 and accepting a grant from the Minnesota state transportation fund for engineering and construction of Bridge No. 88547 located below the Duluth Armory building in the amount of \$319,537.20, was introduced by Councilor Filipovich.

Councilor Fosle expressed concerns that this is being called a bridge versus a culvert.
 Resolution 14-0052 was adopted as follows:

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 Bridge No. 88547 located below the Duluth Armory building, City Project No. 1226.

FURTHER RESOLVED, that the grant has been approved and that the amount of the grant is \$319,537.20.

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 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project 1226, S.P. 118-193-002, Flood Site No. 536.

Resolution 14-0052 was adopted upon the following vote:

Yeas: Councilors Filipovich, Gardner, Hanson, Larson, Russ and President Krug -- 6
 Nays: Councilors Fosle and Julsrud -- 2
 Approved January 27, 2014
 DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Resolution 14-0053, authorizing joint powers agreement with the state of Minnesota, in an amount not to exceed \$5,000, for the removal and proper disposal of suspected emerald ash borer infested ash trees, was introduced by Councilor Larson.

Councilor Fosle moved to amend the resolution by removing the phrase, "removal and disposal of suspected emerald ash borer infested trees and portions of trees" and inserting the phrase, "sampling of Ash trees during the non-flight season for Emerald Ash Borer, to contribute to a study on detection methods for EAB," which motion was seconded and carried unanimously.

Resolution 14-0053, as amended, was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to execute a joint powers agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 14-0127-11, with the state of Minnesota, department of agriculture for the sampling of ash trees during the non-flight season for emerald ash borer, to contribute to a study on detection methods for EAB through June 30, 2014, and accept reimbursement for said services in an amount not to exceed \$5,000, funds to be deposited in Fund Number 110-121-1217-2145-4654 (general fund — park maintenance).

Resolution 14-0053, as amended, was unanimously adopted.

Approved January 27, 2014

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR FILIPOVICH

14-006 - AN ORDINANCE AUTHORIZING PAYING FOR GAS SERVICE EXTENSIONS WITH TWO-TIER RATE, AMENDING SECTION 48-214 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

INTRODUCED BY COUNCILOR FOSLE

14-005 - AN ORDINANCE AMENDING SECTION 24-37 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING ABATEMENT OF NUISANCES OR HEALTH HAZARDS.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR JULSRUD

14-002 (10274) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$5,745,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL WATER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

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

- - -

INTRODUCED BY COUNCILOR JULSRUD

14-004 (10275) - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR YEAR 2013 BY INCREASING THE BUDGET AND APPROPRIATING MONIES FOR

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

THE PAYMENT OF SUCH INCREASE AND REDISTRIBUTING APPROVED 2013 APPROPRIATION.

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

- - -

INTRODUCED BY CONCILOR FILIPOVICH

14-001 (10277) - AN ORDINANCE CHANGING MONTHS FOR SPRINKLING CREDIT TO MAY THROUGH SEPTEMBER, AMENDING SECTION 43-9 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

The meeting was adjourned at 8:35 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10274

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$5,745,000 GENERAL OBLIGATION REVENUE BONDS OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL WATER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

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, Section 444.075 and Chapter 475 of Minnesota Statutes and other pertinent provisions of said Charter and Statutes, the city is authorized to issue its general obligation bonds to provide funds for the improvement of the municipal water utility plant, which bonds shall be a specific lien upon such plant and are payable primarily from net revenues, as hereinafter defined, to be derived from operation of the municipal water utility pledged for their payment. The city has applied for and received a commitment from the Minnesota Public Facilities Authority (the "Authority") for a loan for the improvements to the water utility system consisting of the West Duluth Reservoir Reconstruction Project (the "Project") as identified in the city's application to the Authority.

1.02 The city council hereby determines that it is in the best interest of the city and it is necessary to improve the municipal water utility through the Project, and determines that it is necessary to issue general obligation water utility revenue bonds or a note in the amount of \$5,745,000 for the purpose of paying costs of the Project.

1.03 The city has heretofore issued and sold the following: general obligation water utility revenue note dated August 25, 2003, now outstanding in the amount of \$336,340; general obligation water utility revenue note dated July 23, 2004, now outstanding in the amount of \$752,000; general obligation utilities revenue bonds dated December 19, 2006, the water utility portion of such bonds now outstanding in the amount of \$750,000; 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 \$395,000; general obligation utilities revenue bonds dated February 19, 2009, the water utility portion of such

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

bonds now outstanding in the amount of \$152,000; general obligation water utility revenue note dated November 23, 2009, now outstanding in the amount of \$1,016,000; general obligation water utility revenue note dated September 14, 2010, now outstanding in the amount of \$1,118,000; general obligation utilities revenue refunding bonds dated November 23, 2010, the water utility portion of such bonds now outstanding in the amount of \$1,191,544; general obligation water utility revenue note dated December 14, 2010, now outstanding in the amount of \$2,793,000; and general obligation water utility revenue note dated November 29, 2011, now outstanding in the amount of \$1,480,000. Under the provisions of the ordinances authorizing said bonds and notes, 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, and November 29, 2011.

1.04 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation water utility revenue bonds or a note of the city of Duluth in the amount of \$5,745,000, and pledges the full faith and credit and taxing powers of the city irrevocably for the payment of the principal and interest when due on such bonds, and also pledges and appropriates irrevocably, to the amounts required for the payment of the principal and interest on the bonds and the maintenance of a reserve, any and all net revenues to be derived from time to time from the operation of the municipal water utility. Net revenues are defined as sums from time to time within the water utility operating account within the water utility fund maintained under Section 54 of the City Charter, in excess of sums required 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 water utility and to maintain such reasonable reserves for such expenses as the director of public works and utilities shall determine to be necessary from time to time in accordance with the policies established by the city council.

1.05 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.

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 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 this 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 all facilities of the municipal water utility at the times and amounts required to pay the normal, reasonable and current operating expenses and to maintain the municipal water utility and also produce net revenues at least adequate at all times to pay the principal and interest due on the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

bonds issued hereunder and on all other bonds heretofore and 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. CERTIFICATE OF PROCEEDINGS.

4.01 The city clerk is directed to file with the county auditor of St. Louis County a certified copy of this ordinance, and such other information as the county 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 action 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: March 2, 2014)

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

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

Nays: None -- 0

Passed January 27, 2014
Approved January 27, 2014
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10275

AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR YEAR 2013 BY INCREASING THE BUDGET AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE AND REDISTRIBUTING APPROVED 2013 APPROPRIATION.

The city of Duluth does ordain:

Section 1. That Ordinance 10195 passed and approved December 17, 2012, is hereby amended by appropriating an additional \$800,000 from the general fund's unassigned fund balance as follows:

Department 121 - public administration \$800,000

Section 2. That this ordinance shall also redistribute the approved 2013 appropriation as follows:

Department 135 – business and economic development (\$100,000)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Department 150 – fire	\$200,000
Department 160 – police	\$300,000
Department 700 – transfers and other functions	(\$400,000)

Section 3. That this ordinance shall take effect immediately upon its passage.
(Effective date: January 27, 2014)

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

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

Nays: None -- 0

Passed January 27, 2014
Approved January 27, 2014
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10276

AN ORDINANCE DESIGNATING THE FORMER CHESTER PARK UNITED METHODIST CHURCH, 819 NORTH 18TH AVENUE EAST, AS A DULUTH HERITAGE PRESERVATION LANDMARK.

The city of Duluth does ordain:

Section 1. Under the authority of Section 50-37.8 of the Duluth Legislative Code, 1959, as amended, the city of Duluth does designate the former Chester Park United Methodist Church, 819 North 18th Avenue East, as a Duluth heritage preservation landmark (PL13-123); said landmark is described in Public Document No. 14-0127-12 on file with the city clerk and is described as follows:

The south, north and east exterior building facades; entrance stairways, walks, approaches and grounds on the south, north, east and west sides of the building; and the stained glass windows in the sanctuary of the property at 819 North 18th Avenue East, more particularly described as Lots 13-16, Block 4, Park Drive Division (010-3720-00520).

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: March 2, 2014)

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

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

Nays: None -- 0

Passed January 27, 2014
Approved January 27, 2014
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

ORDINANCE NO. 10277

AN ORDINANCE CHANGING MONTHS FOR SPRINKLING CREDIT TO MAY THROUGH SEPTEMBER, AMENDING SECTION 43-9 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 43-9 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 43-9. Allowance for outdoor use--conditions.

During the months of May through September, the amount of wastewater determined to be discharged by a user shall be reduced by the amount of water determined to be used during such months in such manner that it does not enter the sanitary sewer system; provided, that such reduction shall not exceed the difference between the actual water consumption during each such month and the average of water consumption as determined for the immediately preceding months of October through March. The director of public works and utilities of the city is hereby authorized to promulgate regulations not inconsistent with the provisions of this Section, which regulations shall be published in the official newspaper of the city ten days prior to going into effect and shall be available for examination and copying at the office of public works and utilities department during normal business hours.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: March 2, 2014)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed January 27, 2014
Approved January 27, 2014
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, February 10, 2014, 5:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Larson, Russ and President Krug -- 8

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

14-0210-21 The following communications regarding the proposed resolution to fill the vacancy of the second district council seat (14-0060R): (a) Sarah LaChance Adams; (b) Darrell Anderson; (c) Gary Anderson; (d) Justin Anderson; (e) Yasmina Antcliff; (f) Audra Connell; (g) Mike Kuitu; (h) Gimiwon Nahgahub; (i) Michael Niemi; (j) Kristine Osbakken; (k) Carolyn Sheets; (l) Lara Simpson; (m) Scott Wallace. -- Received

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MOTIONS AND RESOLUTIONS

Resolution 14-0060, by Councilor Garner, appointing _____ to fill the vacancy of the second district city council seat, was introduced.

At this time the council interviewed Kathleen Heltzer, Angie Miller and Joel Sipress, Kathleen Heltzer, candidates for the second district council seat.

President Krug reviewed that the balloting would start with up to four ballots, if needed, to secure one candidate with a simple majority vote. If not, the next ballot would be a ranked choice voting ballot with all of the candidates.

Ballots were distributed and tabulated as follows:

Ballot one:

Heltzer -- Councilors Larson, Russ and President Krug -- 3

Miller -- Councilor Julsrud -- 1

Sipress -- Councilors Filipovich, Fosle, Gardner and Hanson -- 4

Ballots two, three and four:

Heltzer -- Councilors Julsrud, Larson, Russ and President Krug -- 4

Sipress -- Councilors Filipovich, Fosle, Gardner and Hanson -- 4

President Krug announced that due to the lack of no one candidate receiving a majority vote, the next ballot would be by ranked choice voting.

The ballot results are as follows, listed in ranked order:

Councilor Filipovich: Sipress, Miller, Heltzer

Councilor Fosle: Sipress

Councilor Gardner: Sipress, Miller, Heltzer

Councilor Hanson: Sipress

Councilor Julsrud: Heltzer

Councilor Larson: Heltzer, Miller, Sipress

Councilor Russ: Heltzer, Miller, Sipress

President Krug: Heltzer, Miller, Sipress

A second ranked choice ballot was taken with the results as follows, listed in ranked order:

Councilor Filipovich: Sipress, Miller, Heltzer

Councilor Fosle: Sipress

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Councilor Gardner: Sipress, Miller, Heltzer
Councilor Hanson: Sipress, Miller, Heltzer
Councilor Julsud: Heltzer, Miller, Sipress
Councilor Larson: Heltzer, Miller, Sipress
Councilor Russ: Heltzer, Miller, Sipress
President Krug: Heltzer, Miller, Sipress

- - -

At this time, 6:18 p.m., due to the time constraints of another committee meeting that was scheduled before the regular council meeting, Councilor Gardner moved to temporarily adjourn the special council meeting so that the city attorney and city clerk could review the results of the vote and determine if there was a winner, which motion was seconded and unanimously carried.

- - -

At this time, 7:11 p.m., the special council meeting was resumed.

City Clerk Jeffrey Cox reviewed the tabulation results of the last ranked choice vote, noting that the city attorney and himself had reviewed them with a representative of ranked choice voting, and that it has been determined that Joel Sipress is the highest vote getter by looking at highest number of third place votes, given that neither of the highest two vote getters had received any second place choices.

Councilor Gardner moved to amend the resolution, by inserting the name "Joel Sipress" into the blanks, which motion was seconded and unanimously carried.

Resolution 14-0060, as amended, was adopted as follows:

BY COUNCILOR GARDNER:

WHEREAS, Second District City Councilor Patrick Boyle resigned his city council seat on January 16, 2014; and

WHEREAS, the Duluth City Charter requires the city council to fill a vacancy in a city council seat by appointment of an eligible person to serve until the next municipal election.

THEREFORE, BE IT RESOLVED, that the city council hereby appoints Joel Sipress to fill the vacant second district city council seat effective February 10, 2014.

Resolution 14-0060, as amended, was unanimously adopted.

Approved February 10, 2014, pursuant to Section 12 of the Duluth City Charter.

- - -

Joel Sipress was sworn in as Second District Councilor for a term ending January 4, 2016.

- - -

The meeting was adjourned at 7:18 p.m.

JEFFREY J. COX, City Clerk

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, February 10, 2014, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Larson, Russ,

Sipress and President Krug -- 9

Absent: None -- 0

- - -

REPORTS OF BOARDS AND COMMISSIONS

14-0210-01 Civil service board minutes of November 5, 2013, meeting. -- Received

14-0210-02 Duluth citizen review board minutes of December 17, 2013, meeting. -- Received

14-0210-03 Duluth economic development authority minutes of December 18, 2013, meeting. -- Received

14-0210-04 Duluth public utilities commission minutes of December 17, 2013, meeting. -- Received

14-0210-05 Duluth transit authority: (a) Minutes of: (1) October 30; (2) November 26, 2013, meetings; (b) Financial statements of: (1) October; (2) November 2013. -- Received

14-0210-06 Library board minutes of November 26, 2013, meeting. -- Received

14-0210-07 Spirit Mountain recreation area authority minutes of December 19, 2013, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Alison Clarke expressed concerns about: the obligation to construct the section of the Lakewalk on the area around 21st Avenue East; the source of how to pay for it; developers at this area and what they want and compromises that the city and developers could agree to.

- - -

Loren Martell noted that: the primary reason for the school district's fiscal troubles is lost state aid due to a large drop in student enrollment and parents are enrolling their students in neighboring districts and charter schools.

- - -

At this time, 7:11 p.m., Councilor Larson moved to suspend the rules to adjourn this meeting and return to the previously adjourned special meeting, which motion was seconded and unanimously carried.

- - -

At this time, 7:18 p.m., the regular council meeting was resumed.

- - -

Jason Lindelof commented on his problems associated with securing building permits to stay demolition due to a fire, and the building division requirement of having him put together a business plan.

- - -

Patrick Boyle, former second district councilor, noted that his time on the council was one of the most rewarding jobs that he has had and appreciated all the good work the administration and council accomplished.

- - -

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

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 Minnesota Statutes, Chapter 475 and the Home Rule Charter of the city, the city previously issued its \$310,000 general obligation tax abatement bonds, Series 2005E, dated October 6, 2005, (the "2005 bonds"). The 2005 bonds were issued to finance acquisition of property for the extension of the city's Lakewalk.

Section 2. The 2005 bonds are substantially in the form prescribed by Resolution 05-0634 duly adopted by the council on September 22, 2005, (hereinafter referred to as the "2005 bond resolution").

Section 3. The council hereby determines that it is necessary and desirable in order to reduce debt service costs to the city, that the city redeem and prepay the 2005 bonds maturing on and after February 1, 2015, (the "redeemed bonds"), of which \$210,000 in principal amount is outstanding and is hereby called for prepayment and redemption on February 19, 2014, (the "redemption date").

Section 4. (a) Funds previously deposited in the debt service account in the amount of \$240,195.25 shall be segregated and shall constitute a separate trust fund to be used for no purpose other than the payment of the principal of the 2005 bonds maturing on February 1, 2014, interest on the 2005 bonds due on February 1, 2014, interest due on the redeemed bonds on the redemption date, and the principal of the redeemed bonds called for prepayment and redemption on the redemption date.

(b) It is hereby found and determined that the funds on deposit in the debt service account in the amount of \$240,195.25 will be sufficient to pay the principal of the 2005 bonds maturing on February 1, 2014, (\$25,000), the interest on the 2005 bonds maturing on February 1, 2014, (\$4,765), interest on the redeemed bonds to the redemption date (\$430.25), and the outstanding principal of the redeemed bonds (\$210,000) on the redemption date.

(c) Upon redemption of the redeemed bonds on the redemption date, the debt service account shall be terminated.

Section 5. The redeemed bonds shall be redeemed and prepaid in accordance with their terms and in accordance with the terms and conditions set forth in the form of notice of call for redemption on file with the city clerk as Public Document No. 14-0210-08, which terms and conditions are hereby approved and incorporated herein by reference. The city clerk or his designee is hereby authorized and directed to send written notice of call for redemption to Wells Fargo Bank, National Association, as bond registrar and paying agent for the 2005 bonds, so that the bond registrar can provide the notice of call for redemption to the bond holders at least 35 days prior to the redemption date.

Resolution 14-0033 was unanimously adopted.

Approved February 10, 2014

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota (the “city”), as follows:

Section 1. Note purpose and authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Minnesota Statutes, Section 444.075 and Chapter 475, and other pertinent provisions of said Charter and statutes, the City is authorized to issue its general obligation bonds or notes to provide funds for the payment of costs of improvements to the municipal water utility, which bonds or notes shall be a specific lien upon the water utility and are payable primarily from net revenues to be derived from the operation of the municipal water utility and pledged for their payment. The city has applied for and received a commitment from the Minnesota public facilities authority (the “PFA”) for a loan for the project, as hereinafter defined.

1.02 The city council has, by Ordinance No. 10274 adopted January 27, 2014, (the “ordinance”), ordered the issuance, sale and delivery of a general obligation water utility revenue note, in one or more series, in the amount of \$5,745,000 of the city, for the payment of improvements to the water utility system, consisting of the West Duluth Reservoir Reconstruction Project (the “project”).

1.03 The general obligation water utility revenue note to be issued under the ordinance shall be issued in the principal amount of \$5,108,910 (the “note”) to pay the costs of the project.

1.04 The city hereby authorizes the issuance and sale of the note, in substantially the form on file in the office of the clerk as Public Document No. 14-0210-09, for the project to the PFA pursuant to a Minnesota Public Facilities Authority Bond Purchase and Project Loan Agreement dated January 27, 2014, between the PFA and the city, in substantially the form presented to the council and on file in the office of the clerk (the “loan agreement”), as Public Document No. 14-0210-09 which is hereby authorized, ratified and approved.

Section 2. Execution and delivery of note and loan agreement.

2.01 The note to be issued hereunder shall be dated as of the date of delivery to PFA, shall be issued in the principal amount of \$5,108,910, in fully registered form and lettered and numbered R-1. Interest on the note shall be at the rate of 1.0% per annum. Principal and interest payments shall be made in the respective years and amounts set forth on Exhibit A to the note, subject to adjustment as provided in the loan agreement. If the principal and interest payments are paid by check and mailed to the registered holder of the note, such payment shall be mailed by the city at least five business days prior to the payment date.

2.02 The note shall be prepared for execution in accordance with the approved form and shall be signed by the manual signature of the mayor and attested by the manual signature of the clerk. In case any officer whose signature shall appear on the note shall cease to be an officer before delivery of the note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery. All actions of the officers of the city regarding the loan agreement, including but not limited to, the officers of the city executing the loan agreement, are ratified, confirmed and approved as of the date of the loan agreement.

2.03. The city will cause to be kept at its offices a register in which, subject to such reasonable regulations as the city may prescribe, the city shall provide for the registration of transfers of ownership of the note. The note shall be initially registered in the name of the PFA and shall be transferable upon the register by the PFA in person or by its agent duly authorized in writing, upon surrender of the note, together with a written instrument of transfer satisfactory to the clerk, duly executed by the PFA or its duly authorized agent.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

2.04. Delivery of the note shall be made at a place mutually satisfactory to the city and the PFA. The note shall be furnished by the city without cost to the PFA. The note, when prepared in accordance with this resolution and executed, shall be delivered to the PFA by and under the direction of the treasurer. Disbursement of the proceeds of the note shall be made pursuant to the loan agreement.

2.05. In the event of an inconsistency between a provision of this resolution and a provision of the loan agreement, the provision of the loan agreement shall govern.

Section 3. Revenues, accounts and covenants.

3.01 The city council covenants and agrees with the PFA 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 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 note and on all other bonds and notes heretofore or hereafter issued and made payable from said net revenues, and will operate the 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 water utility in a separate water utility operating account within the public utility water 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 water utility, and to maintain such reasonable reserves for such expenses as the proper city official 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 water utility bonds or notes when due.

3.02 The city hereby creates a separate construction account (the "construction account") within the public utility water fund to which there shall be credited the proceeds of the note as received, together with investment income thereon and any additional funds which may be available and are appropriated for improvements to 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 the project and costs of the issuance of the note.

3.03 Until the note issued hereunder is fully paid or duly called for redemption, or otherwise discharged, the city will also maintain a separate debt service account (the "water debt service fund") in the public utility water fund to be used solely for the payment of the principal and interest, as such principal and interest become due and payable, on the note and on any other bonds or notes which have been or may be issued and made payable from said net revenues of the water utility. All investment income on funds in the water debt service fund are pledged to payment of the note and other bonds and notes payable from the water debt service fund. The treasurer shall transfer from the water utility operating account to the water debt service fund amounts of the net revenues sufficient for the payment of all interest and principal then due on the note and other bonds and notes payable from the water debt service fund. 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

3.04 Surplus utility revenues from time to time received in the water utility operating account, in excess of payments due from and reserves required to be maintained in the water utility operating account and in the water debt service fund, may be used for necessary capital expenditures for the improvement of the municipal water utility, for the prepayment and redemption of bonds or notes constituting a lien on the municipal water utility, and for any other proper municipal purpose consistent with policies established by resolutions of the city council.

3.05 A. In the event the monies and payments appropriated to the water debt service fund are insufficient to pay principal of and interest on the note and the bonds and notes payable from such fund as the same become due, the city is required by law and by contract with the holders of the note and such bonds and notes and hereby obligates itself to levy and cause to be extended, assessed and collected any additional taxes found necessary for full payment of the principal of and interest on the note.

B. The full faith and credit and taxing powers of the city are irrevocably pledged for the prompt and full payment of the principal of and interest on the note, as such principal and interest respectively become due. However, the net revenues of the water utility appropriated to the water debt service fund are estimated to be not less than 5% in excess of the principal of and interest on the note and the other bonds and notes payable from such fund, and accordingly, no tax is levied at this time.

3.06 Monies on deposit in the construction account and the water debt service fund may, at the discretion of the city, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investments shall mature at such times and in such amounts as will permit payment of the project costs and/or the principal and interest on the note and bonds or notes payable from the water debt service fund when due, as applicable.

Section 4. Tax covenants; miscellaneous.

4.01 The city council covenants and agrees with the holders of the note that the city will (i) take all action on its part necessary to cause the interest on the note to be exempt from federal income taxes including, without limitation, restricting, to the extent necessary, the yield on investments made with the proceeds of the note 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 note to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the note and investment earnings thereon on certain specified purposes.

4.02 A. No portion of the proceeds of the note 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 note was issued, and (ii) in addition to the above, in an amount not greater than the lesser of 5% of the proceeds of the note or \$100,000. To this effect, any proceeds of the note and any sums from time to time held in the water debt service fund (or any other city account which will be used to pay principal and interest to become due on the note) 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 or minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the note and money in the water 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

would cause the note to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1996, as amended (the "code").

C. The city hereby covenants not to use the proceeds of the note, or to cause or permit them to be used, in such a manner as to cause the note to be a "private activity bond" 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 reasonably expects that with respect to the gross proceeds of the note, the following schedule will be met: (i) at least 15% of the gross proceeds of the note will be allocated to expenditures for the governmental purpose of the note within six months of the date of issue of the note; (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 note, and that 100% of the available proceeds of the note will be allocated within 30 months from the date of issue of the note.

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.

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 from the county auditor a certificate stating that the note herein authorized has been duly entered on his register.

5.02 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 note and other affidavits and certificates as may reasonably be requested to show the facts relating to the legality and marketability of the note 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.

Resolution 14-0083 was unanimously adopted.

Approved February 10, 2014

DON NESS, Mayor

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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
Confidence Learning Center	VFW Post 137, 2023 West Michigan Street

Resolution 14-0063 was unanimously adopted.

Approved February 10, 2014

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 Rotary Club of Duluth

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Harbortown Minnesota USA, Inc., 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 14-0064 was unanimously adopted.

Approved February 10, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with CR-Building Performance Specialist, Inc., substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0210-10, for professional services in the implementation of a citywide asset management system for an amount not to exceed \$75,000, in accordance with city-approved plans and specifications, and the consultant's proposal of \$75,000, dated January 2, 2014, payable as follows:

(a) \$25,000 from Energy Management Fund 257, Department/Agency 015 (public administration), Object 5461 (energy efficiency projects); and

(b) \$50,000 from Capital Equipment Fund 250, Department/Agency 015 (public administration), Division 2014 (fiscal year), Object 5580 (capital equipment); Project No. CE250-E1410.

Resolution 14-0070 was unanimously adopted.

Approved February 10, 2014

DON NESS, Mayor

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RESOLVED, that city officials are hereby authorized to contract with Astleford International Trucks for the purchase and delivery of two (2015) International Model 7500 4x2 single axle cab and chassis units for fleet services in accordance with Minnesota State Contract 60983, Release T-647(5), specifications and pricing for a total of \$178,473.90; plus \$11,600.80 vehicle sales tax (6-1/2 percent); plus \$350 license, registration, and tax-exempt plates and transit fees, for a combined total amount of \$190,424.70, terms net 30, FOB destination, payable from Capital Equipment Fund 250, Department/Agency 015 (public administration), Cost Center 2014 (fiscal year-2014), Object 5580 (capital equipment), Project CE250-V1404.

Resolution 14-0074 was unanimously adopted.

Approved February 10, 2014

DON NESS, Mayor

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BE IT RESOLVED, that the Duluth City Council issues the following on sale Sunday intoxicating liquor license for the period ending August 31, 2014, subject to departmental approvals and the payment of sales and property taxes:

Dubh Linn, Inc. (Dubh Linn Irish Brew Pub), 109 West Superior Street, with Mike Maxim, Manager.

Resolution 14-0079 was unanimously adopted.

Approved February 10, 2014

DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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, subject to departmental approvals and the payment of sales and property taxes:

Lyric Block Development Corp. (Market), 200 West First Street.

Resolution 14-0080 was unanimously adopted.

Approved February 10, 2014

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 Lake Superior Lawmen Hockey - 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 14-0081 was unanimously adopted.

Approved February 10, 2014

DON NESS, Mayor

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RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of seasonal groundskeeper, which were approved by the civil service board on February 4, 2014, and which are filed with the city clerk as Public Document No. 14-0210-11, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 14a, \$1,824 to \$2,094 per month.

Resolution 14-0084 was unanimously adopted.

Approved February 10, 2014

DON NESS, Mayor

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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. 14-0210-12, pursuant to which certain DEDA property will be insured under the city's property and boiler insurance policies for the period from February 16, 2014 to February 16, 2015, and for which DEDA shall reimburse the city in an amount not to exceed \$16,000, to be deposited in Fund 610 (self insurance liabilities fund), Agency 036 (insurance accounts), Organization 1656 (insurance DEDA), Object 4904 (liability insurance charges).

Resolution 14-0067 was unanimously adopted.

Approved February 10, 2014

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 new zoning regulations, has studied how zoning could encourage new

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

and appropriate development along major transit lines, encourage the reuse of previously developed lands and the adaptive reuse of existing building stock; and

(c) The city planning division held a public meeting on November 25, 2013, on the proposed amendment to the comprehensive land use plan - future land use map, to discuss the opportunities for the future use of the Nettleton School site and to gather feedback from the community; and

(d) Based on public comments received and the review of the area completed by the city planning division, staff recommended to the city planning commission that the future land use map be amended for the Nettleton School site from North First Avenue East to North Second Avenue East between the East Seventh Street Alley and the East Sixth Street Alley, from Institutional to Neighborhood Mixed-Use; and

(e) The city planning commission has reviewed this future land use amendment, conducted a public hearing on January 14, 2014, at their regular planning commission meeting, and recommends city council adoption of the proposed future land use map amendment; and

(f) 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.

IS IT FURTHER RESOLVED, that the adopted comprehensive land use plan - future land use map, is amended as identified in Public Document No. 14-0210-13.

Resolution 14-0072 was unanimously adopted.

Approved February 10, 2014

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 below 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 petitioned easements are useless for all purposes; and

(c) The city planning commission, at its Tuesday, January 14, 2014, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the alley and easements described below and as described and depicted on Public Document No. 14-0210-14:

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 line of North 12th Avenue East; and

Existing 24 foot access easement lying over under and across the southwesterly 24 feet of the northeasterly 28 feet of that portion of the vacated 11th Avenue East lying between Blocks 40 and 39 as platted in the Portland Division of Duluth; and

Existing 20 foot utility easement lying over under and across that portion of the vacated 11th Avenue East lying between Blocks 36 and 37 as platted in the Portland Division of Duluth. Commencing at northeasterly corner of Lot 16, Block 36, said Portland Division of Duluth; thence northeasterly along the northeasterly extension of the northerly line of said Block 36, a distance of 32.86 feet to the point of beginning of the centerline of existing 20 foot utility easement to be vacated; thence deflecting to the right at an angle of 90 degrees 05

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

minutes 08 seconds, a distance of 140.09 feet to the northeast extension of the southerly line of said Block 36 and there terminating;

(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. 14-0210-14, showing the alley and easements to be vacated.

Resolution 14-0075 was unanimously adopted.

Approved February 10, 2014

DON NESS, Mayor

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RESOLVED, Section 2-176 of the Duluth City Code, 1959, as amended requires that prior to any city-owned property being offered for sale or conveyance the city council shall, by resolution, state its intention to sell or convey such property.

FURTHER RESOLVED, that the Duluth City Council hereby states its intention to offer for sale or conveyance property in the Lincoln Park neighborhood legally described and shown on Public Document No. 14-0210-15.

Resolution 14-0076 was unanimously adopted.

Approved February 10, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Rice Lake Construction Group, LLC, for the West Duluth reservoir roof reconstruction in the amount of \$4,394,200, payable from Water Bond Fund 511, Department 500 (public works and utilities), Object 5532 (capital revenue bond), City Project No. 0514WA.

Resolution 14-0065 was unanimously adopted.

Approved February 10, 2014

DON NESS, Mayor

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

(a) That a sufficient petition was filed with the city planning division requesting the vacation of a utility and pedestrian easement described as those portions of previously vacated Eighth Avenue East and previously vacated East 11th Street, subject to the retention of utility and pedestrian easements, all in Lake View Division of Duluth, Minnesota, described as follows:

Beginning at the most southerly corner of Lot 1, Block 30, said LAKE VIEW DIVISION; thence S 48°21'17" E, assumed bearing along the southwesterly line of said Lot 1, a distance of 21.50 feet; thence N 41°37'07" E 150.21 feet; thence S 48°21'24" E 15 feet; thence S 41°37'07" W 150.21 feet; thence S 48°21'17" E 76.81 feet along the northeasterly line of vacated Eighth Avenue East; thence S 41°38'43" W 66 feet to the southwesterly line of said vacated Eighth Avenue East; thence N 48°21'17" W 169.12 feet along the southwesterly line of said Vacated Eighth Avenue E; thence N 53°01'36" E 67.32 feet to the southwesterly line of said Lot 1, Block 30; thence S 48°21'17" E 42.53 feet along the southwesterly line of said Lot 1 to the point of beginning, as described in Exhibit B;

(b) That the city has received a grant of easement, in trust for the general public, from Independent School District 709, as shown on Public Document No. 14-0210-16, legally described as that part of Lots 14, 15, 16, Block 26, that part of Lots 1, 2, 3, Block 30, and that part of vacated East 11th Street, all in Lake View Division of Duluth Minnesota described as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Commencing at the most southerly corner of said Lot 1, Block 30; thence N 48°21'17" W, assumed bearing along the southwesterly line of said Lot 1, a distance of 42.53 feet; thence N 00°23'04" E 3.75 feet along the east line of Kenwood Avenue to the point of beginning of the tract to be described; thence continuing N 00°23'04" E 53.10 feet along the east line of said Kenwood Avenue; thence N 41°37'07" E 65.27 feet; thence S 48°21'17" E 88 feet; thence N 41°37'07" E 42.21 feet; thence S 48°21'17" E 20 feet; thence S 09°11'39" W 50.03 feet; thence S 48°21'17" E 30.93 feet; thence S 11°41'46" W 124.64 feet to the southwesterly line of said Lot 16, Block 26; thence N 48°21'17" W 34.62 feet along the southwesterly line of said Lot 16; thence N 11°41'46" E 84.25 feet; thence N 48°21'17" W 116.28 feet; thence S 41°37'07" W 70.18 feet to the point of beginning, as described in Exhibit A;

(c) The planning commission, at its December 13, 2011, regular meeting, recommended approval of the aforesaid vacation and acceptance of the aforesaid easement;

(d) Resolution 11-0677, approved on December 19, 2011, and Resolution 13-0010, approved on March 11, 2013, addressing said vacation and said dedication, contained errors in the legal descriptions used therein and therefore need to be rescinded.

FURTHER RESOLVED, that the city council of the city of Duluth approves the vacation of the above-referenced utility and pedestrian easement described on the aforesaid Exhibit B and the acceptance of the above described utility and pedestrian easements on behalf of the general public, as described on the aforesaid Exhibit A and as said vacation and dedication are identified on Public Document No. 14-0210-16.

FURTHER RESOLVED, that the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended and 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. 14-0210-16, showing the portions of utility and pedestrian easements to be vacated and the acceptance of dedication of the new easements, all as authorized hereunder.

FURTHER RESOLVED, that Resolution Nos. 11-0677 and 13-0010 are hereby rescinded.

Resolution 14-0066 was unanimously adopted.

Approved February 10, 2014

DON NESS, Mayor

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RESOLVED, that city officials are hereby authorized to contract with Ranger Chevrolet Cadillac Pontiac GMC Buick (Ranger GM) for the purchase and delivery of four 2014 GMC Model TK15753 double-cab pickups with 6'6" box for public works and utilities and engineering in accordance with Minnesota State Contract 70287, Release T-642(5), specifications and pricing for a total of \$102,360.44; plus \$6,653.44 vehicle sales tax (6-1/2 percent); plus \$533 registration fees, titles, and tax-exempt license plates, for a combined total amount of \$109,546.88, terms net 30, FOB destination, payable as follows:

\$27,386.72	Water Fund 510, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5580 (capital equipment);
\$46,557.42	Gas Fund 520, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5580 (capital equipment);
\$24,648.05	Sewer Fund 530, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5580 (capital equipment); and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

\$10,954.69 Stormwater Fund 535, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5580 (capital equipment).

Resolution 14-0069 was unanimously adopted.

Approved February 10, 2014

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 of that on file in the office of the city clerk as Public Document No. 14-0210-17, with St. Louis County to construct sanitary sewer and water system improvements in CSAH 89 (57th Avenue West and Highland Street) from Cody Street to Skyline Parkway, City Project No. 1237, to be paid from the following: \$600,000 from Water Fund 510, Department/Agency 500 (public works and utilities), Organization 1905 (capital), Object 5536 (utility infrastructure improvements), \$350,000 from Sanitary Sewer Fund 530, Department/Agency 500 (public works and utilities), Organization 1905 (capital), Object 5536 (utility infrastructure improvements), and \$5,000 from Gas Fund 520, Department/Agency 500 (public works and utilities), Organization 1905 (capital), Object 5535 (non-capital improvements).

Resolution 14-0071 was unanimously adopted.

Approved February 10, 2014

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 Bridge No. 69K12 located on 63rd Avenue West, City Project No. 1126.

FURTHER RESOLVED, that the grant has been approved and that the amount of the grant is \$203,330.66.

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, on file in the office of the city clerk as Public Document No. 14-0210-18, 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 1126, S.P. 118-103-005, Flood Site No. 29.

Resolution 14-0073 was unanimously adopted.

Approved February 10, 2014

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 Bridge No. 69K13 located on Bristol Street over Keene Creek, City Project No. 1127.

FURTHER RESOLVED, that the grant has been approved and that the amount of the grant is \$663,664.88.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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, a copy of which is on file in the office of the city clerk as Public Document No. 14-0210-19, 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 1127, S.P. 118-080-047, Flood Site No. 29.

Resolution 14-0077 was unanimously adopted.

Approved February 10, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to accept Grant Agreement No. A-SHSP-2013-DULUTHFD-00005 from the Minnesota department of public safety, homeland security and emergency management division, a copy of which agreement is on file in the office of the city clerk as Public Document No. 14-0210-20, in the amount of \$10,000, said funds to be deposited in Fund 210-030-3181-4210-02 (special projects, finance, haz mat emergency preparedness, pass through federal grant) for the purpose of hazardous material response training.

Resolution 14-0062 was unanimously adopted.

Approved February 10, 2014

DON NESS, Mayor

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The following resolution was also considered:

Resolution 14-0082, by councilors Gardner, Julsrud and Larson, of support for raising the state minimum wage, was introduced.

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

John Rathe expressed opposition to the resolution for reasons of: it is not the council's responsibility to take up issues like this, as they have in the past; that persons should individually contact their legislators; minimum wage was intended to be a base minimum wage of pay and businesses are laying off individuals which will increase.

Zack Sias, North East Area Labor Council, expressed support for the resolution for the reasons of: there are 8 to 9 thousand Duluth residents that are currently making \$7.25 an hour or less; by raising the minimum wage to \$9.50 an hour, it would increase the low wage earners income by \$1,300, where it will be spent locally on food and housing.

Councilor Fosle expressed his concerns that this could backfire, causing more poverty and the elderly have a fixed income and the cost for the products that they need would increase.

Resolution 14-0082 was adopted as follows:

BY COUNCILORS GARDNER, JULSRUD AND LARSON:

WHEREAS, in the richest nation on earth, it is simply wrong for anyone who works full time to live in poverty; and

WHEREAS, in Minnesota, 357,000 low-wage workers deserve a raise; they help us raise our children, care for our aging parents, clean our offices, serve our food and more; they help everybody else do their jobs, yet they do not share the prosperity they help create; their professions have been undervalued for far too long and it's time to make their hard work pay; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

WHEREAS, full-time wages for someone earning \$7.25 an hour come to only \$15,080 a year and that is not enough to meet basic needs; and

WHEREAS, in a Minnesota family with two full-time working adults and two children, each parent needs to earn \$14.03 an hour just to meet basic needs; and

WHEREAS, based on data contained in the 2012 American Community Survey, raising the minimum wage to \$9.50 an hour would pump more than \$470 million in consumer spending power to fuel Minnesota's economy; and

WHEREAS, in Duluth specifically there are an estimated 8,923 residents who would benefit from raising the minimum wage resulting in an estimated economic impact of \$12.6 million; and

WHEREAS, although raising the minimum wage to \$9.50 an hour remains popular, with support consistently polling above 70 percent, this strong public support has not translated into action by the Minnesota Legislature.

THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby expresses its support for the campaign to ask the Minnesota Legislature to raise the minimum wage to at least \$9.50 an hour by 2015 and index it to inflation.

FURTHER RESOLVED, the council additionally urges area legislators to commit their support to this initiative.

Resolution 14-0082 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved February 10, 2014

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR RUSS

14-007 - AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY IN THE GARY NEW DULUTH NEIGHBORHOOD TO STEVE W. AND VICKI L. VEIT FOR \$6,401.

- - -

INTRODUCED BY COUNCILOR RUSS

14-008 - AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY IN THE LINCOLN PARK NEIGHBORHOOD TO JON AAMODT AND JOHN WOODWORTH FOR \$11,000.

- - -

INTRODUCED BY COUNCILOR RUSS

14-009 - AN ORDINANCE GRANTING TO DULUTH TRANSIT AUTHORITY A CONCURRENT USE PERMIT FOR A SLIP RAMP LOCATED IN THE THIRD AVENUE WEST RIGHT-OF-WAY.

- - -

INTRODUCED BY COUNCILOR RUSS

14-010 - AN ORDINANCE GRANTING THE DULUTH TRANSIT AUTHORITY A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A SKYWALK OVER WEST MICHIGAN STREET BETWEEN SECOND AND THIRD AVENUES WEST.

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR FILIPOVICH

14-006 (10278) - AN ORDINANCE AUTHORIZING PAYING FOR GAS SERVICE EXTENSIONS WITH TWO-TIER RATE, AMENDING SECTION 48-214 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

INTRODUCED BY COUNCILOR FOSLE

14-005 (10279) - AN ORDINANCE AMENDING SECTION 24-37 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING ABATEMENT OF NUISANCES OR HEALTH HAZARDS.

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

- - -

The meeting was adjourned at 8:06 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10278

AN ORDINANCE AUTHORIZING PAYING FOR GAS SERVICE EXTENSIONS WITH TWO-TIER RATE, AMENDING SECTION 48-214 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That section 48-214 of the Duluth city code is hereby amended to read as follows:

Sec. 48-214. Generally; gas mains.

(a) The city council hereby finds that the deregulation of the natural gas industry and competition from other energy suppliers has subjected the Duluth public works and utilities department to competitive pressures in the gas sales area that it has never before faced. The city council further finds that the existing methods for extending gas mains in Duluth are cumbersome and capital intensive to prospective gas customers. The city council finds that having a more flexible and cost competitive gas main extension policy would enhance the public works and utilities department's ability to market natural gas and remain competitive with other suppliers. It is the purpose of this Section to provide a method of developing gas main extensions that will enable the public works and utilities department to remain competitive in the future;

(b) The director of the public works and utilities department, with the approval of the Duluth public utilities commission, may develop programs and procedures for the extension of gas mains and services, funding of gas main extensions and services connect thereto and procedures for connecting previously unassessed properties to existing mains and for assessing previous unassessed property to such mains in addition to procedures set forth in the City Charter. Without limitation, these programs may involve the creation of a two tiered gas rate in lieu of assessments for gas main extensions and services and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

may involve the development of a sinking fund to finance future gas main extensions. These programs may also provide that the department may enter into long term gas usage agreements with customers in conjunction with such main and service extensions. No such extension program shall take effect until it is approved by resolution of the Duluth public utilities commission, subject to review and veto by the city council in the same manner as is provided for in Section 2-187 of the City Code.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: March 20, 2014)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed February 10, 2014
Approved February 10, 2014
DON NESS, Mayor

- - -

ORDINANCE NO. 10279

AN ORDINANCE AMENDING SECTION 24-37 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING ABATEMENT OF NUISANCES OR HEALTH HAZARDS.

The city of Duluth does ordain:

Section 1. That Section 24-37 of the Duluth city code, 1959, as amended, is hereby amended to read as follows:

Sec. 24-37. Same--Notice to owner.

Whenever the solid waste compliance officer shall deem it necessary to remove, at the expense of the owner, any solid waste, abandoned property as defined in Chapter 30 of this Code, yard waste, tires, automobile batteries, manure, dead animals or parts thereof as provided in the preceding Section, the solid waste compliance officer shall provide written notice to the owner[s] or agent[s] of the affected property noting that removal has been ordered and granting the owner[s] or agent[s] a reasonable period of time - and in no event less than 24 hours - to complete the required removal. The notice shall be sent by first-class mail to the address of the affected property, to the last-known address[es] of the owner[s] or agent[s] of the property (if different from the address of the affected property), or to the address[es] of the taxpayer[s] for the property listed in the city assessor's records (if different from the address of the affected property or owner/agent last-known address). If no address[es] can be found, the notice shall be posted on the premises of the affected property.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: March 20, 2014)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed February 10, 2014
Approved February 10, 2014
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, February 20, 2014, 5:15 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

14-0220-01 The following communications regarding the proposed resolution appointing Joel Sipress to fill the vacancy of the second district council seat (14-0060R): (a) Alison Clarke; (b) Richard Paulson; (c) Penny Perry; (d) Phil Sneve. -- Received

- - -

RESOLUTION FOR RECONSIDERATION

Councilor Julsrud moved to reconsider Resolution 14-0060, appointing Joel Sipress to fill the vacancy of the Second District city council seat, which motion was seconded and discussed.

Councilor Sipress noted that he would be abstaining from discussion and voting on this resolution due to a conflict of interest.

President Krug commented at length that she felt that there was no conflict of interest with her voting for Kathy Heltzer for this office, with Ms. Heltzer being married to her spouse's aunt. She also continued to note that she felt that the council did not follow the voting rules that the council established regarding ranked choice voting, and since the prior special council meeting that has been the viewpoint of Fair Vote Minnesota. President Krug stated that given all these points, the council should reconsider this issue.

Councilors discussed at length the merits of the appointment process in the resolution, noting issues of: half of the council lost their voice on this; the legality of removing a councilor that has been sworn in; this issue should be discussed further and the actions of the council were done in good faith.

The motion to reconsider the resolution failed as follows:

Yeas: Councilors Julsrud, Larson, Russ and President Krug -- 4

Nays: Councilors Filipovich, Fosle, Gardner and Hanson -- 4

Abstention: Councilor Sipress -- 1

- - -

MOTIONS AND RESOLUTIONS

Resolution 14-0093, amending procedure for selecting a candidate to fill the vacancy of the second district council seat of Patrick Boyle; and Resolution 14-0094, appointing _____ to fill the vacancy of the second district city council seat, by President Krug, were introduced.

President Krug noted that in light of the prior action, both of these resolutions would be removed from the agenda.

- - -

The meeting adjourned at 5:34 p.m.

JEFFREY J. COX, City Clerk

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

OFFICIAL PROCEEDINGS

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

Roll call: Present: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Larson, Russ,

Sipress and President Krug -- 9

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

14-0224-07 Alison Clarke communication regarding the proposed ordinance amending dimensional standards, higher education overlay district, use table, use specific standards, exceptions and encroachments, parking, landscaping and procedures and requirements (14-013-O). -- Received

- - -

REPORTS FROM OTHER OFFICERS

14-0224-02 Clerk applications for exempt permits (raffles) to the Minnesota gambling control board from: (a) St. Louis/Carlton County Pheasants Forever on April 25, 2014; (b) United Northern Sportsmen Club on April 11, 2014. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

14-0224-01 Alcohol, gambling, and tobacco commission resolution supporting the efforts in the Minnesota Legislature to amend current Sunday off sale liquor restrictions, including an amendment that would authorize the Sunday sale of growlers by breweries. -- Received

14-0224-03 Duluth parking commission minutes of: (a) November 1, 2013; (b) December 6, 2013; (c) January 10, 2014, meetings. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Alison Clarke expressed her concerns regarding the history on the planning of the future land use from 20th to 26th avenues East, noting: the developer's needs for an acceptable financial package; state owned lands and the city's wish to continue the Lakewalk.

- - -

Loren Martell commented on: the school district's loss of students is the primary reason for the district's fiscal problems; how Rochester's school district is doing much better and the district has run up a 20 year bill with interest up to \$480 million.

- - -

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.)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to St. John The Evangelist Church, 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 14-0087 was unanimously adopted.

Approved February 24, 2014

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 Holy Family Catholic Church, 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 14-0088 was unanimously adopted.

Approved February 24, 2014

DON NESS, Mayor

- - -

The council finds:

(a) The city is required to submit a pay equity implementation report to Minnesota management and budget by January 31, 2014; and

(b) Such report is required to be approved by the Duluth City Council.

THEREFORE, BE IT RESOLVED, that the city's pay equity implementation report has been submitted to the city council (Public Document No. 14-0224-04) and the council has received such report.

Resolution 14-0068 was unanimously adopted.

Approved February 24, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a month to month lease agreement, not to exceed 24 months, substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0224-05, with St. Louis County for the lease of space in City Hall for certain human resource staff and related activities with rent payments payable to Fund 110-121-1222-4622 (general, public administration, facilities management, rent of buildings).

Resolution 14-0085 was unanimously adopted.

Approved February 24, 2014

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 2014 street preservation project, and hereby requests that the mayor prepare or cause to have prepared plans, specifications and estimates therefor, and file such

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

plans and estimates 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 which should be included in the special assessment:

Superior Street/First Street from 40th Avenue West to 46th Avenue West;
40th Avenue West from Michigan Street to Grand Avenue.

Resolution 14-0091 was unanimously adopted.

Approved February 24, 2014

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 in conjunction with the Duluth Running Company's Shamrock Shuffle, on March 9, 2014, provided that all alcoholic beverages outside of designated serving areas of licensed establishments be consumed only from paper or plastic cups. Additionally, this authorization is dependent upon approval of the special event permit.

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 14-0096 was unanimously adopted.

Approved February 24, 2014

DON NESS, Mayor

- - -

The following resolutions were also considered:

BY COUNCILOR GARDNER:

RESOLVED, that the city council hereby requests that council committee 1 and an additional at-large city councilor, work with the Charter commission to study a possible Charter amendment to address the following:

(a) For filling council vacancies that occur more than one year before the next municipal election: provide the city council the option of 1) using the current appointment process, 2) calling for a special election, 3) calling for a special election following an appointment process that has resulted in a tie;

(b) Any decision calling for a special election shall require the vote of a super majority of the council;

(c) Provide clarification that any appointed or elected term shall end the January following the municipal election.

Resolution 14-0095 was unanimously adopted.

Approved February 24, 2014

DON NESS, Mayor

- - -

Resolution 14-0086, authorizing a contract with MacQueen Equipment, Inc., for purchase and assemble of equipment for a hydro-excavator in the amount of \$301,597.35, was introduced by Councilor Filipovich for discussion.

Councilor Fosle expressed his concerns that this is a purchase replacing a 2002 vehicle with 36,700 miles where \$181,000 has been spent on repairs.

Resolution 14-0086 was adopted as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

RESOLVED, that the Duluth City Council passed Resolution 13-0589 on December 5, 2013, which authorized the purchase of a 2014 Western Star 4800/4900F chassis, to be equipped with a hydro-excavator upon delivery in 2014.

RESOLVED FURTHER, that the proper city officials are hereby authorized to complete the unit by contracting with MacQueen Equipment, Inc., for the purchase and assembly of equipment for one 2014 Vactor HXX hydro-excavator in accordance with Minnesota State Contract 59014, Release W-196(5), specifications and pricing, and the Vendor's Quote 1130396 of \$283,190 plus \$18,407.35 vehicle sales tax (6.5 %), for a combined total of \$301,597.35, terms net 30, and payable as follows:

(a) \$150,798.68 Gas Fund 520, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5580 (capital equipment);

(b) \$60,319.47 Sewer Fund 530, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5580 (capital equipment);

(c) \$60,319.47 Water Fund 510, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5580 (capital equipment); and

(d) \$30,159.73 Stormwater Fund 535, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5580 (capital equipment).

Resolution 14-0086 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved February 24, 2014

DON NESS, Mayor

- - -

RESOLVED, the city of Duluth supports the grant application made to the Minnesota department of natural resources for the federal recreational trail program. The application is to construct 2.5 miles of mountain bike trail for the Duluth Traverse Trail.

BE IT FURTHER RESOLVED, the federal recreational trail program requires a 25 percent monetary match (\$32,250). The city of Duluth has secured the match through the Parks Fund (205), Community Resources (130), Parks Capital (1220), Improvements Other than Buildings (5530), Project CM205-TRAVRS. If the city is awarded the grant of \$96,750, to be deposited into Parks Fund (205), Community Resources (130), Parks Capital (1220) Revenue Source (4210-01); the total project cost is \$129,000.

BE IT FURTHER RESOLVED, if the city 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 Duluth Traverse Trail project. The city will comply with all applicable laws, environmental requirements and regulations as stated in the grant agreement.

NOW, THEREFORE, BE IT FURTHER RESOLVED, the Duluth City Council does name the city auditor as fiscal agent for this project: Wayne Parson, City of Duluth Auditor, 411 West First Street, Room 107, Duluth, MN.

Resolution 14-0089 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved February 24, 2014

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR RUSS

14-011 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING FORM DISTRICT STANDARDS.

- - -

INTRODUCED BY COUNCILOR RUSS

14-012 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING FLOOD PLAIN AND FLOOD HAZARD MITIGATION.

- - -

INTRODUCED BY COUNCILOR RUSS

14-013 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING CHANGES TO DIMENSIONAL STANDARDS, HIGHER EDUCATION OVERLAY DISTRICT, USE TABLE, USE SPECIFIC STANDARDS, EXCEPTIONS AND ENCROACHMENTS, PARKING, LANDSCAPING AND PROCEDURES AND REQUIREMENTS.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR RUSS

14-007 (10280) - AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY IN THE GARY NEW DULUTH NEIGHBORHOOD TO STEVE W. AND VICKI L. VEIT FOR \$6,401.

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

- - -

INTRODUCED BY COUNCILOR RUSS

14-008 (10281) - AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY IN THE LINCOLN PARK NEIGHBORHOOD TO JON AAMODT AND JOHN WOODWORTH FOR \$11,000.

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

- - -

INTRODUCED BY COUNCILOR RUSS

14-009 (10282) - AN ORDINANCE GRANTING TO DULUTH TRANSIT AUTHORITY A CONCURRENT USE PERMIT FOR A SLIP RAMP LOCATED IN THE THIRD AVENUE WEST RIGHT-OF-WAY.

Councilor Hanson stated that he has a business relationship with the DTA and will be abstaining.

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

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

Nays: None -- 0

Abstention: Councilor Hanson -- 1

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

INTRODUCED BY COUNCILOR RUSS

14-010 (10283) - AN ORDINANCE GRANTING THE DULUTH TRANSIT AUTHORITY A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A SKYWALK OVER WEST MICHIGAN STREET BETWEEN SECOND AND THIRD AVENUES WEST.

Councilor Hanson stated that he has a business relationship with the DTA and will be abstaining.

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

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

Nays: None -- 0

Abstention: Councilor Hanson – 1

- - -

The meeting was adjourned at 7:58 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10280

AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY IN THE GARY NEW DULUTH NEIGHBORHOOD TO STEVE W. AND VICKI L. VEIT FOR \$6,401.

The city of Duluth does ordain:

Section 1. That pursuant to Section 2-176 of the Duluth City Code, 1959, as amended (the Code), the city council finds that:

(a) City Resolution 13-0571 approved the sale or conveyance of certain property in the Gary New Duluth neighborhood;

(b) As per Section 2-176(a), of the Duluth City Code, 1959, as amended (the Code), the manager of the city's physical planning division has reviewed this proposed conveyance and found conveyance thereof to be in conformity with the city's comprehensive land use plan;

(c) As per Section 2-176(c) of the Code, the county assessor has provided an estimate of the market value to be \$6,350 which estimated market value is hereby established as the minimum acceptable bid or reserve;

(d) 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 and pursuant to Article XXXIII of Chapter 2 of the Code;

(e) As per Section 2-177.1 of the Code, the property described in Section 2 below was advertised via a closed bid process with a minimum bid price of \$6,350 (i) two times in the Duluth News Tribune (January 12 and January 19), (ii) on the city's purchasing website, and (iii) a "for sale" sign was placed on the property. The purchasers named in Section 2 below presented the highest bid via a closed bid which meets the minimum acceptable bid of \$6,350 for the property proposed to be sold.

Section 2. That the proper city officials are hereby authorized to sell and convey the following described property, by quit claim deed, to Steven W. and Vicki L. Veit, husband and wife, for the amount of \$6,401 to be deposited into Fund 110 (general), Agency 700 (transfers and other functions), Organization 1420 (capital programs), Object 4640 (sale of land), and further to execute all documents necessary with regard to said conveyance:

Lots 1 and 2, New Duluth First Division, St. Louis County, Minnesota.

Subject to easements, restriction and reservations of record, if any.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: March 28, 2014)

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

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

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed February 24, 2014

Approved February 24, 2014

DON NESS, Mayor

- - -

ORDINANCE NO. 10281

AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY IN THE LINCOLN PARK NEIGHBORHOOD TO JON AAMODT AND JOHN WOODWORTH FOR \$11,000.

The city of Duluth does ordain:

Section 1. That pursuant to Section 2-176 of the Duluth City Code, 1959, as amended (the Code), the city council finds that:

(a) City Resolution 13-0405 approved the sale or conveyance of certain property in the Lincoln Park neighborhood;

(b) As per Section 2-176(a), of the Duluth City Code, 1959, as amended (the Code), the manager of the city's physical planning division reviewed this proposed conveyance and found conveyance thereof to be in conformity with the city's comprehensive land use plan;

(c) As per Section 2-176(c) of the Code, the county assessor has provided an estimate of the market value to be \$9,000 which estimated market value is hereby established as the minimum acceptable bid or reserve;

(d) 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 and pursuant to Article XXXIII of Chapter 2 of the Code;

(e) As per Section 2-177.1 of the Code, the property described in Section 2 below was advertised via a closed bid process with a minimum bid price of \$9,000 (i) two times in the Duluth News Tribune (January 12 and January 19), (ii) on the city's purchasing website, and (iii) a "for sale" sign was placed on the property. The purchasers named in Section 2 below presented the highest bid via a closed bid which meets the minimum acceptable bid of \$9,000 for the property proposed to be sold.

Section 2. That the proper city officials are hereby authorized to sell and convey the following described property, by quit claim deed, to Jon Aamodt and John Woodworth, tenancy in common, for the amount of \$11,000 to be deposited into Fund 110 (general), Agency 700 (transfers and other functions), Organization 1420 (capital programs), Object 4640 (sale of land), and further to execute all documents necessary with regard to said conveyance:

All those parts of Lots 338, 340, 342, Block 14, Duluth Proper Second Division, as filed in the Office of the St. Louis County Recorder being more particularly described as follows:

Beginning at the north corner of said Block 14; thence south 48 degrees 41 minutes 41 seconds east along the northeasterly line of said Block 14 and being the southwesterly right-of-way line of Twenty-first Avenue West, a distance of 27.45 feet to the intersection with the westerly line of lower Michigan Street as depicted in construction plans for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

State Aid Project No. 118-194-01 MTB; thence 17.75 feet along said westerly line and being a non-tangential curve concave to the northwest, having a radius of 25.42 feet, a central angle of 40 degrees 00 minutes 00 seconds and a chord bearing south 28 degrees 20 minutes 29 seconds east; thence continuing along said westerly line south 08 degrees 20 minutes 29 seconds east, a distance of 13.73 feet; thence continuing along said westerly line south 38 degrees 50 minutes 47 seconds west, a distance of 35.56 feet; thence continuing along said westerly line south 81 degrees 39 minutes 31 seconds west, a distance of 65.50 feet; thence continuing 22.65 feet along said westerly line and being a curve concave to the southwest, having a radius of 328.08 feet, a central angle of 3 degrees 57 minutes 19 seconds to the northwesterly line of Lot 342 of said Block 14; thence north 41 degrees 39 minutes 31 seconds east along said northwesterly line of said Block 14, a distance of 118.13 feet to the point of beginning.

Containing 4,498 square feet or 0.10 acres, more or less.

Subject to easements, restriction and reservations of record, if any.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: March 28, 2014)

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

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

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed February 24, 2014

Approved February 24, 2014

DON NESS, Mayor

- - -

ORDINANCE NO. 10282

**AN ORDINANCE GRANTING TO DULUTH TRANSIT AUTHORITY
A CONCURRENT USE PERMIT FOR A SLIP RAMP LOCATED IN
THE THIRD AVENUE WEST 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 Duluth Transit Authority, and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) A slip ramp, extending 27.5 feet into the right-of-way for 116 feet, in the Third Avenue West right-of-way, as shown in Public Document No. 14-0224-06.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- (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. 14-0224-06; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(b) Permittee installs pedestrian crosswalks across all four legs of the intersection, as shown on Public Document No. 14-0224-06; and

(c) 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 30 days after its passage and publication. (Effective date: March 28, 2014)

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

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

Nays: None -- 0

Abstention: Councilor Hanson -- 1

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

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10283

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

The city of Duluth does ordain:

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

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

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

Section 3. Said permit granted under this ordinance may be terminated at any time when and if the city of Duluth determines to use the area occupied by said permittees for any purpose in accordance with the duly dedicated public easement or other lawful use. Unless a shorter period is necessitated by emergency circumstances, or the violation of the conditions

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

set forth in this ordinance, giving the permittees six months' written notice by resolution of the council of the city of Duluth to the last known address of the permittees shall be sufficient notice of termination.

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

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

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

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

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

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

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

Nays: None -- 0

Abstention: Councilor Hanson -- 1

ATTEST:
JEFFREY J. COX, City Clerk

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

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 10, 2014, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

14-0310-01 Gary O. Klatt communication regarding proposed resolution defraying the assessable portion of street reconstruction at Oxford Street/Livingston Avenue/Glenwood Street (14-0104R). -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

14-0310-02 Civil service board minutes of December 10, 2013, meeting. -- Received

14-0310-03 Community development committee minutes of: (a) December 10, 2013; (b) January 28, 2014, meetings. -- Received

14-0310-04 Duluth citizen review board minutes of January 28, 2014, meeting. -- Received

14-0310-05 Duluth economic development authority minutes of January 22, 2014, meeting. -- Received

14-0310-06 Duluth public utilities commission minutes of January 21, 2014, meeting. -- Received

14-0310-07 Duluth Seaway Port authority budget summary of January 2014. -- Received

14-0310-08 Duluth transit authority: (a) December 2013 financial statement; (b) Minutes of January 29, 2014, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Loren Martell gave examples of how the school district has kept the public out of the conversation about all the state aid that has been lost and the financial leakage from the general fund.

- - -

Alison Clarke continued her recapping of the past and future timeline and issues associated with the Lakewalk extension in conjunction with the developers and the city.

- - -

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

RESOLVED, that the proposed specifications for the new civil service classification of construction project coordinator, which were approved by the civil service board on March 4, 2014, and which are filed with the city clerk as Public Document No. 14-0310-09, 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 33, \$4,405 to \$5,201 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 14-0109 was unanimously adopted.
Approved March 10, 2014
DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of facilities maintenance specialist, which were approved by the civil service board on March 4, 2014, and which are filed with the city clerk as Public Document No. 14-0310-10, 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 28, \$3,613 to \$4,231 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 14-0110 was unanimously adopted.
Approved March 10, 2014
DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of senior facilities maintenance worker, which were approved by the civil service board on March 4, 2014, and which are filed with the city clerk as Public Document No. 14-0310-11, 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 27, \$3,468 to \$4,059 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 14-0111 was unanimously adopted.
Approved March 10, 2014
DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of senior library technician, which were approved by the civil service board on March 4, 2014, and which are filed with the city clerk as Public Document No. 14-0310-12, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 128, \$3,333 to \$3,908 per month.

Resolution 14-0114 was unanimously adopted.
Approved March 10, 2014
DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of utility operations supervisor, which were approved by the civil service

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

board on March 4, 2014, and which are filed with the city clerk as Public Document No. 14-0310-13, are approved. This classification shall remain subject to the city's collective bargaining agreement with its supervisory unit employees and compensated at pay ranges 1080-1095, \$4,989 to \$6,530 per month.

Resolution 14-0115 was unanimously adopted.

Approved March 10, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of manager, customer services, which were approved by the civil service board on March 4, 2014, and which are filed with the city clerk as Public Document No. 14-0310-14, are approved. This classification shall remain subject to the city's collective bargaining agreement with its supervisory unit employees and compensated at pay ranges 1115-1130, \$5,854 to \$7,552 per month.

Resolution 14-0116 was unanimously adopted.

Approved March 10, 2014

DON NESS, Mayor

- - -

RESOLVED, that the Duluth City Council hereby expresses its support for One Roof Community Housing's request for funding on behalf of the Housing Resource Connection to the Minnesota housing finance agency for funding from the rental rehabilitation deferred loan program (RRDL).

Resolution 14-0097 was unanimously adopted.

Approved March 10, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a grant from the U.S. environmental protection agency (EPA), Region 5, in the amount of \$250,000, payable into Fund 255 (economic development fund), and to execute Assistance Agreement No. GL-00E01267-0 substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0310-15, in connection therewith.

Resolution 14-0112 was unanimously adopted.

Approved March 10, 2014

DON NESS, Mayor

- - -

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. 14-0310-16, 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 \$856,315 and up to \$102,503 as a performance based allocation for the period January 1, 2014, through December 31, 2014. 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 14-0105 was unanimously adopted.

Approved March 10, 2014

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

RESOLVED, that the proper city officials are hereby authorized to accept the dedication of a road easement from St. Louis County in the form of Public Document No. 14-0310-17, on file in the office of the city clerk dedicating to the general public a 66 foot wide road easement over the property described therein running from Rice Lake Road to Arlington Avenue providing public access to the joint city-county public safety building complex and the Chris Jensen Home.

Resolution 14-0108 was unanimously adopted.

Approved March 10, 2014

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 Regents of the University of Minnesota for professional and technical services needed in conjunction with the city's stream monitoring program in an amount not to exceed \$60,000, to be paid from Fund 535 (stormwater), Agency 500 (public works and utilities), Organization 1915 (utility general expense), Object 5441, for a term commencing March 31, 2014, and terminating March 31, 2017.

Resolution 14-0034 was unanimously adopted.

Approved March 10, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into agreements, copies of which are on file in the office of the city clerk as Public Document Nos. 14-0310-18(a) and 14-0310-18(b), with CCHC Mental Health, LLC, accepting the grant of utility and street easements as described in said agreements in trust for the general public, at no cost to the city, over certain property in the vicinity of Burning Tree Road and Matterhorn Circle.

Resolution 14-0092 was unanimously adopted.

Approved March 10, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Hanco Utilities, Inc., for the replacement of approximately 2,000 copper gas service risers with anodeless service risers and related work at various locations in the city of Duluth and surrounding service area in the amount of \$786,126, payable from Gas Fund 520, Department 500 (public works and utilities), Division 1905 (capital improvements), Object 5533 (revenue), City Project No. 1314.

Resolution 14-0098 was unanimously adopted.

Approved March 10, 2014

DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth accepts board of water and soil resources (BWSR) Contract 3000004358 for stabilization of stream banks and hillsides as a result of the June 2012 flooding, in the estimated amount of \$3,574,828, payable to Disaster Recovery Fund 225, Department 125 (finance), Division 1808 (disaster aid and revenues), Source 4220-06 (state of Minnesota board of soil and water resources).

Resolution 14-0099 was unanimously adopted.

Approved March 10, 2014

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

RESOLVED, that the proper city officials are hereby authorized to renew the CodeRED service agreement (Agreement No. 22025) and renewing and amending the CodeRED weather warning service addendum (Agreement No. 22026), substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0310-19, with Emergency Communications Network, LLC, for the provision of simultaneous notification to specified databases which will include city staff and members of the public, of information or directives needing high-speed and targeted increasing the amount payable thereunder by an additional \$24,500, payable in the following amounts from the following funds:

210-030-3164-4210-020 (special projects, finance, homeland security, emergency management)	\$15,136.68
510-500-1915-5441 (water, public works and utilities utility general expenses, other services and charges)	\$ 2,340.83
520-500-1915-5441 (gas, public works and utilities utility general expenses, other services and charges)	\$ 2,340.83
530-500-1915-5441 (sewer, public works and utilities utility general expenses, other services and charges)	\$ 2,340.83
535-500-1915-5441 (stormwater, public works and utilities utility general expenses, other services and charges)	\$ 2,340.83

Resolution 14-0117 was unanimously adopted.

Approved March 10, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to amend Agreement C21880 with SRF Consulting Group, Inc., substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0310-20, for professional services for the development of a mini-master plan for Hartley Park. The amended agreement will extend the completion date to December 31, 2014, and increase the fee by an amount not to exceed \$18,000, payable from Fund 205-130-1220-5530 (parks fund, community resources, parks capital, improvements other than buildings) Project Number CM205-mstrpl.

Resolution 14-0090 was unanimously adopted.

Approved March 10, 2014

DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 14-0100, confirming the assessment roll levied to defray the assessable portion of mill and overlay at Carver Avenue from West St. Marie Street to Arrowhead Road; Resolution 14-0101, confirming the assessment roll levied to defray the assessable portion of mill and overlay at Plum Street from Ninth Avenue West to Skywood Avenue; Resolution 14-0102, confirming assessment rolls levied to defray the assessable portions of Livingston Avenue; Resolution 14-0103, confirming the assessment roll levied to defray the assessable portion of mill and overlay at Skyline Parkway; and Resolution 14-0104, confirming the assessment roll levied to defray the assessable portion of street reconstruction at Oxford Street/Livingston Avenue/Glenwood Street, were introduced by Councilor Julsrud.

Councilor Julsrud moved to remove them from the agenda and return to the administration, upon their request, which motion was seconded and unanimously carried.

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Resolution 14-0107, accepting conveyance of an easement from Peter Senich for the Western Waterfront Trail, was introduced by Councilor Russ.

Councilor Russ moved to table the resolution for consideration with Ordinance 14-014 at the next meeting, which motion was seconded and unanimously carried.

- - -

Resolution 14-0113, approving an agreement for loan between the Duluth economic development authority and the housing and redevelopment authority of Duluth, Minnesota (HRA), in an amount not to exceed \$230,000, was introduced by Councilor Russ for discussion.

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

Dale Lewis, Pam Kramer and Matt Trainer expressed support for the resolution for reasons of: this is supported by the neighborhood community, the business community and the Duluth police; it meets the immediate needs of the residents; the building is desperately in need of rehabilitation; it will act as a catalyst for business expansion; this has been a collaborative of many agencies; this is an opportunity for new commercial storefront operations and Churches United in Ministry (CHUM) will be assisting with supportive services.

Councilor Fosle expressed concerns of: the HRA has been looking at this property for some years; the funds being used for this is tax dollars; the loan is forgivable and does not need to be paid back; the HRA has an extensive budget of their own and it is not the government's job to buy a dilapidated building.

Councilors supporting the resolution discussed at length issues surrounding this approval.

Resolution 14-0113 was adopted as follows:

RESOLVED, that the city council hereby approves an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0310-21, between the Duluth economic development authority (DEDA) and the Housing and Redevelopment Authority of Duluth, Minnesota (HRA) for the acquisition of the Seaway Hotel by the HRA in furtherance of proposed redevelopment in the Lincoln Park Business District, in an amount not to exceed \$230,000, payable from Fund 865 (capital projects), Agency 860 (DEDA), Organization 8616 (art space/Washington), Object 5458 (payments to developer).

Resolution 14-0113 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved March 10, 2014

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR RUSS

14-014 - AN ORDINANCE AUTHORIZING THE DIRECT SALE OF CERTAIN PROPERTY IN THE SPIRIT VALLEY NEIGHBORHOOD TO PETER SENICH FOR \$10,700 SUBJECT TO RETENTION OF AN EASEMENT.

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

INTRODUCED BY COUNCILOR FOSLE

14-015 - AN ORDINANCE AUTHORIZING POLICE CHIEF TO EXECUTE FITNESS FACILITY USE AGREEMENTS WITH ST. LOUIS COUNTY SHERIFF'S EMPLOYEES.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR RUSS

14-011 (10284) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING FORM DISTRICT STANDARDS.

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

- - -

INTRODUCED BY COUNCILOR RUSS

14-012 (10285) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING FLOOD PLAIN AND FLOOD HAZARD MITIGATION.

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

- - -

INTRODUCED BY COUNCILOR RUSS

14-013 (10286) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING CHANGES TO DIMENSIONAL STANDARDS, HIGHER EDUCATION OVERLAY DISTRICT, USE TABLE, USE SPECIFIC STANDARDS, EXCEPTIONS AND ENCROACHMENTS, PARKING, LANDSCAPING AND PROCEDURES AND REQUIREMENTS.

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

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

Nays: Councilor Fosle -- 1

- - -

The meeting was adjourned at 8:10 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10284

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING FORM DISTRICT STANDARDS.

The city of Duluth does ordain:

Section 1. That Section 50-16 of Chapter 50 be amended as follows:

50-16 Form districts.

50-16.1 General purposes of form districts.

Nine new districts were created for those areas within the city to be regulated by form-based coding. Sections 50-16.2 through 50-16.10 below contain brief descriptions of each of the form districts. Section 50-22, *Building Form Standards*, provides additional information that applies to these districts and regulates the types of buildings, development and rezoning permitted in each district.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

50-16.2 Form District 1 (F-1) low-rise neighborhood shopping.

A. Purpose.

The F-1 District consists of only one building type, Main Street Building I. This district is meant to be mapped within the East Superior Street study area (Lakeside/Lester Park) along the commercial nodes that take the form of traditional mixed use development. Main Street Building I has a build-to zone of between 0 and 15 feet, that allows the building to either be built adjacent to the sidewalk or set back further on the lot to match its surrounding residential context. This building type also requires a high amount of transparency on the ground floor. Permitted and special uses are shown in Table 50-19.8;

		Form Districts								
		F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9
Building Types	Main Street Building I	•	•							
	Main Street Building II			•	•	•	•			
	Main Street Building III							•	•	
	Corridor Building I		•							
	Corridor Building II				•	•				
	Lakefront Corridor									•
	Corridor Building III								•	
	Cottage Commercial I		•				•			
	Cottage Commercial II				•					
	Iconic Building		•		•	•			•	

B. Example.



Example of Main Street I



Example of a Main Street I

C. Illustration.

See Section 50-22 for illustrations of building types permitted in the F-1 district.

50-16.3 Form District 2 (F-2) low-rise neighborhood mix.

A. Purpose.

The F-2 District permits Main Street Building I, Corridor Building I, Cottage Commercial Building I and the Iconic Building. This district was designed for both the East Superior Street (Lakeside/ Lester Park) and London Road (12th to 21st avenues East) study areas, and is meant to serve as a mixed use, neighborhood-scale commercial district. Corridor Building I is better suited for office or residential (apartment) uses. Due to its residential character, Cottage

		Form Districts								
		F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9
Building Types	Main Street Building I	•	•							
	Main Street Building II			•	•	•	•			
	Main Street Building III							•	•	
	Corridor Building I		•							
	Corridor Building II				•	•				
	Lakefront Corridor									•
	Corridor Building III								•	
	Cottage Commercial I		•				•			
	Cottage Commercial II				•					
	Iconic Building		•		•	•			•	

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Commercial I is well suited to commercial uses that may occur adjacent to a residential area. Permitted and special uses are shown in Table 50-19.8;

B. Example.



Example of Corridor Building I



Example of Cottage Commercial I

C. Illustration.

See Section 50-22 for illustrations of building types permitted in the F-2 district.

50-16.4 Form District 3 (F-3) mid-rise community shopping.

A. Purpose.

Several pockets within the West Duluth (Grand Avenue and Central Avenue), and Canal Park study areas contain older mixed use buildings, with retail or office uses on the ground floor and office or residential uses on the upper floors. F-3: Main Street Building II was created to preserve this style of development and provide standards for future infill development to emulate the style as well. Main Street Building II has a small build-to zone, requiring the building to be constructed fairly close to the front property line. Permitted and special uses are shown in Table 50-19.8;

		Form Districts								
		F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9
Building Types	Main Street Building I	•	•							
	Main Street Building II			•	•	•	•			
	Main Street Building III							•	•	
	Corridor Building I		•							
	Corridor Building II				•	•				
	Lakefront Corridor									•
	Corridor Building III								•	
	Cottage Commercial I		•				•			
	Cottage Commercial II				•					
	Iconic Building		•		•	•			•	

B. Example.



Example of Main Street Building II



Example of Main Street Building II

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C. Illustration.

See Section 50-22 for illustrations of building types permitted in the F-3 district.

50-16.5 Form District 4 (F-4) mid-rise community mix.

A. Purpose.

Portions of the London Road and West Duluth (Grand Avenue and Central Avenue) study areas either contain auto-oriented development or a mixture of different building types. The F-4 District was created for those areas that are not strictly comprised of mixed use buildings. These areas are often transitional in nature, as the study area switches from commercial to residential. The integration of Corridor Building II and Cottage Commercial II will assist in stepping down the intensity as the district approaches residential neighborhoods. Permitted and special uses are shown in Table 50-19.8;

		Form Districts								
		F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9
Building Types	Main Street Building I	•	•							
	Main Street Building II			•	•	•	•			
	Main Street Building III							•	•	
	Corridor Building I		•							
	Corridor Building II				•	•				
	Lakefront Corridor									•
	Corridor Building III								•	
	Cottage Commercial I		•				•			
	Cottage Commercial II				•					
	Iconic Building		•		•	•			•	

B. Example.



Example of Corridor Building II



Example of Cottage Commercial III

C. Illustration.

See Section 50-22 for illustrations of building types permitted in the F-4 district.

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50-16.6 Form District 5 (F-5) mid-rise community shopping and office.

A. Purpose.

The F-5 District is applied to both the West Superior Street study area (Lincoln Park) and the transitional areas surrounding Downtown, including Canal Park and Central Hillside (Second Street from Sixth Avenue West to Third Avenue East). These areas consist of a combination of traditional mixed use buildings and office buildings, which conform to the style of Main Street Building II and Corridor Building II. Permitted and special uses are shown in Table 50-19.8;

		Form Districts								
		F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9
Building Types	Main Street Building I	•	•							
	Main Street Building II			•	•	•	•			
	Main Street Building III							•	•	
	Corridor Building I		•							
	Corridor Building II				•	•				
	Lakefront Corridor									•
	Corridor Building III								•	
	Cottage Commercial I		•				•			
	Cottage Commercial II				•					
	Iconic Building		•		•	•			•	

B. Example.



Example of Corridor Building II



Example of Main Street Building II

C. Illustration.

See Section 50-22 for illustrations of building types permitted in the F-5 district.

50-16.7 Form District 6 (F-6) mid-rise neighborhood shopping.

A. Purpose.

This district was created to respond to the commercial nodes present in the Central Hillside neighborhood (Fourth Street from Mesaba Avenue to Third Avenue East). These nodes are separated by residential developments, which were not included in the study area. Main Street Building II and Cottage Commercial Building I provide flexibility in the style of commercial building, with the Cottage Commercial building type especially

		Form Districts								
		F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9
Building Types	Main Street Building I	•	•							
	Main Street Building II			•	•	•	•			
	Main Street Building III							•	•	
	Corridor Building I		•							
	Corridor Building II				•	•				
	Lakefront Corridor									•
	Corridor Building III								•	
	Cottage Commercial I		•				•			
	Cottage Commercial II				•					
	Iconic Building		•		•	•			•	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

applicable when it's located adjacent to residential development. Permitted and special uses are shown in Table 50-19.8;

B. Example.



Example of Cottage Commercial I



Example of Main Street Building II

C. Illustration.

See Section 50-22 for illustrations of building types permitted in the F-6 district.

50-16.8 Form District 7 (F-7) downtown shopping.

A. Purpose.

To preserve the historic mixed use core of Downtown, F-7 was created to be applied in specific areas along Superior Street. This district permits only Main Street Building III, which seeks to codify the existing urban structure of the heart of Downtown. The building type requires a storefront on the ground floor and that the building be located adjacent to the sidewalk. The F-7 and F-8 districts also permit the highest intensity development, with a maximum height along Superior Street of 15 stories. Permitted and special uses are shown in Table 50-19.8;

		Form Districts								
		F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9
Building Types	Main Street Building I	•	•							
	Main Street Building II			•	•	•	•			
	Main Street Building III							•	•	
	Corridor Building I		•							
	Corridor Building II				•	•				
	Lakefront Corridor									•
	Corridor Building III								•	
	Cottage Commercial I		•				•			
	Cottage Commercial II				•					
	Iconic Building		•		•	•			•	

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B. Example.



Example of Main Street Building III



Example of Main Street Building III

C. Illustration.

See Section 50-22 for illustrations of building types permitted in the F-7 district.
50-16.9 Form District 8 (F-8) downtown mix.

A. Purpose.

F-8 applies to other Downtown areas not included in the F-7 district. The district provides slightly more flexibility in building form than does F-7, as it permits both Main Street Building III and Corridor Building III for office and residential uses. Permitted and special uses are shown in Table 50-19.8;

		Form Districts								
		F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9
Building Types	Main Street Building I	•	•							
	Main Street Building II			•	•	•	•			
	Main Street Building III							•	•	
	Corridor Building I		•							
	Corridor Building II				•	•				
	Lakefront Corridor									•
	Corridor Building III								•	
	Cottage Commercial I		•				•			
	Cottage Commercial II				•					
	Iconic Building		•		•	•			•	

B. Example.



Example of Main Street Building III



Example of Corridor Building III

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C. Illustration.

See Section 50-22 for illustrations of building types permitted in the F-8 district.

50-16.10 Form District 9 (F-9) Canal Park lakefront.

A. Purpose.

F-9 applies specifically to the east side of Canal Park Drive, addressing the parcels currently occupied by hotels. This district is unique in that the parcels are deep and front both Lake Superior and Canal Park Drive. The Lakefront Corridor Building was developed specifically for these locations, requiring frontage on both sides with enough depth to nestle parking in between the buildings. Views through these parcels to the lake are also addressed with view corridors. Permitted and special uses are shown in Table 50-19.8;

	Form Districts								
	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9
Main Street Building I	•	•							
Main Street Building II			•	•	•	•			
Main Street Building III							•	•	
Corridor Building I		•							
Corridor Building II				•	•				
Lakefront Corridor									•
Corridor Building III								•	
Cottage Commercial I		•				•			
Cottage Commercial II				•					
Iconic Building		•		•	•			•	

B. Example.



Example of Lakefront Corridor



Example of Lakefront Corridor

C. Illustration.

See Section 50-22 for illustrations of building types permitted in the F-9 district.

Section 2. That Section 50-22 of Chapter 50 be amended as follows:

50-22 Building form standards.

The following provisions apply only in the form districts listed in Section 50-16, but do not apply in other zone districts.

50-22.1 General requirements.

A. Intent.

The building types detailed in this Section outline the desired building forms for new construction and renovated structures within the form districts.

B. Applicability.

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1. All building type standards apply to all new construction and renovation of existing structures, where the renovation includes an addition of more than 50 percent in building square footage.
2. When a renovation of the front facade occurs with no added building square footage, the street facade requirements and base type requirements must be met when:
 - (a) The existing building front, corner, or lakefront facade is located within the build-to zone;
 - (b) The renovation includes any of the following:
 - (i) Installation of additional doors or a change in location of a door;
 - (ii) Expansion or change in location of 30 percent of windows on any street or lakefront facade;
 - (iii) Replacement of 30 percent or more of facade materials on any street or lakefront facade with a different facade material.
3. When a renovation of the shape or style of the roof occurs with no added building square footage, the cap type requirements must be met when the existing building front, corner or lakefront facade is located within the build-to zone.
4. Under all circumstances, no portion of the building type standards must be met in the case of normal repairs required for safety and continued use of the structure, such as replacement of window or door glass.

C. General requirements. All construction in the form districts must meet the following requirements:

1. Zone districts.

No primary building shall be developed within a form district unless it matches one of the building types approved for that district in Table 50-22.2-1.
2. Planning review required.

Development of any building type must be reviewed and approved by the city through the planning review process in Article 5.
3. Permanent structures.

All buildings constructed must be permanent construction without a chassis, hitch, or wheels, or other features that would make the structure mobile. Temporary structures and uses are permitted as shown in Article 3.

D. Alternative compliance in form districts.

Where compliance with the specific requirements of Section 50-22 is not possible as a result of unique site conditions abutting or surrounding a proposed site, an owner may propose alternatives consistent with the goals of sections 50-16 and 50-22. The land use supervisor may approve a proposal under this section where an applicant can demonstrate the following:

1. The renovation does not increase the existing primary structure's footprint; and
2. It is determined that the proposed renovation achieves the goals stated in 50-16 relevant to the particular form district to the same degree, or better than, the building form standards set forth in Section 50-22.

50-22.2 General building type descriptions.

Four major categories of building types are described in this Section: Main Street Building, Corridor Building, Cottage Commercial Building and Iconic Building. The building types proposed for the form districts include three variations of the Main Street Building, three variations of the Corridor Building, two variations of the Cottage Commercial Building, and one version of the Iconic Building. The building type variations go from least intense (Type I) to most intense (Type III).

A. Main street buildings.

Main street buildings, in general, are pedestrian-oriented, mixed use buildings. This building type typically has a storefront on the ground floor with offices or residential uses on the upper floors. The ground floor of the Main Street Building has a high amount of transparency, so that pedestrians walking by can look into the interior space.

1. Main Street Building I.

This building type allows for service, retail, and office uses on the ground floor and office or residential above. It is appropriate for commercial uses adjacent to residential neighborhoods, as the intensity of this building type is not as high as the other Main Street Building types. It has a larger build-to zone and a maximum height of two-and-a-half or three stories depending on location.

2. Main Street Building II.

Main Street Building II is slightly more intense than Main Street Building I, as it is required to be built up to the right-of-way and may generally be up to 4 stories tall. This building type also permits service, retail and office uses on the ground floor and office or residential on upper floors.

3. Main Street Building III.

Main Street Building III is the most intense of the Main Street Building types, as it is meant to be used in the downtown area. It is located directly adjacent to the sidewalk and should include retail or service uses on the ground floor whenever possible. Main Street Building III has a maximum height of 15 stories in limited locations.

B. Corridor buildings.

Corridor buildings are primarily meant to house office or multi-family residential uses, with less transparency required on the ground floor.

1. Corridor Building I.

This building type can house a single category of uses, such as office or residential, or a mix of uses. Corridor Building I is the least intensive corridor building, located in the more neighborhood oriented study area locations. It has a larger build-to zone that is set back farther than the other corridor buildings, and is permitted to be a maximum of three stories.

2. Corridor Building II.

Corridor Building II is an intermediary building type between the more neighborhood scale locations and the intensity of Downtown. It is similar to Corridor Building I in many ways, but is permitted to be built up to the sidewalk and may also be taller, with generally a maximum height of four stories.

3. Lakefront Corridor Building.

The Lakefront Corridor Building is a variation on Corridor Building II that was created for use along Lake Superior in Canal Park. These buildings front the lake, but also require some level of frontage on Canal Park Drive. The maximum height is four stories.

4. Corridor Building III.

Corridor Building III was created for use in Downtown. It is required to be built adjacent to the sidewalk and has a maximum height of 15 stories in specified locations. While the corridor building types are meant to house primarily office and residential uses, commercial uses are also permitted to create a vibrant commercial core for Downtown.

C. Cottage commercial.

The cottage commercial building is primarily commercial in nature but, unlike the Main Street Building, it is similar in form to single-family residential areas, providing transitions between commercial and residential areas.

1. Cottage Commercial I.

The cottage commercial building type is residential in character but commercial in use. At a maximum height of two and a half stories, it is meant to blend in with a surrounding residential neighborhood while at the same time providing neighborhood-scale commercial uses. Cottage Commercial I is for use as a transition to residential locations, with a larger build-to zone and permitted side aisle of parking. Cottage Commercial I may also include multiple principal structures on one lot, provided that each building meets the requirements of the building type.

2. Cottage Commercial II.

Cottage Commercial II is similar to Cottage Commercial I but is used in the West Duluth study area, which is a more intense context. This building type may be built to the front property line and must locate parking in the rear.

D. Iconic building.

While the previously mentioned building types are intended to serve as the fabric buildings of the city, the iconic building is a unique civic or institutional building that has distinctive character and function within the community. The iconic building type is meant to house community, cultural, civic, educational or governmental uses (i.e. uses classified as “Community and Cultural Facilities” or “Educational Facilities” in Table 50-19.8). The iconic building has more flexible requirements for building location and transparency than the other non-residential building types due to its unique nature.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Table 50-22.2-1: Summary Table of Permitted Building Types by Zone District

		Building Types									Areas	
		Main Street Building I	Main Street Building II	Main Street Building III	Corridor Building I	Corridor Building II	Lakefront Corridor Building	Corridor Building III	Cottage Commercial I	Cottage Commercial II		Iconic Building
Districts	F1: Low-Rise Neighborhood Shopping	●										East Superior
	F2: Low-Rise Neighborhood Mix	●			●				●		●	East Superior, London Road
	F3: Mid-Rise Community Shopping		●									West Duluth, Canal Park
	F4: Mid-Rise Community Mix		●			●				●	●	West Duluth London Road
	F5: Mid-Rise Community Shopping/Office		●			●					●	West Superior, Canal Park
	F6: Mid-Rise Neighborhood Shopping		●						●		●	Central Hillside
	F7: Downtown Shopping			●								Downtown
	F8: Downtown Mix			●				●			●	Downtown
	F9: Canal Park						●					Canal Park

● Building Type permitted

50-22.3 Base types.

Base type standards apply to the ground story and visible basement of front facades of all building types. To determine which base type(s) are permitted for each building type, refer to the building types-specific information found in sections 50-22.7 through 50-22.17.

A. General provisions.

The following provisions apply to all base types.

1. Intent. To guide the design of the ground story of all buildings to relate appropriately to pedestrians on the street. Treatment of other portions of the building facades is detailed in each building type standard found in sections 50-22.7 through 50-22.17;
2. Applicability. The entire ground story front facade of all buildings must meet the requirements of one of the permitted base types, unless otherwise stated in this Section;
3. Measuring transparency. Refer to Section 50-22.5.D.1 for information on measuring building transparency;
4. Visible basements. Visible basements, permitted by base type, are optional;

5. Expression lines. For the purposes of this section, expression lines are an architectural feature comprised of a decorative, three dimensional, linear element, horizontal or vertical, protruding or indented at least one in. from the exterior facade of a building, and extending the length or height of the building with minimal interruptions from doors and windows. It is typically used to delineate the floors or stories of a building;

B. Storefront base type.

The storefront base type is a highly transparent ground story treatment designed to serve as the display area and primary entrance for retail or service uses. (Refer to Figure 50-22.3-A)

1. Transparency. A minimum of 75 percent of the front facade between two and eight feet above the sidewalk must be comprised of transparent, non-reflective windows into the commercial space. A minimum of 25 percent of the windows shall have views directly into and out of the ground floor occupied space;
2. Elevation. Ground story elevation must be less than or equal to one foot above sidewalk'
3. Visible basement. A visible basement is not permitted;
4. Facade divisions. Expression lines shall divide the facade into segments;
 - (a) Vertically divide the base facade into segments no greater than 30 feet in width;
 - (b) Horizontally define the base facade from the upper stories;
5. Entrance. All entries shall be recessed from the front facade closest to the street.

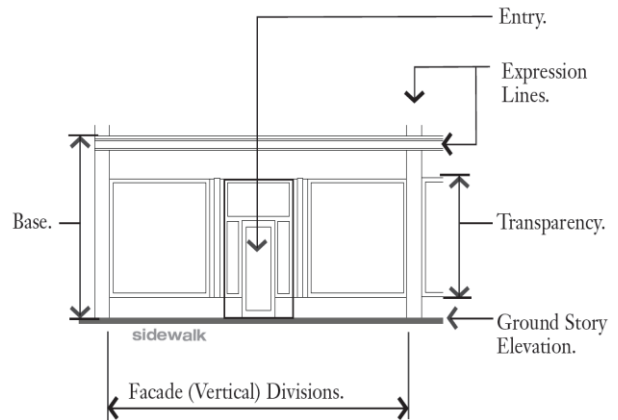


Figure 50-22.3-A: Storefront base type

- (a) Recess shall be a minimum of three feet and a maximum of eight feet deep, measured from the portion of the front facade closest to the street;
- (b) When the recess falls behind the front build-to zone, the recess shall be no wider than eight feet;

C. Shopfront base type.

The shopfront base type treatment includes less transparency than the storefront, while still allowing views in and out of the commercial space, and an

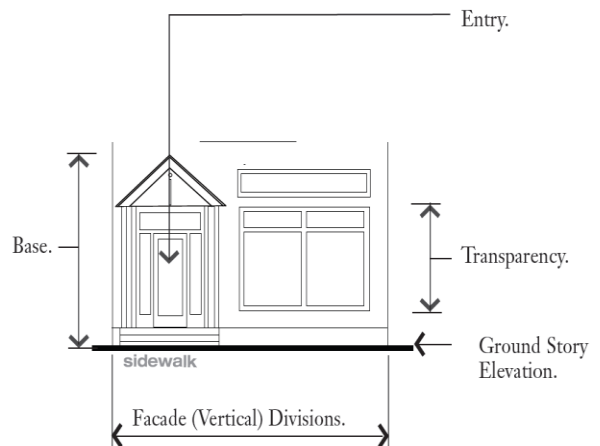


Figure 50-22.3-B: Shopfront base type

entrance off of a porch or stoop. (Refer to Figure 50-22.3-B)

1. Transparency. A minimum of 50 percent of the front facade between three and nine feet above the sidewalk must be comprised of transparent, non-reflective windows into the commercial space;
2. Elevation. Ground story elevation must be between zero and three feet above sidewalk and not less than six inches above the curb, with or without optional visible basement;
3. Visible basement. A visible basement is permitted;
4. Vertical facade divisions. For buildings wider than 50 feet, divide base facade into segments no greater than 50 feet in width with an expression line;
5. Entrance. Porch or stoop entrance required;

D. Arcade base type.

An arcade base type is a covered pedestrian walkway within the recess of a ground story. (Refer to Figure 50-22.3-C)

1. Arcade. An open-air public walkway is required from the face of the building recessed into the building a minimum of eight and a maximum of 15 feet;
2. Recessed or interior facade. Storefront or shopfront base types are required on the recessed ground story facade;
3. Column spacing. Columns shall be spaced between ten feet and 12 feet on center;
4. Column width. Columns shall be a minimum of 1 ft.-8 in. and a maximum 2 ft.-4 in. in width;
5. Arcade opening. Opening may not be flush with interior arcade ceiling and may be arched or straight;
6. Horizontal facade division. Horizontally define the base facade from the upper stories;
7. Visible basement. A visible basement is not permitted;

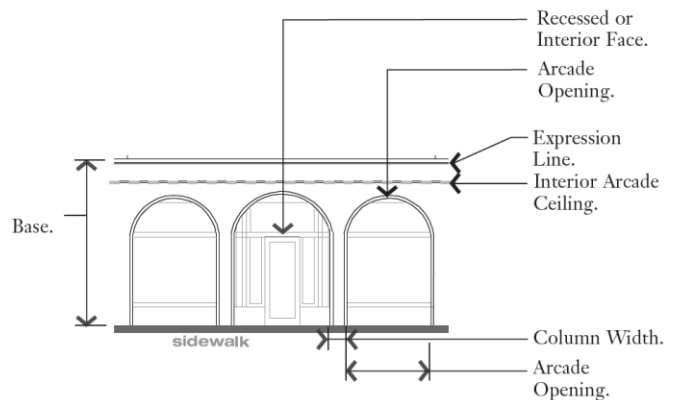


Figure 50-22.3-C: Arcade base type

E. Stoop base type.

A stoop is an unroofed, open platform. (Refer to Figure 50-22.3-D)

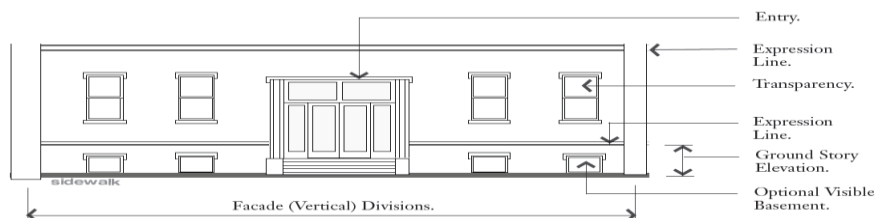


Figure 50-22.3-D: Stoop base type

1. Transparency. Minimum transparency per building type is required;
2. Stoop size. Stoops shall be a minimum of three feet deep and four feet wide;
3. Elevation. Ground story elevation must be located a maximum of 2 ft.-6 in. above the sidewalk without visible basement and a maximum of 4 ft.-6 in. above the sidewalk with a visible basement;
4. Visible basement. A visible basement is permitted;
5. Facade divisions. Expression lines shall divide facade segments;
 - (a) Vertically divide the base facade into segments no greater than 100 feet in width;
 - (b) Horizontally define the base facade from upper stories;
6. Entrance. All entries shall be located off a stoop;

F. Porch base type.

A porch is a raised, roofed platform that may or may not be enclosed on all sides. (Refer to Figure 50-22.3-E)

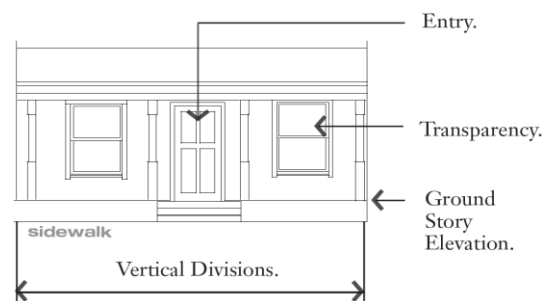


Figure 50-22.3-E: Porch base type

1. Transparency.
 - (a) Minimum transparency per building type is required;
 - (b) If enclosed, a minimum of 40 percent of the enclosed porch must be comprised of transparent, non-reflective windows;
2. Porch size. The porch shall be a minimum of five feet deep and maximum of eight feet wide;
3. Elevation. Ground story elevation must be located a maximum of 2 ft.-6 in. above the sidewalk without visible basement, and a maximum of 4 ft.-6 in. above the sidewalk with a visible basement;
4. Visible basement. A visible basement is permitted;
5. Facade divisions. Use expression lines to divide facade segments.
 - (a) Vertically divide base facade into segments no greater than 60 feet in width;
 - (b) Horizontally define the base facade from upper stories;
6. Height. Porch may be two stories to provide a balcony on the second floor;
7. Entrance. All entries shall be located off a porch;

50-22.4 Cap types.

Cap type standards apply to the cap of all building types as required in this Section.

A. General provisions.

The following provisions apply to all cap types.

1. Intent. To guide the design of building caps in order to ensure an appropriate and aesthetically pleasing cap for all buildings;
2. Applicability. All buildings must meet the requirements of one of the cap types permitted for the building type;
3. Measuring height. Refer to the definition of "height of building" in Article 6;
4. Other cap types. The iconic building type may seek to incorporate other building caps not listed as a specific type by applying for a special use

permit pursuant to Section 50-37.10, but the height may not exceed the maximum height of the tallest cap type permitted for the building type;

B. Parapet cap type.

A parapet is a low wall projecting above a building's roof along the perimeter of the building. It can be utilized with a flat or pitched roof and also serves to limit the view of roof-top mechanics from the street. (Refer to Figure 50-22.4-A)

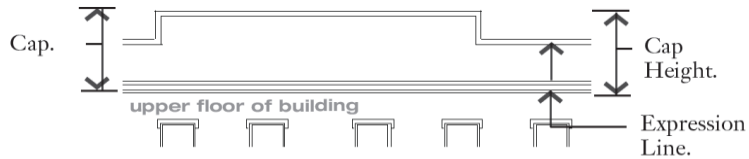


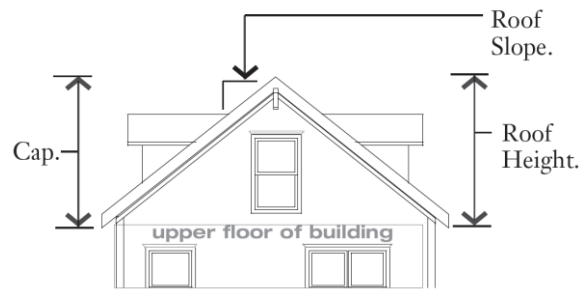
Figure 50-22.4-A: Parapet cap type

1. Parapet height. Height is measured from the top of the upper story to the top of the parapet;
 - (a) Minimum height is two feet with a maximum height of six feet;
 - (b) Cap shall be high enough to screen the roof and any roof appurtenances when viewed from the street(s) and any adjacent building of similar height;
2. Horizontal expression lines. An expression line shall define the cap from the upper stories of the building and shall also define the top of the cap;
3. Occupied space. Occupied space may not be incorporated behind this cap type;

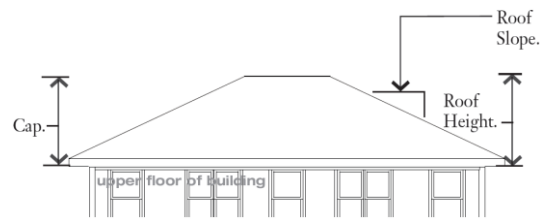
C. Pitched roof cap type.

This cap type has a sloped or pitched roof. Slope is measured with the vertical rise divided by the horizontal span or run. (Refer to Figure 50-22.4-B)

Figure 50-22.4-B: Pitched roof



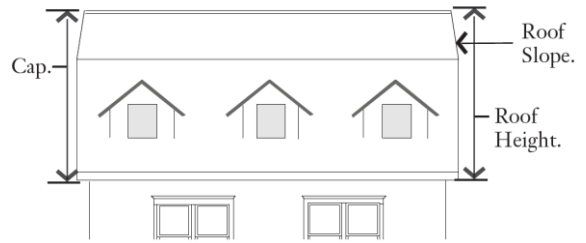
Pitched Roof cap type - Gabled



Pitched Roof cap type - Hipped

1. Pitch measure. The roof may not be sloped steeper than a 6:12 (rise:run) or flatter than 16:12 (rise:run);
2. Roof types. Hipped, gabled, and combination of hips and gables with or without dormers are acceptable. Gambrel and mansard roofs are acceptable provided that when the ridge runs parallel to the street, one dormer per 15 feet of street face is required;
3. Parallel ridge line. A gabled end or perpendicular ridge line shall occur at least every 100 feet of roof for two-story buildings or higher and at least every 50 feet of roof for one-story buildings when the ridge line runs parallel to the front property line;

4. Roof height. Roof height may not be greater than the total of all floors below the roof. For single story portions of the building, roof height may not exceed one-and-one-half times the floor below the roof;



Pitched Roof cap type - Gambrel



Pitched Roof cap type - Mansard

D. Flat roof cap type.

This cap type has a flat roof with overhanging eaves. (Refer to Figure 50-22.4-C)

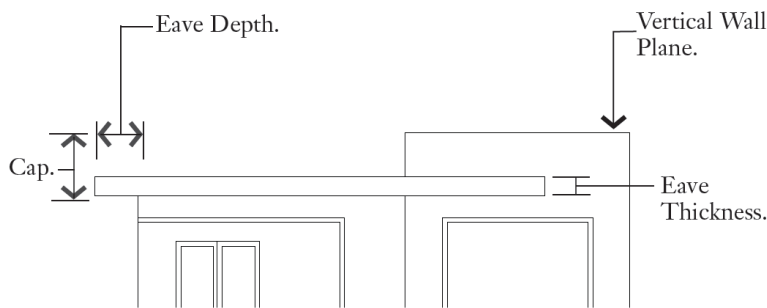


Figure 50-22.4-C: Flat roof

1. Roof types. Roofs with no visible slope are acceptable. Eaves are required on all street-facing facades;
2. Eave depth. Eave depth is measured from the building façade to the outside edge of the eave. Eaves shall have a depth of at least 12 inches;
3. Eave thickness. Eave thickness is measured at the outside edge of the eave, from the bottom of the eave to the top of the eave. Eaves shall be a minimum of six inches thick;
4. Interrupting vertical walls. Vertical walls may interrupt the eave and extend above the top of the eave with no discernible cap;
 - (a) No more than one-half of the front façade can consist of an interrupting vertical wall;
 - (b) Vertical walls shall extend no more than four feet above the top of the eave;

E. Towers.

A tower is a rectilinear or cylindrical vertical element that must be used with other cap types. (Refer to Figure 50-22.4-D)

1. Quantity. One tower is permitted per building;
2. Tower height. Maximum height, measured from the top of the upper story to the top of the tower, is the equivalent of the height of one upper floor of the building to which the tower is applied;
3. Tower width. Maximum width along all facades is one-third the width of the front facade or 30 feet, whichever is less;
4. Occupied space. Towers must be occupied by the same uses allowed in upper stories of the building type to which it is applied;
5. Tower cap. The tower may be capped by the parapet, pitched, or flat roof cap types.

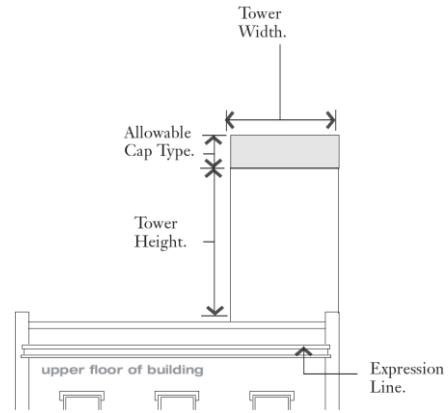


Figure 50-22.4-D: Tower

50-22.5 Explanation of table requirements.

The following explains and defines the requirements included in the tables for each building type, Sections 50-22.7 through 50-22.17, and summarized for all building types in Table 50-22.7.

A. Building siting.

1. Street frontage.
 - (a) Multiple principal buildings permitted on a lot. The presence of more than one principal structure on a lot;
 - (b) Front build-to zone (BTZ) or setback. The build-to zone or setback parallel to the front property line. All BTZ and setback areas not covered by the building must contain either landscaping, patio space, or sidewalk space. Build-to zones define the minimum and maximum distance a structure may be placed from a property line;
 - (c) Corner BTZ or setback. The build-to zone or setback parallel to the corner property line. All BTZ and setback areas not covered by building must contain landscape area;
 - (d) Minimum coverage of front BTZ. Measurement defining the minimum percentage of street wall or building facade required along the street. The width of the principal structure(s) (as measured within the front build-to zone) shall be divided by the maximum width of the front. Refer to Figure 50-22.5-A;

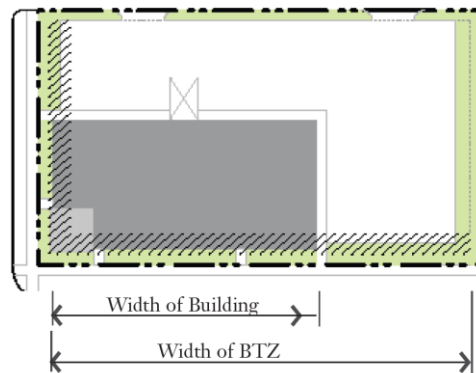


Figure 50-22.5-A: Measuring BTZ Coverage

- (e) Occupation of corner. Occupying the intersection of the front and corner build-to zones with a principal structure;
- 2. Side and rear setbacks.
 - (a) Minimum side yard setback. The minimum required setback along a side property line. All side yard setback areas not covered by building must contain landscape area;
 - (b) Minimum rear yard setback. The minimum required setback along a rear property line;
- 3. Buildable area.
 - (a) Minimum landscape area. The minimum percentage of a lot that must be primarily dedicated to landscape materials, such as planting beds, grass or shrubs. A portion of the area may include hardscape materials for pedestrian use or access to the area or building, such as patio or sidewalk;
 - (b) Minimum lot width. The minimum width of a lot, measured at the front property line;
- 4. Parking and access.
 - (a) Location of parking facilities. The yard in which a parking lot and associated drive is permitted;
 - (b) Loading facility location. The facade of the building on which access is permitted for loading and unloading activities related to building uses;
 - (c) Number of permitted driveways. Defines the circumstances under which a driveway is permitted on a lot;

B. Height.

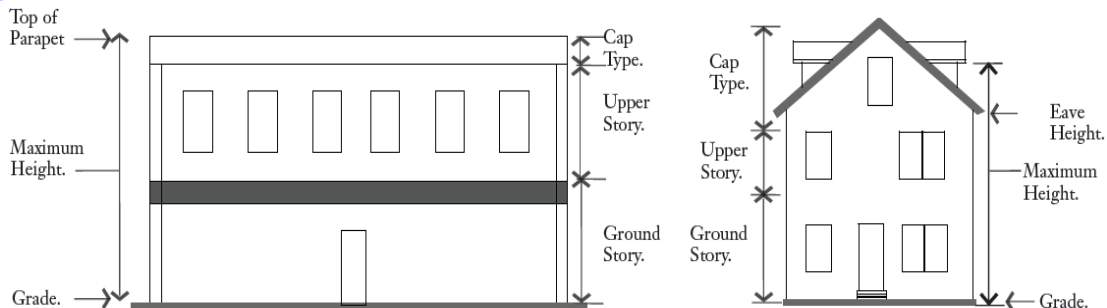


Figure 50-22.5-B: Measuring Height

- 1. Minimum and maximum overall height. (Refer to Figure 50-22.5-B);
- 2. A required minimum and maximum overall height is provided for all building types and is measured as follows:
 - (a) Height in stories. The sum of a building's stories. Half stories are located either completely within the roof structure or in a visible basement exposed a maximum of one-half story above average finished grade;
 - (b) Height in feet measured as follows:
 - (i) Parapet cap type. Overall height is measured from the average finished grade of the building's front facade to the highest point of the parapet;

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- (ii) Pitched cap type. Overall height is measured from the average finished grade of the building's front facade to the midpoint of the highest roof slope;
 - (iii) Flat roof cap type. Overall height is measured from the average finished grade of the building's front facade to the top of the highest eave;
 - (iv) Appurtenances. Chimneys, antennae and other similar appurtenances may exceed the overall building height by no more than 25 feet;
 - (v) Towers. Maximum height, measured from the top of the upper story to the top of the tower, is the equivalent of the height of one upper floor of the building to which the tower is applied. This additional floor does not count toward the overall height of the building. Refer to Section 50-22.4(E);
3. Ground story and upper story minimum and maximum height. (Refer to Figure 50-22.5-B) Each building type includes a permitted range of height in feet for each story, which is measured as follows:
 - (a) Floor height is measured in feet from the floor of a story to the floor of the story above it;
 - (b) For single story buildings and the uppermost story of a multiple story building, floor to floor height shall be measured from the floor of the story to the tallest point of the ceiling;
4. Where a building spans a block, and the block is adjacent to two street frontages with different building height maximums, the maximum height is determined as follows:
 - (a) Where a block is adjacent to two streets with different maximum building heights, the midpoint between those two streets is the point where the maximum building height transition occurs;
 - (b) Where a block is between Superior Street and Michigan Street, the greater maximum building height allowed on Superior Street extends through the entire block to Michigan Street;
5. In the situation where a single party owns frontage along a street corner, the maximum height for corner parcels applies to lots with the same street frontage owned by the same property owner within 100 feet of the corner;

C. Uses.

1. Ground story. The uses that may occupy the ground story of a building. Refer to Article 3, Permitted Uses;
2. Upper story. The uses that may occupy the upper stories of a building. Refer to Article 3, Permitted Uses;
3. Parking within building. The area(s) of a building in which parking is permitted within the structure;
4. Occupied space. The area(s) of a building that must be occupied by the users on a regular basis;

D. Facade requirements.

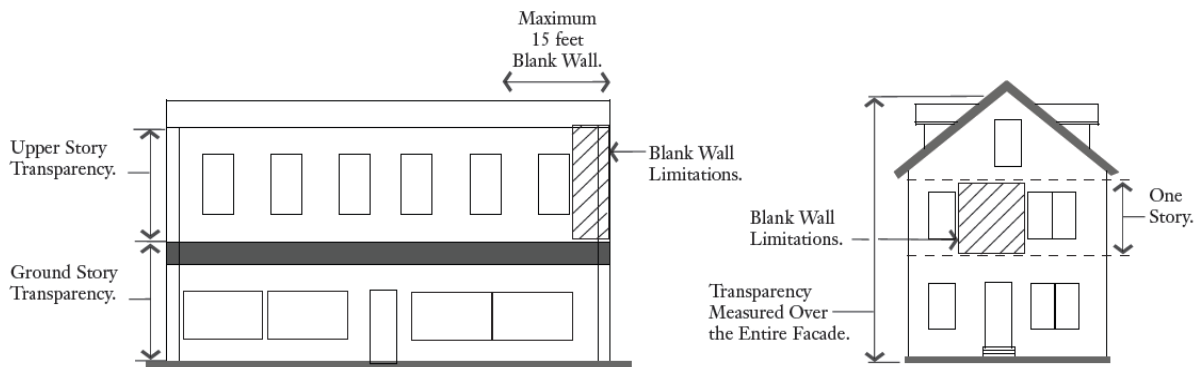


Figure 50-22.5-C: Measuring transparency

1. Transparency. Measurement of the percentage of a facade that has clear, non-reflective windows. Refer to Figure 50-22.5-C.
 - (a) Minimum transparency. The minimum amount of transparency required on the upper stories of facades with street frontage, measured per story or per facade, depending on the building type. Buildings with storefront and shopfront base types are required to have a greater ground story transparency on the front facade, as defined in Section 50-22.3, Base types;
 - (b) Blank wall limitations. A restriction of the amount of windowless area permitted on a facade with street frontage. If required, the following shall be met:
 - (i) No rectangular area greater than 30 percent of a story's facade, as measured from floor to floor, may be windowless; and
 - (ii) No horizontal distance greater than 15 feet of a story's facade may be windowless;
2. Building entrance.
 - (a) Principal entrance location. The facade on which the primary building entrance is to be located;
 - (b) Street facades. Number of entrances on street facade. The maximum spacing between entrances on a building facade with street frontage;
3. Balconies. The following requirements pertain to balconies on building facades with street frontage.
 - (a) Size. The minimum dimensions of a permitted balcony;
 - (b) Facade coverage. The percentage of a facade's total area that may be covered by balconies, including street facing railing and balcony structure;
 - (c) Access. The number of units that are permitted to gain entry to an individual balcony;
 - (d) Structure. Requirements related to the construction of a balcony. Two types of balcony structures are permitted:
 - (i) Independently secured balconies are those that are connected directly to the building and are unconnected to other balconies;
 - (ii) Balconies that are integral to the facade are a part of, and built in conjunction with, the building structure;

E. Cap and base type requirements.

1. Cap type. The cap type(s) permitted for a given building type. Refer to 50-22.4, cap types for more specific requirements;
2. Tower. A vertical building extension that may be permitted in conjunction with another cap type on certain building types. Refer to 50-22.4(E), cap types;
3. Front street facade base type. The base type(s) required on the street-facing facade of a given building type. Refer to 50-22.3, base types for more specific requirements;
4. Parking lot facade base type. The base type(s) required on the facade of a given building type that faces a parking lot. Refer to 50-22.3, base types for more specific requirements;

F. Facade materials requirement.

The materials prohibited, required and to be avoided for designated facades.

50-22.6 Additional development standards.

The following provides additional required physical standards for the uses outlined as permitted in Article 3, Permitted Uses.

A. Automobile and light vehicle repair and service.

1. Service bays. Vehicular service bays, including garages and car wash bays, shall not be located on the front façade;
2. Outdoor activities. All repairs or washing activities must occur inside a structure;

B. Filling station: fuel pumps and canopies.

Refer to Figure 50-22.6-A.

1. Fuel pumps are permitted in the side or rear yards;
2. If a lot containing fuel pumps is adjacent to any residential district, the boundary with those districts shall be buffered in accordance with the standards in Section 50-25.5.B;
3. Canopy roof structures shall match the roof structure of the principal structure on the lot;
4. Canopy height shall not exceed the height of the principal structure on the lot;
5. Signage is not permitted on the canopy;

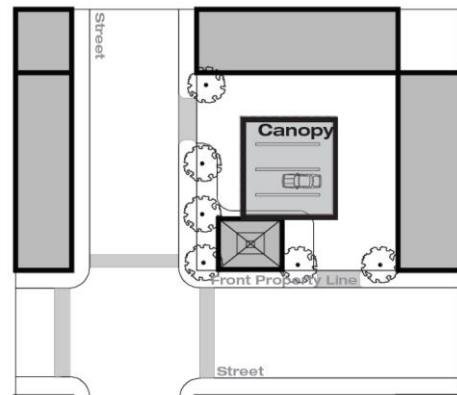


Figure 50-22.6-A: Relationship between the principal structure and the pump islands

C. Drive-through.

Refer to Figure 50-22.6-B.

1. The drive-through shall be located on the side or rear

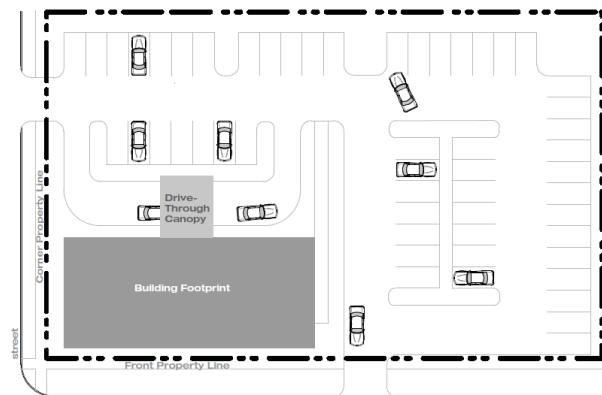


Figure 50-22.6-B: drive-through

façade.

2. When occurring adjacent to any residential district, the boundary with those districts shall be buffered in accordance with the standards in Section 50-25.5.B.

D. Parking structure.

Facades of parking structures visible from any public right-of-way shall meet the following requirements:

1. Vertical expression lines are required every 60 feet.
2. Ramped floors shall not be visible from the street. Garage openings shall be organized in stories. Story dimensions shall match adjacent buildings, measured between nine feet and 14 feet floor to floor.
3. The street facing façade surface of the structure shall be articulated with the same level of detail and the same type of material as adjacent buildings. Brick masonry shall be the dominant surface material, occupying a minimum of 50 percent of the street facing façade surface.
4. Garage entries and exits shall be located on secondary streets or alleys.

50-22.7 Building type summary table.

Table 50-22.7-1: Building Type Summary Table.

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	Street Frontage			Side & Rear Setbacks			Buildable Area	
	Multiple Buildings Permitted on a Lot	Front Yard BTZ or setback (feet)	Corner Side Yard BTZ or setback (feet)	Minimum Coverage of Front Build-to Zone	Minimum Side Yard Setback (feet)	Minimum Rear Yard Setback (feet)	Minimum Landscape Area	Minimum Lot Width (feet)
Main Street Building I	No	0-15	0-15	<u>65%</u> ; BTZ may exclude permitted driveway	0	5	10%	30
Main Street Building II	No	0-5	0-5	95%	0	5	0%	20
Main Street Building III	No	0-5	0-5	95%	0	<u>0</u>	0%	20
Corridor Building I	Yes	5-15	5-15	<u>65%</u>	0	5	<u>10%</u>	30
Corridor Building II	Yes	0-15	0-15	75%	0	5	15%	50
Lakefront Corridor Building	Yes	0-25 BTZ on Lakefront; 0-15 BTZ along Canal Park Drive	0-15	33% on street face; 65% on Lakefront	10% of lot width on each side or aggregate on one side	Not applicable	20%	50
Corridor Building III	No	0-5	0-5	85%	0	<u>0</u>	0%	50
Cottage Commercial I	Yes	5-20	5-20	60%	5	5	<u>10%</u>	50
Cottage Commercial II	No	0-15	0-15	60%	0	5	20%	50
Iconic Building	Yes	5' Setback	5' Setback	Not applicable	5	5	20%	50

¹Tower permitted for all Building Types [Land Use](#)

² 2 driveways may be permitted through [Supervisor Approval](#) if frontage exceeds 200'

³15 stories or 188' as measured from W Superior Street; Permitted from Mesaba Ave to N 4th Ave E

⁴Ground floor transparency may be greater depending on base type.

⁵ 2 driveways may be permitted through [Land Use Supervisor Approval](#) if frontage exceeds 300' (with or without alley)

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Parking & Access		Building Height		Transparency		Entrance	Cap & Base Type	
Location of Parking Facilities (yard)	Number of Permitted Driveways	Minimum Principle Building Height (stories)	Maximum Principle Building Height	Minimum Front & Corner Side Façade Transparency per Story ⁴	Blank Wall Limitations	Primary Entrance Locations	Allowed Cap Types ¹	Allowed Base Types
Rear, <u>Single or double side aisle permitted</u>	1 driveway permitted per frontage ²	1	2.5 stories / 37' along East Superior Street; 3 stories / 45' along London Road	20%	Required	Front or Corner Side Façade	Parapet, Flat Roof, Pitched Roof	Storefront
Rear	If no alley exists, 1 driveway permitted per frontage ²	1	4 stories / 55'; 6 stories / 80' on Lake Avenue	20%	Required	Front or Corner Side Façade	Parapet, Flat Roof, Pitched Roof	Arcade, Storefront
Rear	If no alley exists, 1 driveway permitted per frontage ⁵	1; 2 along Superior Street	6 stories / 80'; 9 stories / 116' on corner parcels only; 15 stories / 188' along Superior Street ³	20%	Required	Front or Corner Side Façade	Parapet, Flat Roof	Arcade, Storefront
Rear, <u>Single or double side aisle permitted</u>	1 driveway permitted per frontage ²	1	3 stories / 45'	20%	Required	Front or Corner Side Façade	Parapet, Flat Roof, Pitched Roof	Stoop, Porch
Rear	If no alley exists, 1 driveway permitted per frontage ²	1	4 stories / 55'; 6 stories / 80' on Lake Avenue	20%	Required	Front or Corner Side Façade	Parapet, Flat Roof, Pitched Roof	Stoop, Porch
Must be screened from the Lakefront by building	1 driveway permitted per every 140' of frontage	1	4 stories / 55'	20%	Required only on street or Lakefront facades	Visible from street	Parapet, Flat Roof, Pitched Roof	Stoop or Porch on Lake or parking lot face; Storefront or Stoop on street face
Rear	If no alley exists, 1 driveway permitted per frontage ⁵	1	6 stories / 80'; 9 stories / 116' on corner parcels only; 15 stories / 188' along Superior Street ³	20%	Required	Front or Corner Side Façade	Parapet, Flat Roof	Stoop
Rear, <u>Single or double side aisle permitted</u>	1 driveway permitted per frontage ²	1	2.5 stories / 33'	20%	Not required	Front or Corner Side Façade	Pitched Roof	Shopfront, Porch, Stoop
Rear	If no alley exists, 1 driveway permitted per frontage ²	1	2.5 stories / 33'	20%	Not required	Front or Corner Side Façade	Pitched Roof	Shopfront, Porch, Stoop
Rear, Single side aisle permitted	1 driveway permitted per frontage ²	1	4 stories / 55'	10%	Not required	Front or Corner Side Façade	Parapet, Flat Roof, Pitched Roof	Stoop

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50-22.8 Main Street Building I.

Main Street Building I

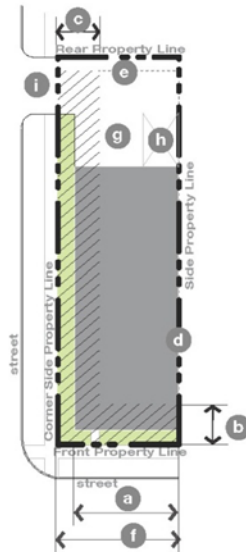


Figure 50-22.8(A): Building Siting.

A. Building Siting		B. Height	
1. Street Frontage		Minimum Overall Height	1 story (j)
Multiple Principal Buildings	Not permitted	Maximum Overall Height	2.5 stories / 37' along East Superior; 3 stories / 45' along London Road (k)
Front Build-to Zone Coverage	65%; BTZ may exclude permitted driveway (a)		
Occupation of Corner	Required (l)		
Front BTZ	0' to 15' (b)		
Corner BTZ	0' to 15' (c)		
2. Buildable Area			
Side Yard Setback	0' (d)		
Rear Yard Setback	5' (e)		
Minimum Lot Width	30' (f)		
Minimum Landscape Area	10%		
3. Parking Lot, Loading & Access		C. Uses	
Parking Lot Location	Rear yard; Single or double aisle permitted in side yard (h)	Ground Story	Refer to Section 3. Permitted Uses (n)
Loading Facility Location	Rear building façade or side (h)	Upper Story	Refer to Section 3. Permitted Uses (o)
Access	1 driveway permitted per frontage; 2 driveways may be permitted through [special exception] if frontage exceeds 200' (i)	Parking within Building	Permitted in the rear of the ground floor and fully in any other floor (p)
		Occupied Space	30' depth space required on ground floor facing Primary Street

Main Street Building I

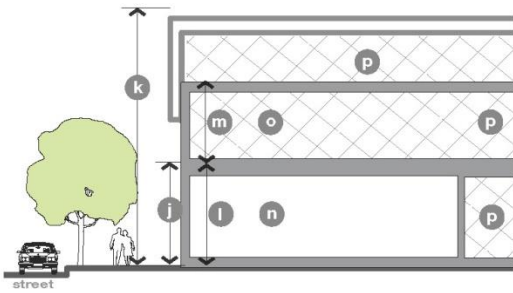


Figure 50-22.8(B): Height & Use Requirements.

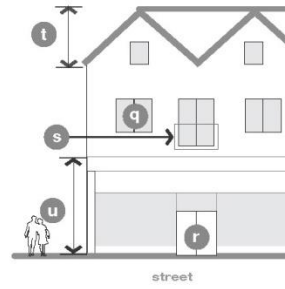


Figure 50-22.8(C): Façade Requirements.

D. Street Façade Requirements	
1. Transparency (q)	
Minimum Transparency	20% per floor
Blank Wall Limitations	Required
2. Building Entrance	
Principal Entrance Location	Front or Corner Side Façade of building (r)
Street Façades: Number of Entrances	1 per <u>50'</u> of Front Façade
3. Balconies (if provided) (s)	
Size	Minimum 3' deep and 5' wide
Façade Coverage	Maximum 30% of front & corner side façades, calculated separately
Access to Balcony	Maximum one (1) dwelling unit
Structure	Independently secured and unconnected to other balconies; or integral to the façade

E. Cap & Base Type Requirements	
Cap Type	Parapet, Flat Roof, Pitched Roof (t)
Tower	Permitted
Street Façade Base Type	Storefront (u)

50-22.9 Main Street Building II.

Main Street Building II

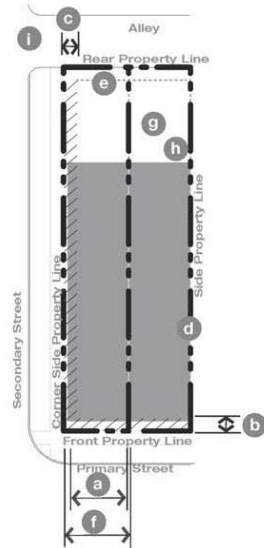


Figure 50-22.9(A): Building Siting.

A. Building Siting		B. Height	
1. Street Frontage		Minimum Overall Height	1 story (j)
Multiple Principal Buildings	Not permitted	Maximum Overall Height	4 stories / 55' (k)
Front Build-to Zone Coverage	95% (a)		
Occupation of Corner	Required (l)		
Front BTZ	0' to 5' (b)		
Corner BTZ	0' to 5' (c)		
2. Buildable Area			
Side Yard Setback	0' (d)		
Rear Yard Setback	5' (e)		
Minimum Lot Width	20' (f)		
Minimum Landscape Area	0%		
3. Parking Lot, Loading & Access		C. Uses	
Parking Lot Location	Rear yard (g)	Ground Story	Refer to Section 3. Permitted Uses (n)
Loading Facility Location	Rear building façade (h)	Upper Story	Refer to Section 3. Permitted Uses (o)
		Parking within Building	Permitted in the rear of the ground floor and fully in any other floor (p)
Access	No driveway permitted if alley access is available; If no alley exists, 1 driveway permitted per frontage; 2 driveways may be permitted through [special exception] if frontage exceeds 200' (i)	Occupied Space	30' depth space required on ground floor facing Primary Street

Main Street Building II

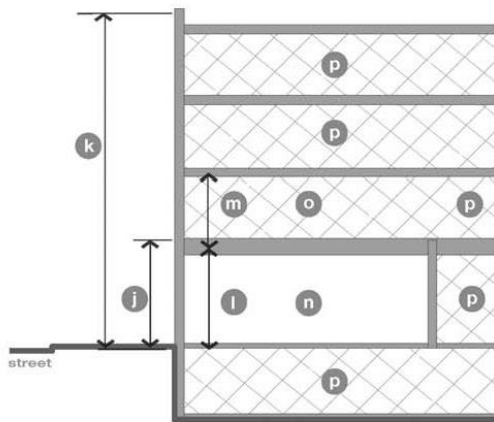


Figure 50-22.9(B): Height & Use Requirements.

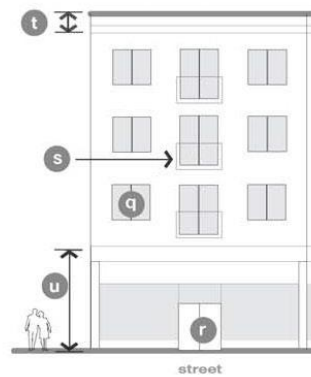


Figure 50-22.9(C): Facade Requirements.

D. Street Façade Requirements	
1. Transparency (q)	
Minimum Transparency	20% per floor
Blank Wall Limitations	Required
2. Building Entrance	
Principal Entrance Location	Front or Corner Side Façade of building (r)
Street Façades: Number of Entrances	1 per 75' of Front Façade
3. Balconies (if provided) (s)	
Size	Minimum 3' deep and 5' wide
Façade Coverage	Maximum 30% of front & corner side façades, calculated separately
Access to Balcony	Maximum one (1) dwelling unit
Structure	Independently secured and unconnected to other balconies; or integral to the façade

E. Cap & Base Type Requirements	
Cap Type	Parapet, Flat Roof, Pitched Roof (t)
Tower	Permitted
Street Façade Base Type	Arcade, Storefront (u)

F. Façade Materials Requirements ²	
Permitted Façade Materials	Durable, natural materials, such as stone, brick, stucco, metal, and concrete
Permitted Upper Story Façade Materials	Painted or Stained Wood
Required Materials	Minimum 60% masonry on each façade, red brick preferred
Materials to Avoid	Imitation materials intended to look like natural materials; Residential grade windows and doors on the ground story; painted brick or stone
Prohibited Materials on Façades	Concrete masonry units, utility or economy bricks more than 3" in height, untreated wood, and exterior insulation & finishing systems (EIFS)
Façade Colors	Historic Paint Palettes by any major brand, also on file at City Hall

Notes:

² Façade materials requirements apply only to the Canal Park area

50-22.10 Main Street Building III.

Main Street Building III

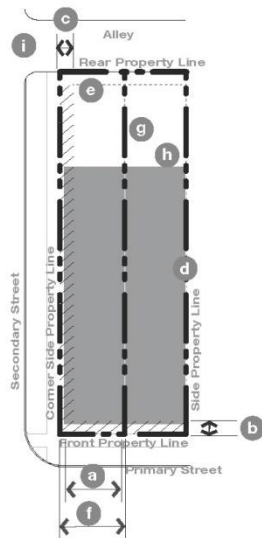


Figure 50-22.10(A) : Building Siting.

A. Building Siting		B. Height	
1. Street Frontage		Minimum Overall Height	1 story; 2 stories along Superior Street (j)
Multiple Principal Buildings	Not permitted	Maximum Overall Height	6 stories and 80'; 9 stories and 116' on all corner parcels except those on 2nd Street; 15 stories and 188' along Superior Street ^{1,2} (k)
Front Build-to Zone Coverage	95% (a)		(l)
Occupation of Corner	Required		(m)
Front BTZ	0' to 5' (b)	Notes:	
Corner BTZ	0' to 5' (c)	¹ 15 Stories/188' height shall be measured from Superior Street	
2. Buildable Area		² 15 Stories permitted from Mesaba Ave to N 4th Ave E on W Superior Street	
Side Yard Setback	0' (d)		
Rear Yard Setback	0' (e)		
Minimum Lot Width	20' (f)		
Minimum Landscape Area	0%		
3. Parking Lot, Loading & Access		C. Uses	
Parking Lot Location	Rear yard (g)	Ground Story	Refer to Section 3. Permitted Uses (n)
Loading Facility Location	Rear building façade (h)	Upper Story	Refer to Section 3. Permitted Uses (o)
Access	No driveway permitted if alley access is available; If no alley exists, 1 driveway permitted per frontage (i)	Parking within Building	Permitted in the rear of all floors and fully in any basement (p)
	<u>2 driveways may be permitted through Land Use Supervisor Approval if frontage exceeds 300'</u>		

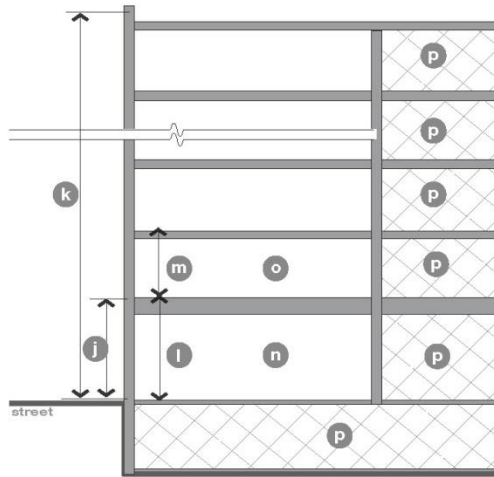


Figure 50-22.10(B): Height & Use Requirements.

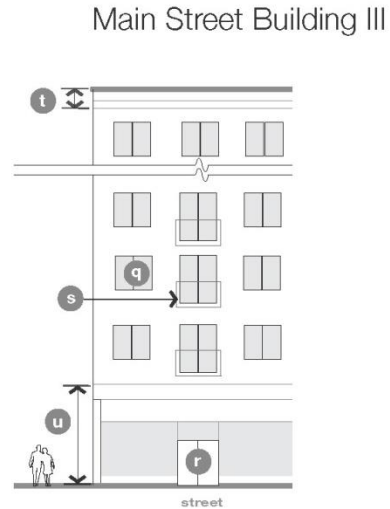


Figure 50-22.10(C): Facade Requirements.

Occupied Space	<u>30' depth and 30' height required facing Primary Streets; 30' depth required on ground floor facing Secondary Streets</u>
----------------	--

D. Street Façade Requirements

1. Transparency (q)	
Minimum Transparency	20% per floor
Blank Wall Limitations	Required
2. Building Entrance	
Principal Entrance Location	Front or Corner Side Façade of building (r)
Street Façades: Number of Entrances	1 per 75' of Front Façade
3. Balconies (s)	
Size	Minimum 3' deep and 5' wide
Façade Coverage	Maximum 30% of front & corner side façades, calculated separately
Access to Balcony	Maximum one (1) dwelling unit
Structure	Independently secured and unconnected to other balconies; or integral to the façade

E. Cap & Base Type Requirements

Cap Type	Parapet, Flat Roof (t)
Tower	Permitted
Street Façade Base Type	Arcade, Storefront (u)

50-22.11 Corridor Building I.

Corridor Building I

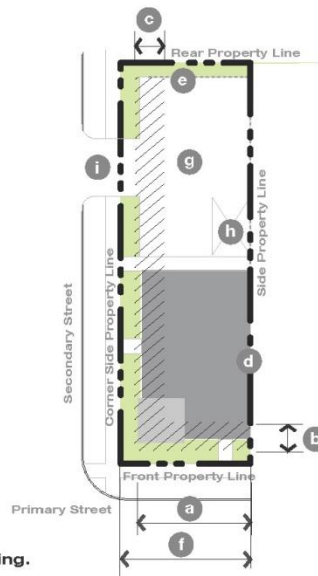


Figure 50-22.11(A): Building Siting.

A. Building Siting		B. Height	
1. Street Frontage		Minimum Overall Height	1 story (j)
Multiple Principal Buildings	Permitted	Maximum Overall Height	3 stories / 45' (k)
Front Build-to Zone Coverage	65% (a)		(l)
Occupation of Corner	Required		(m)
Front BTZ	5' to 15' (b)		
Corner BTZ	5' to 15' (c)		
2. Buildable Area			
Side Yard Setback	0' (d)		
Rear Yard Setback	5' (e)		
Minimum Lot Width	30' (f)		
Minimum Landscape Area	10%		
3. Parking Lot, Loading & Access		C. Uses	
Parking Lot Location	Rear yard; Single aisle permitted in side yard (g) or double	Ground Story	Refer to Section 3. Permitted Uses (n)
Loading Facility Location	Rear building façade (h)	Upper Story	Refer to Section 3. Permitted Uses (o)
Access	1 driveway permitted per frontage; 2 driveways may be permitted through [special exception] if frontage exceeds 200' (i) or side	Parking within Building	Permitted in the rear of the ground floor and fully in any other floor (p)
		Occupied Space	30' depth space required on ground floor facing Primary Street

Corridor Building I

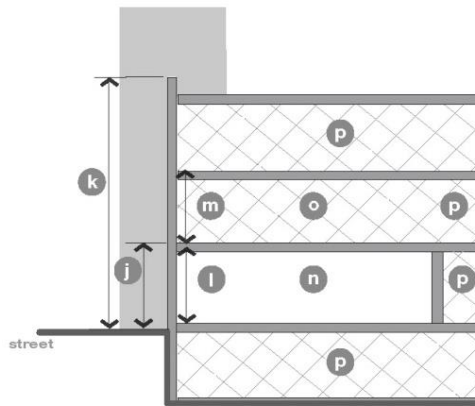


Figure 50-22.11(B): Height & Use Requirements.

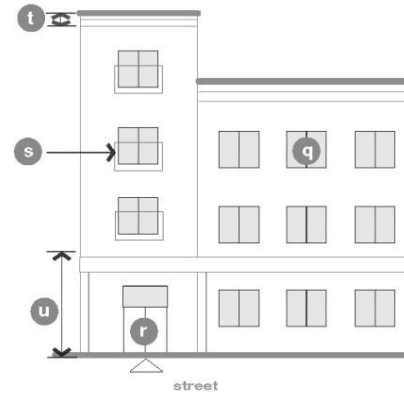


Figure 50-22.11(C): Facade Requirements.

D. Street Façade Requirements	
1. Transparency (q)	
Minimum Transparency	20% per floor
Blank Wall Limitations	Required
2. Building Entrance	
Principal Entrance Location	Front or Corner Side Façade of building (r)
Street Façades: Number of Entrances	1 per <u>50'</u> of Front Façade
3. Balconies (if provided) (s)	
Size	Minimum 3' deep and 5' wide
Façade Coverage	Maximum 30% of front & corner side façades, calculated separately
Access to Balcony	Maximum one (1) dwelling unit
Structure	Independently secured and unconnected to other balconies; or integral to the façade

E. Cap & Base Type Requirements	
Cap Type	Parapet, Flat Roof, Pitched Roof (t)
Tower	Permitted
Street Façade Base Type	Stoop, Porch ² (u)

Notes:
² Porch, Stoop, or stairs may encroach to within 2' of the property line

50-22.12 Corridor Building II.

Corridor Building II

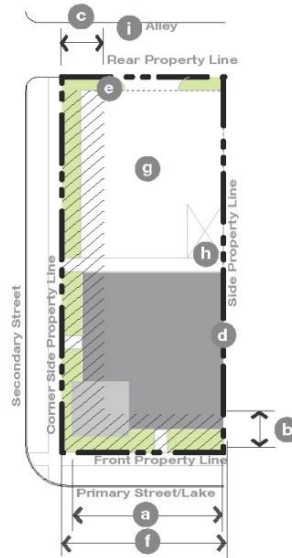


Figure 50-22.12(A): Building Siting.

A. Building Siting		B. Height	
1. Street Frontage		Minimum Overall Height	1 story (j)
Multiple Principal Buildings	Permitted	Maximum Overall Height	4 stories / 55' (k)
Front Build-to Zone Coverage	75% (a)		(l)
Occupation of Corner	Required		(m)
Front BTZ	0' to 15' (b)		
Corner BTZ	0' to 15' (c)		
2. Buildable Area			
Side Yard Setback	0' (d)		
Rear Yard Setback	5' (e)		
Minimum Lot Width	50' (f)		
Minimum Landscape Area	15%		
3. Parking Lot, Loading & Access		C. Uses	
Parking Lot Location	Rear yard (g)	Ground Story	Refer to Section 3. Permitted Uses (n)
Loading Facility Location	Rear building façade (h)	Upper Story	Refer to Section 3. Permitted Uses (o)
		Parking within Building	Permitted in the rear of the ground floor and fully in any other floor (p)
Access	No driveway permitted if alley access is available; If no alley exists, 1 driveway permitted per frontage; 2 driveways may be permitted through [special exception] if frontage exceeds 200' (i)	Occupied Space	30' depth space required on ground floor facing Primary Street

Corridor Building II

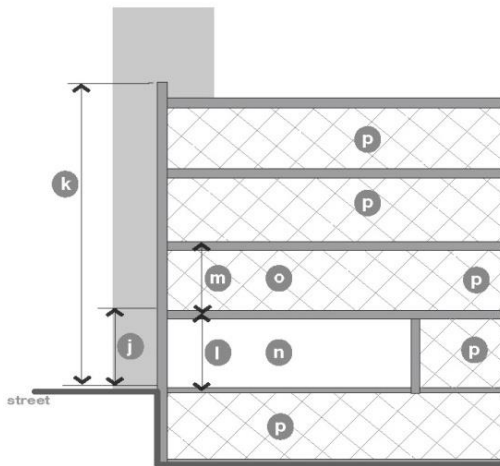


Figure 50-22.12(B): Height & Use Requirements.

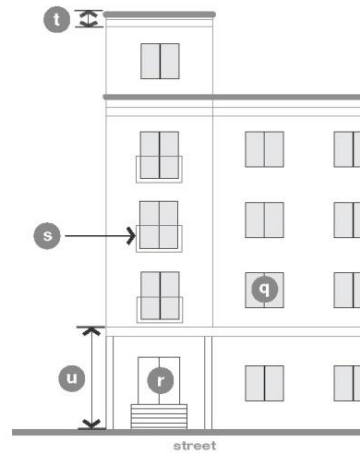


Figure 50-22.12(C): Façade Requirements.

D. Street Façade Requirements

1. Transparency (q)	
Minimum Transparency	20% per floor
Blank Wall Limitations	Required
2. Building Entrance	
Principal Entrance Location	Front or Corner Side Façade of building (r)
Street Façades: Number of Entrances	1 per 75' of Front Façade
3. Balconies (if provided) (s)	
Size	Minimum 3' deep and 5' wide
Façade Coverage	Maximum 30% of front & corner side façades, calculated separately
Access to Balcony	Maximum one (1) dwelling unit
Structure	Independently secured and unconnected to other balconies; or integral to the façade

E. Cap & Base Type Requirements

Cap Type	Parapet, Flat Roof, Pitched Roof (t)
Tower	Permitted
Street Façade Base Type	Stoop, Porch (u)

F. Façade Materials Requirements ²

Permitted Façade Materials	Durable, natural materials, such as stone, brick, stucco, metal, and concrete
Permitted Upper Story Façade Materials	Painted or Stained Wood
Required Materials	Minimum 60% masonry on each façade, red brick preferred
Materials to Avoid	Imitation materials intended to look like natural materials; Residential grade windows and doors on the ground story; painted brick or stone
Prohibited Materials on Façades	Concrete masonry units, utility or economy bricks more than 3" in height, untreated wood, and exterior insulation & finishing systems (EIFS)
Façade Colors	Historic Paint Palettes by any major brand, also on file at City Hall

Notes:

² Façade materials requirements apply only to the Canal Park area

50-22.13 Lakefront Corridor Building.

Lakefront Corridor Building

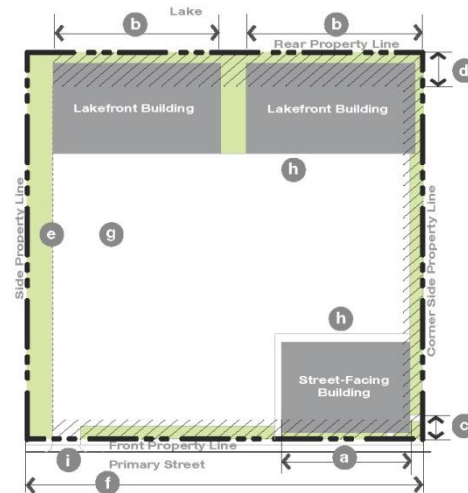


Figure 50-22.13(A): Building Siting.

A. Building Siting	
1. Street & Lake Frontage	
Multiple Principal Buildings	Permitted
Build-to Zone Coverage:	
Front & Corner BTZ on Street Face	33% a
Rear BTZ on Lakefront	65% b
Occupation of Corner	Required
Build-to Zone:	
Front & Corner BTZ on Street Face	0-15' c
Rear BTZ on Lakefront	0-25' d
2. Buildable Area	
Side Yard Setback	20' e
Rear Yard Setback	Not applicable
Lakefront Access Easement	Minimum 50' wide easement from Canal Park Drive to the Lakewalk ¹
Minimum Lot Width	50' f
Minimum Landscape Area	20%
3. Parking Lot, Loading & Access	
Parking Lot Location	Must be screened from the Lakefront by building g
Loading Facility Location	Not permitted on Street or Lakefront Façades h

Access	1 driveway permitted per every 140' of street frontage i
--------	---

Notes:
¹ Access easements are required at the terminus of any street with Canal Park Drive.

B. Height	
Minimum Overall Height	1 story j
Maximum Overall Height	4 stories / 55' k
	l
	m

C. Uses	
Ground Story	Refer to Section 3. Permitted Uses n
Upper Story	Refer to Section 3. Permitted Uses o
Parking within Building	Permitted in the rear of all floors and fully in any basement p
Occupied Space	30' depth space facing Primary Street or space on front façade

Lakefront Corridor Building

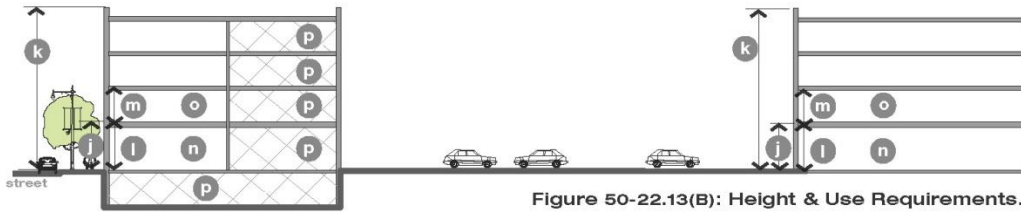


Figure 50-22.13(B): Height & Use Requirements.

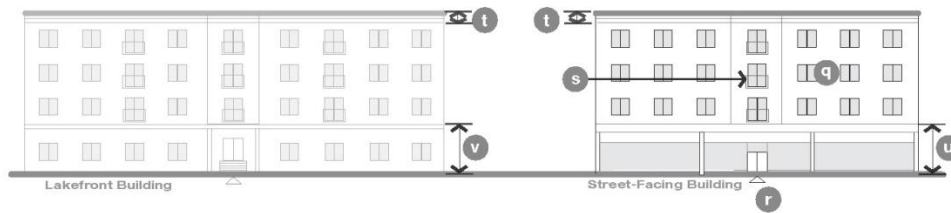


Figure 50-22.13(C): Facade Requirements.

D. Street, Lakefront, and Parking Lot Façade Requirements

1. Transparency		(q)
Minimum Transparency	20% per floor	
Blank Wall Limitations	Required only on Street and Lakefront Façades	
2. Building Entrance		
Principal Entrance Location	Visible from Street	(r)
Number of Entrances:		
Street Façade	1 per 100' of Front Façade	
Lakefront Façade	1 per 150' of Front Façade	
3. Balconies (if provided)		(s)
Size	Minimum 3' deep and 5' wide	
Façade Coverage	Maximum 30% of front & corner side facades, calculated separately	
Access to Balcony	Maximum one (1) dwelling unit	
Structure	Independently secured and unconnected to other balconies; or integral to the façade	

E. Cap & Base Type Requirements

Cap Type	Parapet, Flat Roof, Pitched Roof	(t)
Tower	Permitted	
Street Façade Base Type	Storefront, Stoop	(u)
Parking Lot Façade Base Type Visible from Street	Stoop, Porch	(v)
Lakefront Façade Base Type	Stoop, Porch	

F. Façade Materials Requirements

Permitted Façade Materials	Durable, natural materials, such as stone, brick, stucco, metal, and concrete
Permitted Upper Story Façade Materials	Painted or Stained Wood
Required Materials	Minimum 60% masonry on each façade, red brick preferred
Materials to Avoid	Imitation materials intended to look like natural materials; Residential grade windows and doors on the ground story; painted brick or stone
Prohibited Materials on Façades	Concrete masonry units, utility or economy bricks more than 3" in height, untreated wood, and exterior insulation & finishing systems (EIFS)
Façade Colors	Historic Paint Palettes by any major brand, also on file at City Hall

50-22.14 Corridor Building III.

Corridor Building III

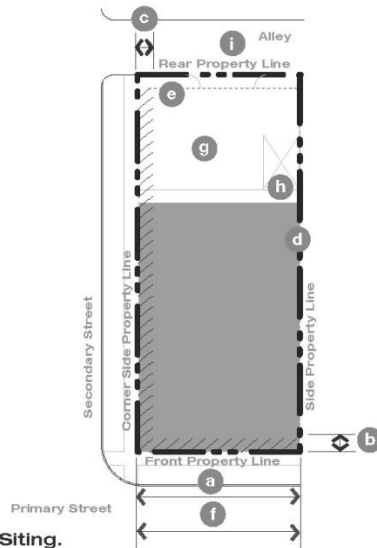


Figure 50-22.14(A): Building Siting.

A. Building Siting	
1. Street Frontage	
Multiple Principal Buildings	Not permitted
Front Build-to Zone Coverage	85% (a)
Occupation of Corner	Required
Front BTZ	0' to 5' (b)
Corner BTZ	0' to 5' (c)
2. Buildable Area	
Side Yard Setback	0' (d)
Rear Yard Setback	0' (e)
Minimum Lot Width	50' (f)
Minimum Landscape Area	0%
3. Parking Lot, Loading & Access	
Parking Lot Location	Rear Yard (g)
Loading Facility Location	Rear Building Façade (h)
Access	No driveway permitted if alley access is available; If no alley exists, 1 driveway permitted per frontage (i)
<u>2 driveways may be permitted through Land Use Supervisor Approval if frontage exceeds 300'</u>	

B. Height	
Minimum Overall Height	1 story (j)
Maximum Overall Height	6 stories / 80'; 9 stories and 116' on corner parcels only; 15 stories / 188' along Superior street ^{1,2} (k)
	(l)
	(m)
Notes:	
¹ 15 Stories/188' height shall be measured from Superior Street	
² 15 Stories permitted from Mesaba Ave to N 4th Ave E. on W Superior Street	

C. Uses	
Ground Story	Refer to Section 3. Permitted Uses (n)
Upper Story	Refer to Section 3. Permitted Uses (o)
Parking within Building	Permitted in the rear of all floors and fully in any basement (p)

Corridor Building III

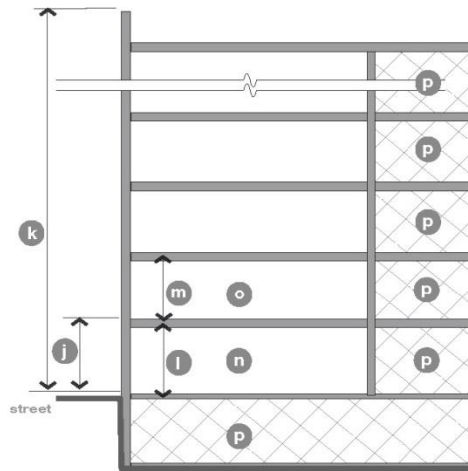


Figure 50-22.14(B): Height & Use Requirements.

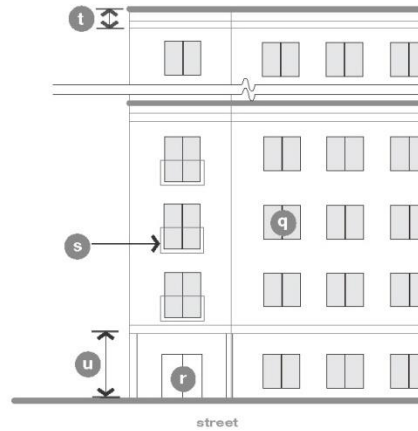


Figure 50-22.14(C): Facade Requirements.

Occupied Space	<u>30' depth and 30' height required facing Primary Streets; 30' depth required on ground floor facing Secondary Streets</u>
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D. Street Façade Requirements

1. Transparency (q)	
Minimum Transparency	20% per floor
Blank Wall Limitations	Required
2. Building Entrance	
Principal Entrance Location	Front or Corner Side Façade of Building (r)
Street Façades: Number of Entrances	1 per 75' of Front Façade
3. Balconies (if provided) (s)	
Size	Minimum 3' deep and 5' wide
Façade Coverage	Maximum 30% of Front & Corner Side Façades, calculated separately
Access to Balcony	Maximum one (1) dwelling unit

Structure	Independently secured and unconnected to other balconies; or integral to the Façade
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E. Cap & Base Type Requirements

Cap Type	Parapet, Flat Roof (t)
Tower	Permitted
Street Façade Base Type	Stoop (u)

50-22.15 Cottage Commercial I.

Cottage Commercial I

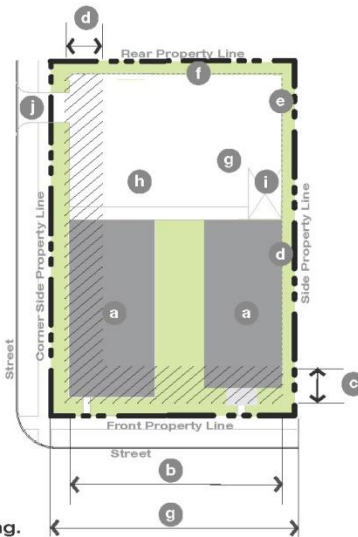


Figure 50-22.15(A): Building Siting.

A. Building Siting		B. Height	
1. Street Frontage		Minimum Overall Height	1 story (k)
Multiple Principal Buildings	Permitted ¹ (a)	Maximum Overall Height	2.5 stories / 33' (l)
Front Build-to Zone Coverage	60% (b)		(m)
Occupation of Corner	Required		(n)
Front BTZ	5' to 20' (c)		
Corner BTZ	5' to 20' (d)		
2. Buildable Area			
Side Yard Setback	5' (e)		
Rear Yard Setback	5' (f)		
Minimum Lot Width	50' (g)		
Minimum Landscape Area	10%		
3. Parking Lot, Loading & Access		C. Uses	
Parking Lot Location	Rear Yard; Single side aisle permitted (h) or double	Ground Story	Refer to Section 3. Permitted Uses (o)
Loading Facility Location	Rear Building Façade (i) or Side	Upper Story	Refer to Section 3. Permitted Uses (p)
Access	1 driveway permitted per frontage; 2 driveways may be permitted through [special exception] if frontage exceeds 200' (j)	Parking within Building	Permitted in the Rear of all Floors and fully in any Basement (q)
		Occupied Space	30' depth space facing Primary Street or space on front façade

Notes:

¹ Each principal building shall have a width of less than 75' and meet the applicable requirements for the Building Type included in this Section.

Cottage Commercial I

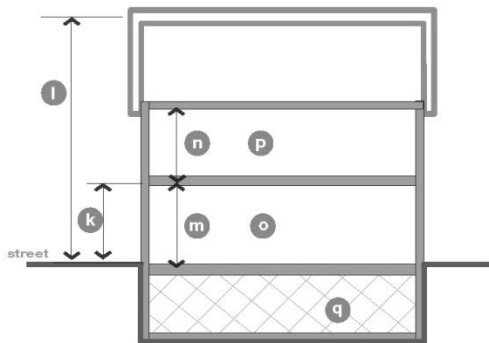


Figure 50-20.15(B): Height & Use Requirements.

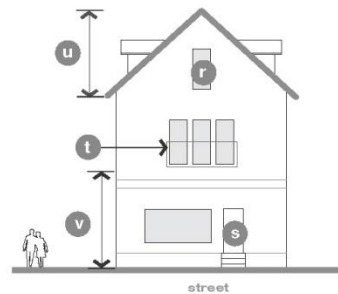


Figure 50-22.15(C): Façade Requirements.

D. Street Façade Requirements	
1. Transparency (r)	
Minimum Transparency	20% per floor
Blank Wall Limitations	Required
2. Building Entrance	
Principal Entrance Location	Front or Corner Side Façade of building (s)
Street Façades: Number of Entrances	Not required
3. Balconies (if provided) (t)	
Size	Minimum 3' deep and 5' wide
Façade Coverage	Maximum 30% of Front & Corner Side Façades, calculated separately
Access to Balcony	Maximum one (1) dwelling unit
Structure	Independently secured and unconnected to other balconies; or integral to the Façade

E. Cap & Base Type Requirements	
Cap Type	Pitched Roof (u)
Tower	Permitted
Street Façade Base Type	Shopfront, Porch, Stoop ³ (v)
Notes:	
³ Porch, Stoop, or stairs may encroach to within 2' of the property line	

50-22.16 Cottage Commercial II.

Cottage Commercial II

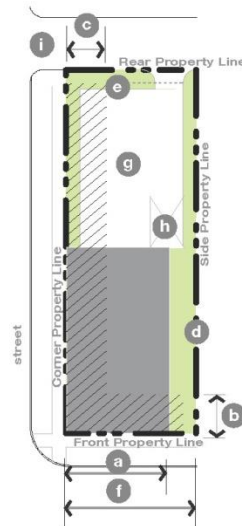


Figure 50-22.16(A): Building Siting.

A. Building Siting		B. Height	
1. Street Frontage		Minimum Overall Height	1 story (j)
Multiple Principal Buildings	Not permitted	Maximum Overall Height	2.5 stories / 33' (k)
Front Build-to Zone Coverage	60% (a)		(l)
Occupation of Corner	Required		(m)
Front BTZ	0' to 15' (b)		
Corner BTZ	0' to 15' (c)		
2. Buildable Area			
Side Yard Setback	0' (d)		
Rear Yard Setback	5' (e)		
Minimum Lot Width	50' (f)		
Minimum Landscape Area	20%		
3. Parking Lot, Loading & Access		C. Uses	
Parking Lot Location	Rear Yard (g)	Ground Story	Refer to Section 3. Permitted Uses (n)
Loading Facility Location	Rear Building Façade (h)	Upper Story	Refer to Section 3. Permitted Uses (o)
		Parking within Building	Permitted in the Rear of all Floors and fully in any Basement (p)
Access	No driveway permitted if alley access is available; If no alley exists, 1 driveway permitted per frontage; 2 driveways may be permitted through [special exception] if frontage exceeds 200' (i)	Occupied Space	30' depth space facing Primary Street or space on front façade

Cottage Commercial II

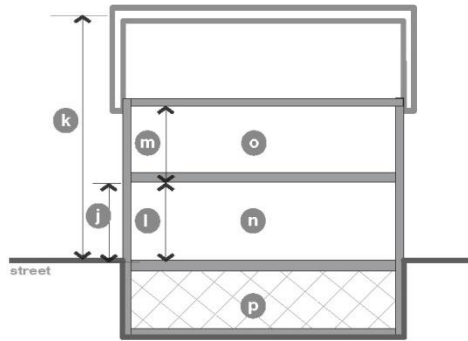


Figure 50-22.16(B): Height & Use Requirements.

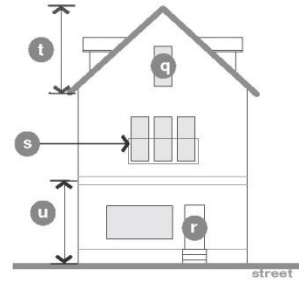


Figure 50-22.16(C): Façade Requirements.

D. Street Façade Requirements

1. Transparency		q
Minimum Transparency	20% per floor	
Blank Wall Limitations	Required	
2. Building Entrance		
Principal Entrance Location	Front or Corner Side Façade of Building	r
Street Façades: Number of Entrances	Not required	
3. Balconies (if provided)		s
Size	Minimum 3' deep and 5' wide	
Façade Coverage	Maximum 30% of Front & Corner Side Façades, calculated separately	
Access to Balcony	Maximum one (1) dwelling unit	
Structure	Independently secured and unconnected to other balconies; or integral to the Façade	

E. Cap & Base Type Requirements

Cap Type	Pitched Roof	t
Tower	Permitted	
Street Façade Base Type	Shopfront, Porch, Stoop	u

50-22.17 Iconic Building.

Iconic Building

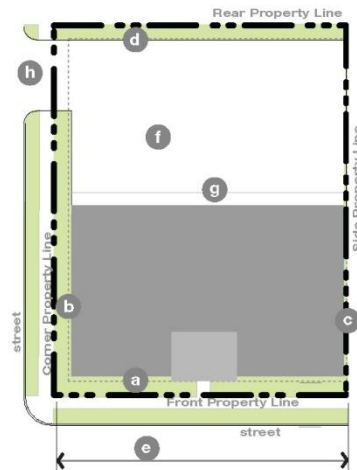


Figure 50-22.17(A): Building Siting.

A. Building Siting		B. Height	
1. Street Frontage		Minimum Overall Height	1 story (i)
Multiple Principal Buildings	Permitted	Maximum Overall Height	4 stories / 45' (j)
Front Build-to-Zone Coverage	Not Applicable		(k)
Occupation of Corner	Not required		(l)
Front Setback	5' (a)		
Corner Setback	5' (b)		
2. Buildable Area			
Side Yard Setback	5' (c)		
Rear Yard Setback	5' (d)		
Minimum Lot Width	50' (e)		
Minimum Landscape Area	20%		
3. Parking Lot, Loading & Access		C. Uses	
Parking Lot Location	Rear Yard; Single aisle permitted in Side Yard (f)	Ground & Upper Stories	Only Civic, Institutional, Infrastructure, and Open Space and Recreation uses are permitted in the Iconic Building Type (see Section 3. Permitted Uses). (m)
Loading Facility Location	Rear Building Façade (g)	Parking within Building	Permitted in the Rear of all Floors and fully in any Basement
Access	1 driveway permitted per frontage; 2 driveways may be permitted through [special exception] if frontage exceeds 200' (h)	Occupied Space	30' depth space facing Primary Street or space on front façade

Iconic Building

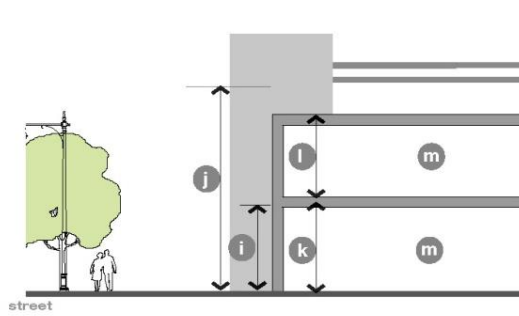


Figure 50-22.17(B): Height & Use Requirements.

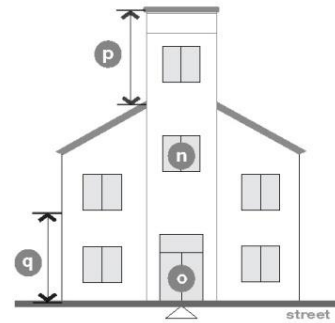


Figure 50-22.17(C): Facade Requirements.

D. Street Façade Requirements	
1. Transparency (n)	
Minimum Transparency	20% per floor
Blank Wall Limitations	Required
2. Building Entrance	
Principal Entrance Location	Front or Corner Side Façade of Building (o)
Street Façades: Number of Entrances	Not required

E. Cap & Base Type Requirements	
Cap Type ²	Parapet, Pitched Roof, Flat Roof (p)
Tower	Permitted
Street Façade Base Type	Stoop (q)
Notes:	
² Other cap types not listed here may be approved through a [special exception] (see Section XX)	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 20, 2014)

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

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

Nays: None – 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed March 10, 2014

Approved March 10, 2014

DON NESS, Mayor

- - -

ORDINANCE NO. 10285

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING FLOOD PLAIN AND FLOOD HAZARD MITIGATION.

The city of Duluth does ordain:

Section 1. That Section 50-18.1 of Chapter 50 be amended as follows:

50-18.1. Natural Resources Overlay (NR-O).

A. General.

1. Purpose statement.

The purpose of this overlay is to promote, preserve and enhance the water resources and environment within the city and protect them from adverse effects caused by poorly sited or incompatible development. It is intended to implement the Minnesota Wetland Conservation Act (WCA), federal emergency management agency (FEMA) rules, and the Minnesota department of natural resources (DNR) shoreland and flood plain regulations. In accordance with this regulatory framework, wetlands, flood plains, and shorelands are protected by regulating developments that would have an adverse or potentially irreversible impact on unique and fragile land, by minimizing conflicts and encouraging compatibility between environmentally sensitive lands, and by requiring detailed review standards and procedures for developments proposed for such areas, thereby achieving a balance between urban growth and development and protection of natural areas;

2. NR-O map.

The NR-O map contains data from the following sources:

(a) For wetlands, there is no official wetlands map. All lands in the city that meet the definition of wetlands in Article 6 are considered wetlands for the purposes of this Section;

(b) For flood plains:

(i) The Flood Insurance Study, City of Duluth, Minnesota, St. Louis County, dated August 1979;

(ii) Flood Boundary and Floodway Map panels for the City of Duluth Minnesota, dated February 1, 1980, and numbered:

(1) 270421 0015 C

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- (2) 270421 0025 C
- (3) 270421 0030 C
- (4) 270421 0035 C
- (5) 270421 0040 C
- (6) 270421 0045 C
- (iii) Flood Insurance Rate Map panels for the City of Duluth, Minnesota, dated April 2, 1982, and numbered:
 - (1) 270421 0015 C
 - (2) 270421 0025 C
 - (3) 270421 0030 C
 - (4) 270421 0035 C
 - (5) 270421 0045 C
- (iv) Flood Insurance Rate Map panel for the City of Duluth, Minnesota, numbered 270421 0040 D and dated November 4, 1992;
- (v) Flood Insurance Rate Map panels for St. Louis County, Minnesota, unincorporated areas, numbered 270416 1475 C, 270416 1500 C, and 270416 1650 C, all dated February 19, 1992;
- (vi) The Letter of Map Revision issued by the Federal Emergency Management Agency, Case No. 07-05-3554P, with an effective date of October 17, 2008, including all attached maps, tables and flood profiles; and
- (vii) The Letter of Map Revision issued by the Federal Emergency Management Agency, Case No. 12-05-3211P, with an effective date of November 26, 2012, including all attached maps, tables and flood profiles.

Copies of the above-listed documents are hereby adopted by reference and declared to be a part of this section. All documents shall be kept on file in the land use supervisor's office;

- (c) For shorelands, boundaries shall be based on (i) waters shown as protected on the map and inventory of protected waters in Duluth prepared by the DNR commissioner pursuant to Chapter 199, Laws of Minnesota, 1979, and (ii) selected waters that the city has added to the commissioner's survey as being worthy of shoreland protection. All of these waters are shown on the NR-O Map as currently revised as of November 19, 2010.
- (d) Where interpretation is needed as to the exact location of any boundary as shown on an official map, the city engineer shall make the necessary interpretation based on available technical data, and, in the case of flood plains, based particularly on elevations on the regional flood profile or hydraulic modeling data.
- (e) The NR-O map may be amended in the future, and any revisions shall become effective upon adoption of the revised NR-O map as an amendment to this Chapter.

B. Wetlands.

This Section 50-18 shall apply to all wetlands within the city. All development in the

city shall comply with state statutes and regulations. In addition, any development impacting wetlands requires formal approval by the designated city wetland representative.

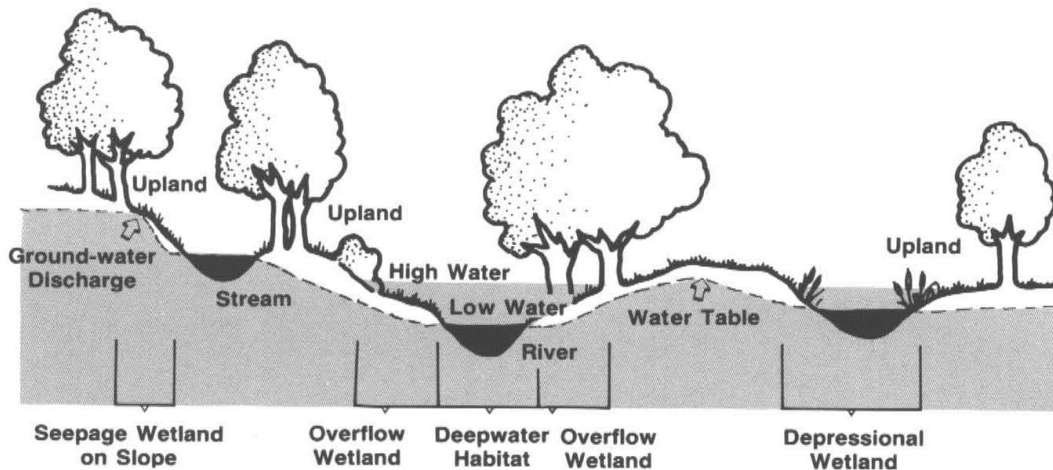


Figure 50-18.1-1: Typical Inland Wetland. Graphic taken from *Floodplain Management in the United States: An Assessment Report*, prepared for the Federal Interagency Floodplain Management Task Force 1992.

1. The building official shall require each permit applicant to specify on the permit application whether or not the proposed site contains wetlands. Regardless of the answer given, if the building official has reasonable grounds to believe the site contains wetlands, the official shall make a determination as to the existence of wetlands. In making that determination, the building official may require any of the following:
 - (a) Require the applicant to submit a complete wetland delineation as outlined in WCA and performed by a professional wetland delineator, including information such as soil analysis, surveys of vegetation and engineering or hydrological data, to aid in the determination;
 - (b) Conduct a site inspection and evaluation;
 - (c) Consult with the city engineer, St. Louis County Soil and Water Conservation District, Board of Water and Soil Resources, and other available wetland experts;
 - (d) Use any other reasonable method to determine if the site contains wetlands.

C. Flood plains.

This Section shall apply to all lands within the city that are shown as flood plains on the NR-O map. For purposes of relating those districts to plats and lots within the city, the NR-O map shall be used as a working map in the administration of the flood plain controls unless it is clearly shown that there is an inconsistency between the flood insurance rate map, or the flood boundary and floodway Map and said NR-O map, in which case the flood insurance rate map or flood boundary and floodway map, as applicable, shall control.

All lands within flood plains shall be divided into floodway districts, flood fringe districts, or general flood plain districts:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- (a) The floodway district shall include those areas designated as floodway on the flood boundary and floodway map identified in Section 50-18.A.2.b.
- (b) The flood fringe district shall include those areas designated as flood fringe on the flood boundary and floodway map.
- (c) The general flood plain district shall include those areas designated as Zone A on the flood insurance rate maps identified in Section 50-18.A.2.b., and those areas designated Zone A1-A30 on the flood insurance rate maps that do not have a corresponding floodway/flood fringe delineation on the flood boundary and floodway map.

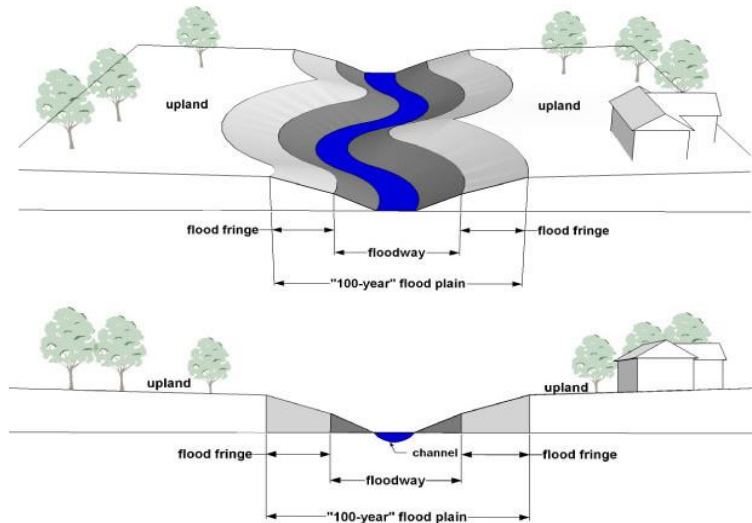


Figure 50-18.1-2: Flood plain, floodway, and flood fringe. Graphic taken from *Floodplain Management in the United States: An Assessment Report*, prepared for the Federal Interagency Floodplain Management Task Force 1992.

1. Compliance.

Within the flood plain districts, no new structure or land shall be used and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this Section 50-18.1.C. Within the floodway, flood fringe and general flood plain districts, all uses not listed as permitted uses or special uses are prohibited;

2. Uses and special use permits – floodway.

(a) Permitted uses in floodway.

Only the following uses shall be permitted within the floodway, and only if the land use supervisor determines that (a) the use is shown as a permitted use in the underlying zone district in Table 50-19.8, (b) the use has a low flood damage potential, (c) the use will not obstruct flood flows or increase flood elevations, and (d) the use does not involve structures, fill, obstructions, excavations or storage of materials or equipment:

- (i) Agriculture;
- (ii) Industrial, commercial and mixed use loading areas, parking areas and airport landing strips;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(iii) Outdoor open space, recreation and entertainment facilities and structures;

(iv) Residential lawns, gardens, parking areas and play areas;

(b) Special uses in floodway.

The following uses involving accessory structures or fill or storage of materials or equipment may be permitted only after the issuance of a special use permit pursuant to Article 5:

(i) Structures accessory to a permitted use;

(ii) Mining, extraction and storage of sand, gravel and other materials;

(iii) Marina or yacht club or accessory residential boat dock;

(iv) Railroad yard or shipyard and related facilities, electric power transmission lines, major utilities or wireless communication towers and minor utilities and accessory wireless antennas attached to existing structures;

(v) Bulk storage not listed elsewhere;

(vi) Placement of fill or construction of fences;

(vii) Road-ready recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Section 50-20;

(viii) Structural works for flood control such as levees, dikes, and floodwalls constructed to any height where the intent is to protect individual structures;

(c) Standards for special use permits in floodway.

A special use permit for uses and structures listed in subsection (b) above shall only be issued if the following standards are met:

(i) The proposed use or structure will not cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected;

(ii) Any fill deposited in the floodway shall be no more than the minimum amount necessary to grade or landscape, shall not in any way obstruct the flow of flood waters and shall be protected from erosion by the planting of vegetative ground cover, the use of rip rap or other method approved by the city;

(iii) Accessory structures:

- Shall not be designed for human habitation;
- Shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters;
- Shall be constructed whenever possible with the longitudinal axis parallel to the direction of flood flow;
- Shall be placed approximately on the same flood flow lines as those of adjoining structures; and
- Shall be elevated on fill or floodproofed to the flood protection elevation in accordance with the FP-1 or

FP-2 flood proofing classifications in the State Building Code;

(iv) All floodproofed accessory structures must meet the following additional standards if the building official determines that compliance is necessary to carry out the stated purposes of this Section 50-18.1.C:

- The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;
- Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed;

As an alternative, an accessory structure may be internally or wet floodproofed to the FP-3 or FP-4 floodproofing classifications in the State Building Code, provided the accessory structure constitutes a minimal investment, does not exceed 576 square feet in size at its largest projection, and for a detached garage, the structure must be used solely for parking of vehicles and limited storage. The structure must meet the following standards:

- To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
- There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings;

(v) The use will not include the storage or processing of materials that are, in time of flooding, flammable, explosive or injurious to human, animal or plant life. All materials or equipment stored shall be readily removable from the area within the time available after a flood warning;

(vi) Any structural works for flood control that will change the course, current, or cross-section of wetlands or public waters shall comply with the provisions of Minnesota Statutes, Chapter 103G.245;

(vii) Any levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood, based on technical analysis that assumes equal conveyance or storage loss on both sides of a waterway;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- (viii) Within an A-O zone, there must be adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures or structure additions;
 - (ix) Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element;
- (3) Uses and special use permits – flood fringe.
- (a) Permitted uses in flood fringe.
Those uses listed in Table 50-19.8 as permitted uses in the zone district where the property is located, provided that the building official determines that:
 - (i) All structures, including accessory structures, shall be elevated on fill so that a structure's lowest floor is above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one foot below the regulatory flood protection elevation and the fill shall extend at that elevation at least 15 feet beyond the outside limits of the structure. In A-O zones, the finished fill elevation for structures must be a minimum of two feet above the highest adjacent grade. The structure's design and as-built condition in relation to the regulatory flood protection elevation must be certified by a professional engineer or architect licensed in Minnesota;
 - (ii) Any portion of a non-residential structure below the regulatory flood protection elevation will be structurally dry floodproofed in accordance with the FP-1 or FP-2 classification found in the State Building Code;
 - (iii) As an alternative to elevation, accessory structures that constitute a minimal investment and that do not exceed 576 sq. ft. may be internally floodproofed in accordance with Section 50-18.1.C.2(c)(iii) and (iv) above;
 - (iv) Any placement of fill with a cumulative volume in excess of 1,000 cubic yards at any one time may only be used to elevate a structure in accordance with this subsection 3(a)(i);
 - (v) Any stored materials or equipment shall be elevated on fill to the regulatory flood protection elevation;
 - (b) Special uses in flood fringe.
The placement of more than 1,000 cubic yards of fill or other similar material, other than for the purpose of elevating a structure to the regulatory flood protection elevation and the storage of materials and equipment below the regulatory flood protection elevation, may be permitted only after the issuance of a special use permit as provided in Article 5. In addition, this use is subject to the limitations on flood plain variances in Article 5 and the following requirements:
 - (i) Any fill deposited in the flood fringe shall be no more than the minimum amount necessary to grade or landscape, shall not in any way obstruct the flow of flood waters and shall be

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- protected from erosion by the planting of vegetative ground cover, the use of rip rap or other method approved by the city;
- (ii) The use must not include the storage or processing of materials that are, in time of flooding, flammable, explosive or injurious to human, animal or plant life. All materials or equipment stored shall be readily removable from the area within the time available after a flood warning;
- (c) Standards for all flood fringe uses.
- (i) All new principal structures must have vehicular access at or above an elevation not more than two ft. below the regulatory flood protection elevation. If a variance to this requirement is granted, limitations on the period of use or occupancy of the structure for times of flooding may be specified;
 - (ii) Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the NR-O map;
 - (iii) Accessory land uses such as yards, railroad tracks, and parking lots may be at elevations more than two feet below the regulatory flood protection elevation. Any facility that will be used by employees or the general public must have a flood warning system that provides adequate time for evacuation if the area would be inundated by the regional flood to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four;
 - (iv) Standards for recreational vehicles are contained in Section 50-20;
 - (v) All manufactured homes and those recreational vehicles not meeting the exemption criteria 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 or local anchoring requirements for resisting wind forces;
 - (vi) Within an A-O zone, there must be adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures or structure additions;
4. General flood plain district.
- (a) Permitted uses in general flood plain district.
 - (i) The uses listed in subsection 50-18.1.C.2(a) above shall be permitted uses;
 - (ii) All other uses shall be subject to the floodway/flood fringe evaluation criteria below and the resulting designation shall

be used in determining uses. If the property owner does not complete a floodway/flood fringe evaluation, the land is presumed to be floodway;

- (iii) Land determined to be in the floodway pursuant to subsection 4.(b) shall have those permitted and special uses listed in Section 50-18.C.2 above;
- (iv) Land determined to be in the flood fringe pursuant to subsection 4.(b) shall have those permitted and special uses listed in Section 50-18.C.3 above;
- (b) Procedures for floodway and flood fringe determinations within the general flood plain district:
 - (i) The applicant shall submit appropriate information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the floodway or flood fringe district and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 – 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective DNR Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:
 - (1) Estimate the peak discharge of the regional flood;
 - (2) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas;
 - (3) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than 0.5 foot shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries;
 - (ii) The city engineer shall present the technical evaluation and findings to the city council. The city council must formally accept the technical evaluation and the recommended floodway and/or flood fringe district boundary and that the proposed use is allowed in the area where it is proposed, or deny the permit application. Prior to official action the city council may submit the application and all supporting data and analyses to FEMA, the DNR or the planning commission for review and comment. Once the floodway and flood fringe district boundaries have been determined, and assuming the proposed use is allowed in the area where it is proposed, the city council shall refer the matter to staff who shall process

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

the permit application consistent with the applicable provisions of this Section 50-18.1.C;

5. Public utilities, railroads, roads and bridges.
 - (a) All public utilities and facilities such as gas, electrical, sewer and water supply systems, with the exception of sumps and wet wells, to be located in the floodway or flood fringe shall be floodproofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation;
 - (b) Railroad tracks, roads and bridges to be located within the floodway or flood fringe shall comply with subsections 2 and 3 above, as applicable. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety;
 - (c) On-site water supply and sewage treatment systems: Where public utilities are not provided: 1) on-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) new or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the state's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section;
6. Subdivisions.

New subdivisions in the flood plain area shall meet the following requirements:

 - (a) No land shall be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply, or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this Section;
 - (b) All lots within the flood plain districts shall be able to contain a building site outside of the floodway district at or above the regulatory flood protection elevation;
 - (c) All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Chapter;
 - (d) All subdivisions shall have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional flood has been approved by the city council. The plan shall be prepared by a registered engineer or other

qualified individual, and shall demonstrate that adequate time and personnel exist to carry out the evacuation;

(e) The floodway and flood fringe district boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents;

(f) In the general flood plain district, applicants shall provide the information required in section 15-18.C.4(b) to determine the regional flood elevation, the floodway and flood fringe district boundaries, and the regulatory flood protection elevation for the subdivision site;

7. Amendments.

(a) The flood plain designation on the official zoning map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the flood plain. Special exceptions to this requirement may be permitted by the commissioner of the department of natural resources (DNR) if the commissioner determines that, through other measures, lands are adequately protected for the intended use;

(b) All amendments to Section 50.18.1.C, including flood plain designation amendments to the official zoning map, must be submitted to and approved by the commissioner of the department of natural resources (DNR) prior to adoption. Changes in the official zoning map must meet the federal emergency management Agency's (FEMA) technical conditions and criteria and must receive prior FEMA approval before adoption. The commissioner of the DNR must approve the amendment prior to community approval;

D. Shorelands.

In furtherance of the policies declared by the state legislature, waters in the city have been classified as general development waters (GD), natural environment waters (NE) or coldwater rivers (CW). The shoreland overlay applies to lands within 1,000 ft. of Lake Superior or within 300 ft. of rivers, creeks, streams and tributaries and floodplains, as designated on the NR-O Map. If a parcel or development lies only partially within a shoreland area, only the portion of the property within the shoreland is subject to these provisions.

1. Shoreland permit required.

The following activities and structures require a shoreland permit if located within a shoreland:

(a) All structures;

(b) All grading, filling and excavating;

(c) All construction of impervious surfaces, including roads, driveways, parking areas and trails;

(d) All removal of natural vegetation;

(e) Any construction activity that removes or disturbs natural beach grasses on Park Point;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

2. Standards for shoreland permit.
 - (a) Erosion and sediment control measures shall be required for any land disturbing activity;
 - (b) Grading and filling of more than 250 sq. ft. or placement of more than ten cubic yards of material within the shore impact zone shall only be permitted if a plan for erosion control, storm water management and shoreline buffer restoration is approved by the city and effectively implemented;
 - (c) Impervious surfaces shall be designed and constructed to minimize and control runoff and erosion into the regulated waters;
 - (d) Any removal of natural vegetation shall be designed to prevent erosion into regulated waters and to preserve shoreland aesthetics;
 - (e) Removal of trees or shrubs in a contiguous patch, strip, row or block is prohibited in shore impact zones;
 - (f) The project does not result in the proposed building being located in a shore or bluff impact zone;
 - (g) Naturally vegetative buffers shall be restored to the extent feasible after any project is complete;
3. Dimensional standards.
 - (a) No shoreland permit shall be approved unless the standards in Table 50-18.1.D-1 are met or a variance obtained pursuant to Article 5.

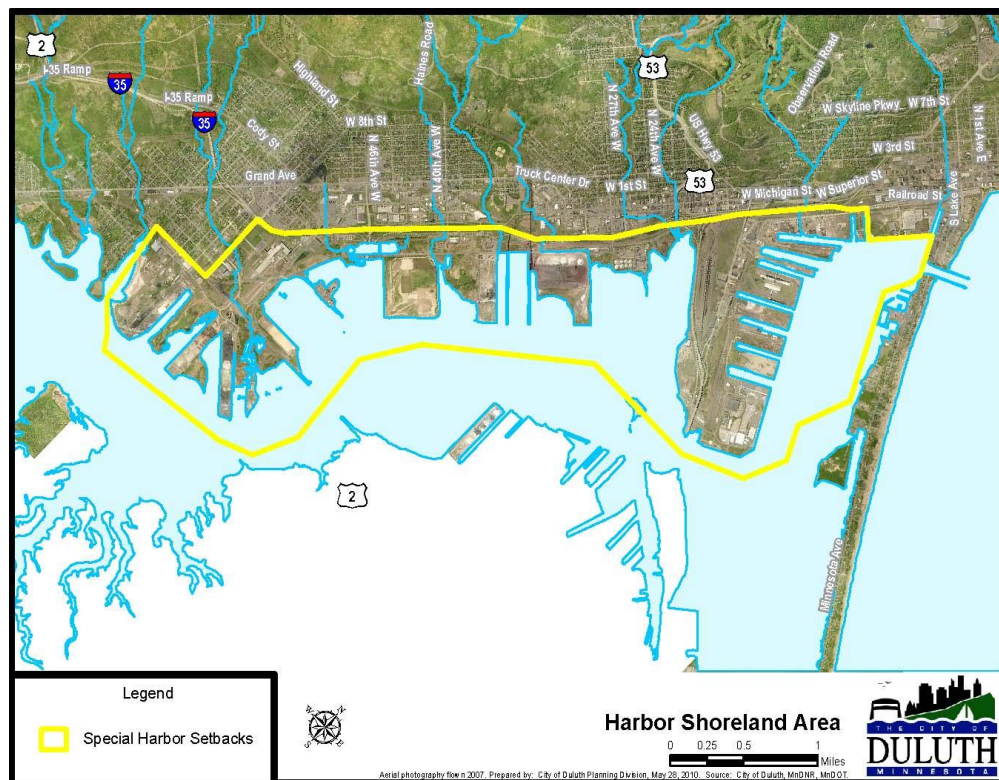
Table 50-18.1.D-1: Minimum Shoreland Area Standards			
Standards	General Development Waters ^[1]	Natural Environmental Waters	Coldwater River
Minimum setbacks from Ordinary High Water Level or highest known water level, whichever is higher			
Structures	50 ft.	75 ft.	150 ft.
Commercial, mixed use, & industrial structures in the harbor, shown in Figure 50-18.1-3	25 ft.	N/A	N/A
Impervious Surfaces in the Shore Impact Zone	50 ft.	50 ft.	75 ft.
Lowest floor elevation above Ordinary High Water Level or highest known water level, whichever is higher ^[2]	3 ft.		
Width of naturally vegetative buffer	50 ft.		

^[1] All Lake Superior shoreland is classified as general development waters.

^[2] For a structure located in an area where FEMA has established a base flood elevation, the structure is exempt from this shoreland elevation requirement, but must meet flood plain regulations.

- (b) Exceptions to dimensional standards.
 - i. Commercial, mixed use and industrial structures in the harbor, shown in Figure 50-18.1-3: 0 foot setback for grain elevators, cranes, loading bins, and other equipment necessary for loading and unloading, including impervious surface necessary to support these activities;

- ii. Public trails no more than ten feet wide may be constructed within these setbacks, provided that a minimum amount of natural vegetation is removed and provided that permits are obtained from the DNR and MPCA, if required;
- iii. Properties in Stormwater Zone B, as defined in Section 50-19.1.E.3(f), that have been previously developed with 75 percent or greater impervious surface may use one of the following methods to determine building setback:
 - Use the impervious surface setback for the shoreland classification as the building setback.
 - When principal structures exist on the adjoining lots on both sides of a proposed building site, the structure setbacks can be altered to conform to the adjoining setbacks, provided the proposed building site is not located within the setback required for the naturally vegetative buffer.
- iv. Park equipment such as playground structures and ball fields (but not including structures such as garages, storage buildings, toilets or warming houses) may be placed closer than the required structure setback provided they lie outside the area required for the native vegetative buffer;



4. Uses and special use permits.
 - (a) Those permitted and special uses shown in Table 50.19.8, subject to the issuance of any shoreland permit required by subsection 18.1.D.1 and compliance with the standards of subsection 18.1.D.2, except as listed below. Agricultural uses are not permitted in the shore impact

zone. Within shoreland areas that are outside of the shore impact zone, agricultural uses are permitted if steep slopes are maintained in permanent vegetation or the land is operated under an approved conservation plan from the St. Louis County Soil and Water Conservation District;

- (b) All industrial uses, including mining, extraction and storage, on coldwater rivers or natural environmental waters require a special use permit pursuant to Article 5. The application for a special use permit must include a thorough evaluation of the topographic, vegetation and soils conditions on the site;
- (c) Standards for special use permit:
 - (i) Compliance with all development requirements for shorelands in this Section 50-18.1.D;
 - (ii) Prevention of soil erosion, storm water runoff or other possible pollution of public waters, both during and after construction or use;
 - (iii) Restoration of the shoreline buffer to a natural state;
 - (iv) Screening of structures and other facilities as viewed from regulated waters, as shown on the NR-O map;

5. Subdivisions.

New subdivisions in the shoreland area shall meet the following requirements:

- (a) The land shall not be subdivided until the land has been rezoned into the R-P zone district, and the concept and detailed development plans required in the R-P districts shall be designed to comply with the provisions of this Section 50-18.1.D;
- (b) A buffer at least 50 feet in width, consisting of trees, shrubs and ground cover of plants and understory in a natural state, is required within a line parallel to the ordinary high water level or highest known water level, whichever is higher, and as close to the ordinary high water level as topography and the health of the plants will permit;
- (c) After construction is completed, the owner of the property shall be responsible for any continued need for erosion and sediment control and restoration on the property;

6. Nonconforming lots of record.

Lots of record in the office of the county recorder on November 19, 2010, may be allowed an exception from the structure setback requirement in subsection 18.1.D.3. If the lot of record cannot be developed under the setback requirements of subsection 18.1.D.3, then:

- (a) The lot may be developed without a variance if (1) principal structures exist on the adjoining lots on both sides of a proposed building site, and (2) the proposed structure will be located no closer to the protected shore than the principal structure on either adjoining site, and (3) the resulting adjusted setback does not result in the proposed building being located in a shore impact zone; or

(b) The lot may be developed if a variance is obtained pursuant to Article 5;

E. Storm water management and erosion control.

1. Goals and purpose.

(a) The federal Clean Water Act (CWA) requires that municipal storm water discharges be authorized under the National Pollution Discharge Elimination System (NPDES). The city is allowed to discharge its storm water under coverage provided by a CWA municipal separate storm sewer system general permit (MS4 permit). As part of the requirements of the permit, the city is required to develop a storm water pollution prevention program (MS4 program) with specific goals requiring:

- (i) Non-degradation of all city waters;
- (ii) Restrictions to special designated waters in the city, including: (a) Lake Superior (which is an MPCA designated Outstanding Value Resource Water with both restricted discharge and impaired water designations); (b) St. Louis River (which is an MPCA designated impaired water and area of concern; and (c) 16 trout streams designated by the DNR;

(b) The goals described in the city’s MS4 program pertaining to illicit discharge detection and elimination, construction-site runoff controls, and post-construction runoff treatment are incorporated into this Chapter by reference;

(c) The purpose of this Section 50-18.1.E is to establish regulations to comply with the federal CWA and the city’s MS4 permit and to achieve the goals stated in the city’s MS4 program;

2. Temporary erosion and sediment controls.

(a) Applicability.

This Section 50-18.1.E.2 applies to all land disturbing activities within the city, except those specifically exempt in this section and those subject to a superseding or preemptive state or federal law. This section shall be deemed to supplement, but not to conflict with, the applicable provisions of the State Building Code;

(b) Requirements.

All proposed development and redevelopment and all subdivision plats and re-plats shall include drainage system and temporary erosion and sediment best management practices (BMPs) in compliance with the city’s MS4 Program and the requirements shown in Table 50-18.1.E-1 below. Plans, engineering analysis and calculations, diagrams, drainage reports and other data shall be submitted, as required by the city engineer or designee with each development proposal or application for permit;

Table 50-18.1.E-1: Temporary Erosion and Sediment Controls				
Land Area Disturbed ▶	≤ 3,000 sq. ft. ^[1]	> 3,000 and ≤ 10,000 sq. ft. ^[2]	> 10,000 sq. ft. and < 1 acre	≥ 1 acre
Development Plan Measures Required ▼				

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Temporary erosion and sediment controls to prevent any off-site migration of sediment	✓			
Site specific Erosion and Sediment Control Plan (ESCP) and ESCP Permit from city engineer		✓	✓	
Site specific Storm Water Pollution Prevention Plan (SWPPP) meeting MPCA NPDES Permit requirements for Construction Activity				✓
MPCA NPDES/State Disposal System Construction Storm Water Permit				✓
MS4 Statement of Compliance from city engineer		✓	✓	✓

^[1] If the city engineer determines that the proposed development is in a vulnerable area and may cause the degradation of the waters connected to the city's storm water system, then the provisions applicable to land disturbance areas between 3,000 and 10,000 sq. ft. shall apply.

^[2] If land disturbed is within a mapped shorelands zone, an MS4 Statement of Compliance from the city engineer is also required.

(c) Authority to waive.

The city engineer has authority to waive the requirements in Table 50-18.1.E.1 in accordance with the city's MS4 Permit. If storm water and erosion controls required by this subsection 2 are demonstrated to be technically feasible, provisions of this subsection 2 must be met to the maximum extent practicable;

3. Permanent water quality and discharge rate controls.

(a) Applicability.

(i) This Section 50-18.1.E.3 applies to all land disturbing activities within the city, except those specifically exempt in this section and those subject to a superseding or preemptive state or federal law. This Section shall be deemed to supplement, but not to conflict with provisions of the State Building Code;

(ii) This Section does not apply to pavement resurfacing and pavement rehabilitation projects where: no new impervious surface is created, there is no change to the configuration of the site, and there is no change to the land use;

(b) General requirements.

All proposed development and redevelopment and all subdivision plats and re-plats shall include drainage system and storm water runoff rate controls and water quality treatment in compliance with the city's MS4 Program and the requirements shown in Table 50-18.1.E-2 below. Plans, engineering analysis and calculations, diagrams, drainage reports and other data shall be submitted, as required by the city engineer with each project (referred to as the "development plan" below).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Table 50-18.1.E-2: Permanent Water Quality and Discharge Rate Controls [See additional requirements for land in shorelands below]			
Development Plan Measures required ▼	Total New Impervious Area Created or the Impervious Area Redeveloped^{[1][2]}		
	≤ 3,000 sq. ft.	> 3,000 sq. ft. and < 1 acre^[3]	≥ 1 acre^[4]
Water quality treatment	NONE	✓	✓
Runoff rate controls		✓	✓
Drainage report		✓	✓
Site specific SWPPP			✓
MS4 Statement of Compliance from city engineer		✓	✓

^[1] The total area is the sum of both the new and redeveloped impervious areas that are part of the common plan of development or sale.

^[2] A pavement resurfacing or pavement rehabilitation project is exempt where: (a) no new impervious surface is created; and (b) no change to configuration of the site occurs; and (c) no change to land-use occurs.

^[3] An individual one-family or two-family residence (that is not part of a common plan of development) with less than 10,000 sq. ft. of disturbed area and less than 7,500 sq. ft. of new impervious area is exempt.

^[4] If the site contains an existing impervious surface area greater than one acre, the drainage report must include a determination of the current total suspended solids removal across the entire site. If the current TSS removal is below 50%, the drainage report must include an evaluation of the feasibility of increasing the TSS removal to 50% on an annual basis across the entire site.

(c) Authority to waive.

The city engineer has authority to waive the requirements in Table 50-18.1.E-2 in accordance with the city’s MS4 Permit. If storm water and erosion controls required by this subsection 3 are demonstrated to be technically feasible, provisions of this subsection 3 must be met to the maximum extent practicable;

(d) Shoreland requirements.

- (i) In addition to the requirements in subsection 50-18.1.E.3(b) above, no residential development or redevelopment within a shoreland shall result in impervious surface area exceeding 25 percent of the lot area unless the owner (a) submits a development plan including water quality treatment and (b) obtains an MS4 Statement of Compliance by the city engineer;
- (ii) In addition to the requirements in subsection 50-18.1.E.3(b) above, no commercial, mixed use, institutional or industrial development or redevelopment within a shoreland shown on the NR-O Map shall create new impervious surface area unless the owner (a) submits a development plan including water quality treatment and (b) obtains an MS4 statement of compliance issued by the city engineer;

(e) Water quality treatment requirements.

Where subsection 50-18.1.E.3(b) requires that a development plan include water quality treatment, the development or redevelopment must be designed to provide the following treatment, volume reduction and pollutant removal:

(i) Treatment requirements.

The development or redevelopment must provide at least the minimum treatment shown in Table 50-18.1.E.3;

Table 50-18.1.E-3: Treatment Requirements		
Development Type	New and Existing Impervious surface	Required Treatment
New	< 1 acre	The first 1-in. Water Quality Volume (WQV) of rainfall or 80% Total Suspended Solids (TSS) removal ^[1]
New	> 1 acre	The first 1-in. WQV of rainfall ^[1]
Redevelopment	< 1 acre	10% reduction in impervious surface or 50% TSS removal
Redevelopment	> 1 acre	50% TSS removal

^[1] Refer to additional requirements under Section 3(e)(iii) Pollutant Removal

(ii) Storm water flow volume reduction.

Storm water flow volume reduction shall be provided to the maximum extent practicable. Refer to the Minnesota Storm Water Manual. Volume reduction techniques may include:

- (1) Infiltration into the ground;
- (2) Evaporation or transpiration;
- (3) Storage for re-use;
- (4) Enhanced infiltration swales, filter strips, or disconnected impervious area;
- (5) Other demonstrable methods that reduce volume;

(iii) Pollutant removal.

Projects able to provide volume reduction for the first one-half in. of rainfall from newly created impervious surface shall have met city pollution abatement requirements and are exempt from this paragraph. Projects that do not meet the requirements of subsection 50-18.1.E.3(ii) above are required to complete computer modeling to show that water quality treatment shall provide 85 percent total suspended solids (TSS) removal, and the applicant shall also be required to describe and provide additional BMPs for temperature control;

(f) Runoff rate control.

Where subsection 50-18.1.E.3(b) requires that a development plan include runoff rate control, the development or redevelopment must be designed to provide the controls as follows. Runoff rate control is beneficial in the upper, flatter part of the watershed above the bluff line. Below the bluff line, the topography is relatively steep and storm water flows quickly to Lake Superior and the St. Louis River. This bluff line designation is shown on the NR-O map. The storm water rate control requirements for development and redevelopment are shown in Table 50-18.1.E-4:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Table 50.18.1.E-4: Discharge Rate Limits		
Location ►	Post-Development Peak Flow Rates at Each Discharge Point Shall Not Exceed	
Type of Activity ▼	Zone A -- Above Bluff Line	Zone B -- Below Bluff Line
New Development	75% of predevelopment peak flow rates for 10 and 100 year events; and 90% of predevelopment peak flow rate for 2 year event	Predevelopment peak flow rates for all storm events
Redevelopment	Predevelopment peak flow rates for all storm events	Predevelopment peak flow rates for all storm events

(g) General design criteria.

- (i) New minor system drainage systems shall be designed to efficiently convey the peak discharge rates for a ten-year flow;
- (ii) New major system drainage systems shall be designed to efficiently convey the peak discharge rates for a 100-year flow;
- (iii) The 100-year rainfall event or 100-year peak flow shall be evaluated to ensure that no damage occurs to adjacent properties for all systems.
- (iv) The storm water management systems for any new or redevelopment project shall maintain at least two ft. of freeboard between the anticipated 100-year high water elevation and the minimum building opening;
- (v) Consideration may be given for treating existing untreated impervious areas diverted to the site and included in the control area for analysis if it is in the best interest of the city;
- (vi) All impervious areas shall be considered connected and curve numbers shall not be weighted for impervious areas except under special circumstances;
- (vii) Ninety-five percent of all newly added impervious surface shall have its runoff directed to the water quality treatment area. If it is impractical to direct 95 percent of the added impervious surface to water quality area, alternate methods may be used in combination so long as 95 percent is treated and all peak flow requirements are fulfilled;
- (viii) Flow shall not be diverted from one major or minor system to another major or minor system;
- (ix) When storm water management plans involve directing runoff from a site, it shall be the responsibility of the applicant to obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water to a point where the storm water enters a major system;
- (x) Adequate measures shall be taken to prevent uncontrolled drainage across lot lines;

4. General storm water restrictions.

- (a) Applying fertilizer, pesticides or any chemicals on impervious surfaces, within any part of storm water drainage system or any drainage way, within 25 feet of any wetland edge or ordinary high water level or bank

edge of any drainage course, or within any water resource buffer area is prohibited;

- (b) Sweeping, raking, blowing or otherwise placing yard waste, unless the yard waste is securely contained, in the street, ditch, gutter, storm inlet, catch basin or any part of any drainage way or other area that would allow yard waste to enter the storm drainage system is prohibited;
- (c) Yard waste segregated for pickup must be securely contained until removed;
- (d) Topsoil and erodible soil stockpiles shall be distributed within three days or covered to prevent erosion of the stockpile;

5. Ownership and maintenance.

(a) Maintenance of temporary erosion and sediment control practices.

During the period of a land disturbing activity, the person engaging in the construction shall be responsible for installing and maintaining erosion and sediment control practices. After construction is completed, the owner of the property shall be responsible for installing and maintaining erosion and sediment control practices.

(b) Ownership.

(i) All components of the storm water management system shall be constructed, owned, operated and maintained by the developer or owner(s) to their confluence with the major system or city owned minor system;

(ii) In the case of developments in which right-of-way is transferred to public ownership, the storm drain system within the city right-of-way shall be owned and maintained by the city. Storm water treatment facilities and ponds shall be in common space and shall be owned and maintained by the developer or the owners of the development. Storm water treatment facilities shall not be located in the public right-of-way;

(c) Owner inspection and maintenance.

(i) Storm water management facilities shall be designed to minimize maintenance and provide maintenance access. All facilities shall have a plan of operation and maintenance that assures continued effective removal of runoff pollutants and accumulated sediment. The developer or the owner(s) shall be responsible for inspection, maintenance and reporting for all non-publicly owned storm water management facilities associated with the development. Copies of the inspection records shall be maintained by the developer or owner for a period of six years. Copies of all inspection records shall be provided to the city upon request;

(ii) For the purposes of inspection during construction monitoring, the permittee shall submit an inspection log to the city on the first day of each month during the entire duration of construction;

(iii) For the purposes of ongoing monitoring and maintenance after construction is complete, the owner shall conduct inspections on all non-publicly owned structural components and all non-structural

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

components (including swales and pond areas) of the storm water management system and:

- (1) Submit a written report approved by an engineer summarizing findings and maintenance needs;
- (2) Submit a written report of work completed to maintain storm water facilities. Work must be completed within three months of annual inspection.

Section 2. That Section 50-37.9 of Chapter 50 be amended as follows:

50-37.9 . Variance.

This Section applies to applications for a variance from the terms and provisions of this Chapter. Different types of variances are subject to differing criteria for approval, and in many cases are also subject to limitations on the types of variances that can be granted.

A. Application.

An application for a variance shall be filed pursuant to Section 50-37.1.B;

B. Procedure.

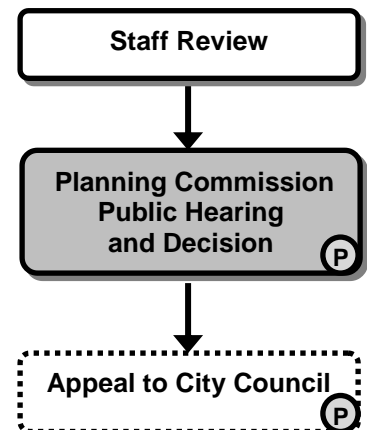
The planning commission shall review the application, conduct a public hearing on the application pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H, and shall make a decision on the application based on the criteria in subsections 50-37.9.C through M below, as applicable to the specific type of variance being requested. The planning commission may grant a different variance or different form of relief than that requested by the applicant if it determines that the alternative relief better meets the criteria in subsections C through M below. The commission may impose appropriate conditions and safeguards to protect adjacent properties and the public interest, including but not limited to financial security pursuant to Section 50-37.1.P or a development agreement regarding the design, construction and operation of the project, to protect the Comprehensive Land Use Plan, to conserve and protect property and property values in the neighborhood and to ensure that all conditions of the variance will continue to be met. Constructing any improvement or beginning any activity authorized by the variance shall constitute the applicant's agreement to conform to all terms and conditions of the permit;

C. General variance criteria.

Unless different or inconsistent criteria or limitations are stated in subsections 50-37.9.D through M below for the specific type of variance being requested, the planning commission shall approve an application for a variance, or approve it with conditions, if it finds that the proposed variance meets the following criteria. If there is a direct conflict between a provision or criteria in subsections D through M below and the general criteria in this subsection C, the provisions in subsections D through M shall govern:

1. Because of the exceptional narrowness, shallowness or shape of the applicant's property, or because of exceptional topographic or other

Variance



(P) Indicates Public Hearing Required

conditions related to the property, the strict application of the requirements of this Chapter would result in peculiar and practical difficulties or exceptional or undue hardship to the property owner;

2. The special circumstances or conditions that create the need for relief were not directly or indirectly created by the action or inaction of the property owner or applicant;
3. The special circumstances or conditions applying to the building or land in question are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity;
4. The relief is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant;
5. The relief will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety or public welfare of the inhabitants of the city;
6. The relief may be granted without substantially impairing the intent of this Chapter and the official zoning map;
7. The relief does not allow any type of sign that is not allowed in the zone district where the property is located, pursuant to Section 50-27;
8. The relief complies with any additional limitations or criteria applicable to that variance in subsections D through M below;

D. No use variances.

No variance may be permitted to allow any use that is not listed in Table 50-19.8 as a permitted or special use in the zone district where the property is located;

E. Variances to lot size in unsewered areas.

A variance from the minimum lot size in unsewered area shall not be granted without presentation of a permit or letter of intent to issue a permit for onsite sewerage treatment from the county;

F. Variances for two-family dwellings in the R-1 District.

The commission shall not grant any variance from the requirements for the allowance of two-family dwellings within the R-1 zone district except:

1. A variance from the required front yard setback;
2. A variance reducing the minimum dimensional requirements by up to ten percent;

G. Variances from parking and loading regulations.

1. Residential districts.

(a) A variance may be granted to allow parking on a portion of a lot in an R zone where parking is not permitted by Section 50-24.6.B in the following two cases:

- (i) On any non-corner lot in an R district where the permitted parking area as shown in Table 50-24-3 is of insufficient size or configuration to allow for compliance with the off street parking requirements of this Chapter, and the applicant demonstrates hardship;

- (ii) On any corner lot in an R district where the R district parking area is of insufficient size or configuration to allow for compliance with the off street parking requirements of this Chapter, without a showing of hardship.
- (b) The variance shall be subject to the following conditions, and any other conditions determined by the commission to be reasonable and necessary to protect the interests of the abutting property owners and the residential character of the surrounding neighborhood:
 - (i) On a non-corner lot with frontage of less than 50 feet, only one parking area may be located outside the R district parking area;
 - (ii) On a corner lot with frontage of less than 50 feet, the variance may allow for compliance with the off street parking requirements of this Chapter;
 - (iii) On a corner or non-corner lot with frontage of 50 feet or greater, no variance may allow a parking area, including any driveway area leading to it, to exceed an additional 30 percent of the front yard;
 - (iv) The proposed parking area shall be entirely located on the applicant's lot and shall not encroach across any abutting lot line unless such abutting lot and the subject lot are under the same ownership and the abutting lot is not occupied by a dwelling unit;
 - (v) Where the proposed parking area will encroach into any unimproved area of a street, the variance shall expire upon improvement of the street;
 - (vi) Economic considerations, in whole or part, shall not constitute a hardship;
- 2. Reducing required parking spaces.
Except as provided in 50-37.9.G, variances from the minimum amount of off-street parking required may be approved if a smaller amount of off-site parking will be adequate to meet the needs of the facility because the facility is restricted to occupancy or use by populations with documented lower vehicle uses, such as the elderly or disabled;
- 3. Exceeding required parking spaces.
Variances from the maximum parking limits provided in 50-24.4 shall not exceed 175 percent of the minimum requirement provided in Table 50-24.1;

H. Variances to reduce setbacks.

When the application is for the reduction of a required front, rear or side yard setback, the commission may require the submission of a landscaping and buffering plan, and may require that all required landscaping or buffering, or landscaping and buffering of equal effectiveness, be installed within the reduced setback area. Decorative fencing and decorative wall structures may be proposed where more intense vegetated landscaping will not provide adequate mitigation of impacts on adjacent properties. The commission shall only approve the variance if the landscaping and buffering will mitigate impacts on adjacent properties as effectively as those required by sections 50-25 and 50-26 of this Chapter;

I. Variances in the MU-C District.

1. Within the MU-C district, the only variances that may be approved are variations in any dimensional standard in sections 50-15.3 and 50-21 by no more than ten percent. However, if the need for a variance is the result of a government taking pursuant to eminent domain powers, then (a) the limits of this subsection I.1 shall not apply and (b) all or part of the required landscaping and buffering may be placed in the public right-of-way if the property owner executes a perpetual maintenance agreement with the owner of the right-of-way;
2. In the case of a setback reduction variance, the landscaping and buffering in any reduced setback area shall be at least four feet in height and screen out at least 50 percent of the view of any parking area, unless the setback is reduced to less than five feet, in which case it shall screen out at least 75 percent of the view of the parking area;

J. Variances in A-O Airport Overlay District.

Variances 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;

K. Variances from flood plain regulations.

Variances to the flood plain regulations in Section 50-18.1.C shall only be granted in compliance with the limitations in this subsection K.

1. In a floodway:
 - (a) No variance shall be granted that would result in any increase in flood levels during the base flood discharge;
 - (b) No variance shall authorize the placement of a manufactured home, dwelling unit or any structure designed for human habitation;
 - (c) No variance shall be granted authorizing a lesser degree of floodproofing or flood protection than is required by Section 50-18.1.C;
 - (d) Variances shall be limited to giving the applicant a minimal reasonable use of the site;
2. In a flood fringe:
 - (a) No variance shall authorize a lesser degree of floodproofing or flood protection than is required by Section 50-18.1.C;
 - (b) Variances shall not produce any adverse effects to the flood capacity or efficiency of the watercourse;
3. Flood insurance notice and recordkeeping.

The building official shall notify the applicant for a variance that:

 - (a) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 - (b) Construction below the 100 year or regional flood level increases risks to life and property. Such copy notification shall be maintained with a record of all variance actions. The building official shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the administrator of the national flood insurance program;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

4. General considerations.

The city shall consider the following factors in granting variances and imposing conditions on permits and variances in flood plains:

- (a) The potential danger to life and property due to increased flood heights or velocities caused by encroachments;
- (b) The danger that materials may be swept onto other lands or downstream to the injury of others;
- (c) The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;
- (d) The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;
- (e) The importance of the services to be provided by the proposed use to the community;
- (f) The requirements of the facility for a waterfront location;
- (g) The availability of viable alternative locations for the proposed use that are not subject to flooding;
- (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
- (i) The relationship of the proposed use to the comprehensive land use plan and flood plain management program for the area;
- (j) The safety of access to the property in times of flood for ordinary and emergency vehicles; and
- (k) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site;

5. Submittal of hearing and decision notices to the DNR.

(a) The planning commission shall submit to the commissioner of the DNR a copy of the application for proposed variance sufficiently in advance so that the commissioner will receive at least ten days' notice of the hearing. Such notice shall specify the time, place, and subject matter of the hearing and shall be accompanied by such supporting information as is necessary to indicate the nature and effect of the proposed use. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist;

(b) A copy of all decisions granting variances shall be forwarded to the commissioner of the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist;

6. Additional federal emergency management agency conditions.

The following additional conditions of FEMA must be satisfied:

(a) Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(b) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

7. Conditions attached to variances.

Upon consideration of the factors listed above and the purpose of this Section, the planning commission may attach such conditions to the granting of variances and permits as it deems necessary to fulfill the purposes of this Section. Such conditions may include, but are not limited to, the following:

- (a) Modification of waste treatment and water supply facilities;
- (b) Limitations on period of use, occupancy, and operation;
- (c) Imposition of operational controls, sureties, and deed restrictions;
- (d) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures; and
- (e) Floodproofing measures, in accordance with the State Building Code and this chapter. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors;

L. Standards for variances in shorelands.

No variance shall be granted that compromises the general purposes or intent of Section 50-18.1.D or results in adverse consequences to the environment. Variances shall include a requirement for the applicant to mitigate the impacts of the variance on shoreland areas;

M. Reconstruction of a non-conforming building.

A variance may be granted to permit the reconstruction of a nonconforming building that has been damaged from any cause or has deteriorated to the extent of more than 60 percent of its assessed market value as determined by the city assessor, if the commission determines that it is necessary for the preservation and enjoyment of a substantial property right and is not detrimental to the public welfare of the city.

Section 3. That Section 50-37.13 of Chapter 50 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.

Table 50-37.13-1: Types of Zoning Permits	
Type of Permit	Primary Compliance Requirement ^[1]
Shoreland Permit	Shorelands (Section 50-18.1.D)
Erosion and Sediment Control Permit	Temporary Soil and Erosion Control (Section 50-18.1.E)
Sign Permit	Signs (Section 50-27)
Fence Permit	Fences and Walls (Section 50-26.4)
Airport Environs Permit	A-O Airport Environs Overlay district (Section 50-18.2)

A. Application.

An application for a zoning permit shall be filed pursuant to Section 50-37.1.B.

B. Procedure.

1. The building official shall review and make a decision on an application for a zoning permit based on the criteria in subsection 50-37.13.C. 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 been met;
2. 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;

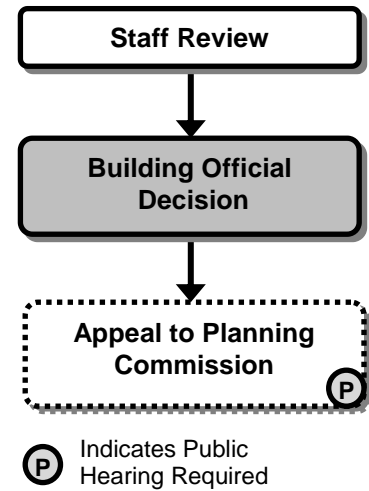
C. General criteria.

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;

D. Additional provisions for specific areas and types of permits.

1. 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;
2. 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;
3. 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

Zoning Permit



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

except when such tree or structure, because of terrain, land contour or topographic features, would violate the provisions of Section 50-18.2;

4. 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 4. That Section 50-38 of Chapter 50 be amended as follows:

50-38 Nonconformities.

This Section clarifies how this Chapter applies to those buildings, structures and land uses that do not comply with this Chapter, including without limitation (a) those that do not comply with the Chapter on the date it is adopted, and (b) those that comply with the Chapter on the date it is adopted but become nonconforming due to the adoption of an amendment to this Chapter. This Section is intended to comply with the provisions of MSA 462.357, subd. 1.e as amended, and shall be interpreted to comply with those provisions wherever possible.

50-38.1 Types of nonconformities.

The city recognizes five different types of nonconformities, each of which is addressed in the subsections below.

- A. Nonconforming buildings;
- B. Nonconforming uses;
- C. Nonconforming lots;
- D. Nonconforming on-premises signs;
- E. Nonconforming off-premises signs.

50-38.2 General provisions.

A. Airport hazards.

1. The owner of any nonconforming structure or tree within the Airport Overlay is required to allow the installation, operation and maintenance on the structure or tree those markers and lights deemed necessary by the building official to indicate to aircraft the presence of the airport hazards. Any required markers and lights shall be installed, operated and maintained at the expense of the owner;
2. The regulations in Section 50-18.2 A-O Airport Overlay shall not:
 - (a) Require the removal, lowering or other alteration of any structure or tree not conforming to the regulations regarding Duluth International Airport on June 18, 1988, or not conforming to the regulations regarding Sky Harbor Municipal Airport on September 26, 1994;
 - (b) Interfere with the continuance of any nonconforming use as permitted by this Section 50-38;
 - (c) Require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun before September 26, 1994, and completed on or before September 25, 1996;

B. Flood hazard areas.

A structure or the use of a structure or premises located in a flood plain area as defined and shown in Section 50-18.1.C that was lawful before February 1, 1980, or before an amendment to the flood plain management regulations of Section 50-18.1.C, but that is not in conformity with the provisions of this Chapter may be

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

continued subject to the following conditions. Historic structures, as defined under “substantial improvement” in Section 50-41, are subject to the provisions of subsections 1 through 5 of this Section:

1. No such use or structure shall be expanded, changed or altered in a way that increases its nonconformity. Expansion of uses or structures within the floodway district is prohibited;
2. Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP-1 thru FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in 3 and 6 below;
3. The cost of all structural alterations to any nonconforming structure over the life of the structure shall not exceed 50 percent of the assessed market value of the structure as determined by the city assessor unless the conditions of this Section are satisfied. The cost of all structural alterations must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds 50 percent of the assessed market value of the structure as determined by the city assessor, then the structure must meet the standards of this Chapter for new structures depending upon whether the structure is in the floodway or flood fringe district, respectively;
4. If any nonconforming use, or any use of a nonconforming structure, is discontinued for one year, any future use of the premises shall conform to this Chapter;
5. If any nonconformity is substantially damaged, as defined in Section 50-41, it shall not be reconstructed except in conformity with the provisions of this chapter. The applicable provisions for establishing new uses or new structures in Section 50-18.1.C will apply, depending upon whether the use or structure is in the floodway, flood fringe or general flood plain district;
6. Any substantial improvement, as defined in Section 50-41, to a nonconforming structure requires that the existing structure and any additions must meet the applicable requirements of Section 50-18.1.C for new structures, depending upon whether the structure is in the floodway, flood fringe or general flood plain district.

50-38.3 Nonconforming buildings.

- A. A nonconforming building may continue to be used, and may be expanded provided that the expansion does not increase or extend any nonconformity horizontally or vertically. All additions must comply with the dimensional requirements in Article 2 and Section 50-21 or 50-22, as applicable, and the parking requirements of Section 50-24 must be satisfied for the expansion area;
- B. A nonconforming building that has been damaged from any cause or has deteriorated to the extent of 60 percent or more of its assessed market value at the time of the damage shall not be restored, except in conformity with this Chapter, unless the owner obtains a variance pursuant to Section 50-37.9. When

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

damaged by less than 60 percent of its assessed market value as determined by the city assessor, a nonconforming building may be repaired or reconstructed, provided that a building permit is applied for within 180 days and such repairs or reconstruction are completed within one year of the date of the damage.

50-38.4 Nonconforming uses of buildings and land.

- A. Any building existing on July 14, 1958, or existing on the date of the adoption of a city ordinance making it nonconforming, may continue to be used for the purposes it was used when it became nonconforming, even though that use does not conform to this Chapter, but may not be expanded or changed in a way that would increase any nonconformity;
- B. The nonconforming use of a building may be extended throughout those parts of the building that were clearly arranged or designed for such use on the date the building became nonconforming;
- C. A nonconforming use of a building or portion of a building that is discontinued for a continuous period of one year shall not again be used except for a permitted or special use in the district where the building is located, as shown in Table 50-19.8;
- D. A building containing a nonconforming use shall not be enlarged, extended, reconstructed or structurally altered, unless the use is changed to a permitted or special use in the district where the building is located, as shown in Table 50-19.8;
- E. A nonconforming use of land existing on July 14, 1958, may be continued but may not be expanded or extended, either on the same or adjoining property. If the nonconforming use of land or any portion of the use is discontinued for a continuous period of one year or changed, any future use of the land shall comply with this Chapter;
- F. If no structural alterations are made to a nonconforming building, a nonconforming use of a building or land may be changed to another nonconforming use with fewer adverse impacts on surrounding properties, as determined by the land use supervisor;
- G. Whenever a nonconforming use of a building or land has been changed to a use with fewer adverse impacts, as determined by the land use supervisor, the use shall not later be changed to a nonconforming use with greater adverse impacts on surrounding properties, as determined by the land use supervisor;
- H. Within the Airport Overlay, whenever the building official determines that a nonconforming structure or tree has been abandoned or more than 80 percent torn down, deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit in Section 50-18.2. Whether or not an application for a permit is filed, the building official may order the owner of the abandoned or partially destroyed nonconforming structure, at his own expense, to lower, remove, reconstruct or to equip the same in the manner necessary to conform to the provisions of Section 50-18.2;
- I. Whenever a nonconforming use of a building or land has been changed to a conforming use, all nonconforming uses expire, and the property may only be used for a permitted or special use in the district where the building is located, as shown in Table 50-19.8;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

J. A nonconforming use of a building or land existing on the date this Chapter is adopted shall remain a nonconformity unless it complies with all applicable provisions of this Chapter;

K. The adoption of this Chapter shall not validate any temporary use beyond the expiration date of any temporary permit issued under prior approvals.

50-38.5 Nonconforming lots.

A. A lot that existed on November 18, 2010, and was held in separate ownership from adjoining lots on that date and does not meet the minimum lot area or frontage requirements for the zone district in which it is located may nevertheless be used for the construction of a primary structure permitted in that zone district. All other applicable dimensional standards in Article 2 and Section 50-21 apply unless the applicant obtains a variance from those dimensional standards pursuant to Section 50-37.9;

B. Nonconforming lots that are not provided with public sewer shall comply with county individual sewage treatment systems ordinance and standards. However a lot or parcel of record that was lawful as to lot area requirements and under separate ownership from any adjoining lot or parcel on May 23, 1993, shall not be deemed nonconforming as to lot area requirements unless subdivided after that date.

50-38.6 Nonconforming on-premises signs.

A. A legal nonconforming on-premises sign that was previously permitted may remain in use, so long as it remains otherwise lawful, and may be restored, repaired, or altered in the following ways: replacing lamps, replacing ballast, replacing transformers, painting the pole(s) and the cabinet, replacing or repairing the sign face(s), including H-bars and retainers behind the face(s), replacing trim, and replacement of sign fasteners, nuts, and washers. The following are not considered repair or restoration and shall require the legal nonconforming on-premises sign to be brought into conformance with this Chapter, except as provided in subsection F below: change or replacement in poles, structural supports, bases or shrouds, footings, moving the sign for any reason, change or replacement of the interior and/or exterior cabinet frame (excluding trim) and any changes made to the size, height, light intensity or bulk of the sign or the temporary or permanent removal of the sign for the repair or replacement of the cabinet or any part thereof, not including the face. Temporary removal of the sign cabinet for the replacement of the sign face(s) is permitted and will not require that the sign be brought into conformance with all requirements of this Chapter;

B. No legal nonconforming sign may be relocated, in whole or in part, to any other location on the same or other lot, unless the entire sign conforms to all regulations of the zoning district in which the sign is relocated;

C. A legal nonconforming on-premises sign may not be altered in any way that would create any new nonconformity or increase the degree of any previously existing nonconformity;

D. In the event that any legal nonconforming sign is damaged or destroyed to the extent of more than 50 percent of its value prior to the damage, the sign cannot be restored or repaired unless it conforms to all applicable regulations for the district;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- E. All sign illumination, electronic message signs, and electronic billboards that do not conform with the display requirements of this Chapter, including brightness, message duration and similar performance requirements for the electronic component, are required to conform to the standards of this Chapter for the electronic component within 90 days of this date: March 11, 2013.
- F. A legal nonconforming on-premises sign that does not meet the standards for sign area or sign height is being altered in such a way as to reduce the nonconformity, the alteration may be approved by the land use supervisor.

50-38.7 Nonconforming off-premises signs.

In order to bring nonconforming off-premises signs into closer conformance with the purposes of Chapter, the following system is established to enable the reconstruction, structural alteration or relocation of certain nonconforming off-premises signs. Once rebuilt, the sign shall retain its status as a nonconforming off-premises sign.

A. Reconstruction of existing signs.

1. A sign permit for reconstruction on the same site of a nonconforming off-premises sign that either exists or has been destroyed no more than 6 months prior to written sign permit application, may be issued after the building official certifies that the sign to be reconstructed has less of an adverse impact on the area near the site than the sign being replaced. A reconstructed sign may be enlarged, up to the maximum size of an off-premises sign permitted within the applicable zone district, by use of an exception credit pursuant to subsection 2. For purposes of this subsection the "same site" shall mean contiguous property owned by one person or entity, or a related person or entity, and not divided by an improved street;
2. No permit shall be issued until the sign to be reconstructed is removed;
3. All signs shall be constructed and placed in strict conformance with the permit and the failure to do so shall constitute a violation of this Chapter, and if not corrected shall be grounds for revocation of the permit and an order for removal of the sign;

B. Exception credit system.

1. The owner of a nonconforming off-premises sign may receive an exception credit if it is determined by the building official that a nonconforming off-premises sign is to be removed, or has been removed, due to a termination of lease for reasons beyond the reasonable control of the applicant, or other forced removal (not including destruction or other situations rendering the sign unusable). Such reasons include but are not limited to the refusal of a lessor to renew a lease or the applicant's inability to obtain a lease renewal on reasonable terms and conditions (including lease rent at a fair market rate). An exception credit may be issued for each such sign that has been removed no more than 30 days prior to written application for the exception credit;
2. The building official shall determine if the applicant is eligible to receive an exception credit and shall certify and keep a log of all such credits documenting the owner of the credit, cumulative square footage of sign area credited and number of locations available for sign structures. After approving the use of an exception credit, the building official shall notify the owner, in writing, of the owner's remaining credited total of available

square footage of sign area and remaining credited number of locations available for sign structures;

C. Use of exception credits.

1. Exception credits may be used to permit the relocation of certain nonconforming off-premises signs that do not meet site, location or other requirements of this Chapter;
2. An application for an exception credit shall include a statement identifying the exception credit(s) to be used for the permit for the new location. No holder of a credit shall be granted a permit under this subsection 50-38.7 for more locations than it lost or for more square footage of sign area than it lost. No sign permit shall be issued until the sign(s) that is the basis for the credit is first removed;
3. All signs shall be constructed and placed in strict conformance with the sign permit and the failure to do so shall constitute a violation of this section, and if not corrected, shall be grounds for revocation of the sign permit and an order for removal of the sign. No sign permit issued under this Section shall be valid until the applicant has complied with all applicable requirements of the NR-O, Natural Resources Overlay district, and MSA Chapter 173.

Section 5. That Section 50-41.4 of Chapter 50 be amended as follows:

50-41.4 Definitions: D.

Data center. An establishment primarily involved in the compiling, storage, conversion or analysis and maintenance of documents, records, and other types of information in digital form.

Daycare facility. A facility that provides accommodations for persons of any age who receive custodial care for less than 24 hours by individual other than parents or guardians, relatives by blood, marriage, or adoption, and in a place other than the home of the person cared for.

Decorative fence. A powder coated steel fence, solid core ornamental fence, decorative wood fence, or fence of similar construction or appearance, but not including a snow fence, chain link or highway guard rail.

Demolition debris. Solid waste resulting from the demolition of buildings, roads and other man-made structures including concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock and plastic building parts. It does not include asbestos wastes, appliances, furniture or household refuse.

Dense urban screen. Continuous screening wall, berm, fence, or row of planting at least six feet tall, with screening material designed to provide 75 percent opacity one year after planting along the full required height and length of the screening buffer.

Design storm. A rainfall event used in the analysis and design of drainage facilities.

Detention. The temporary storage of drainage water.

Deteriorated. A building or component of a building shall be deemed to have deteriorated when its function has been so impaired by natural forces including but not limited to weathering or decay that it needs to be replaced to restore its functionality.

Developable area. All land within a zone district not occupied by streets and public rights-of-way.

Development. The construction of a building or structure, any clearing, grading, excavation or other movement of land, or the division of a parcel of land into two or more

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

parcels. Within flood plain districts, development is defined as any manmade change to improved or unimproved real estate, including but not limited to: buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Diameter at breast height (DBH). The primary method of measuring the diameter of a tree trunk. Diameter is measured in inches 54 inches above the ground. If the tree splits into multiple trunks at a height below 54 inches, but above the ground, the diameter is measured at the highest point beneath the split.

Direct illumination. Illumination by light sources that are effectively visible, either directly or through a translucent material, as a part of the sign and illuminating outward.

Discharge. The discharge of any pollutant into the waters of the state from any point source.

Discharge rate. The rate at which drainage water is released from a specific site and expressed as a volume per unit of time, such as cubic feet per second.

District. Any section of the city within which the zoning regulations are uniform.

DNR. Minnesota department of natural resources.

Drainage basin. The tributary area through which drainage water is collected, regulated, transported and discharged to receiving waters.

Drainage system. Any system that conveys stormwater or surface water including sewers culverts, ditches, and swales.

Drainage water. Stormwater, snow melt, surface and irrigation water, water from footing drains and sump pumps or other drains approved by the city.

Drip line. A vertical line extending from the outermost edge of a tree's canopy to the ground.

Dry cleaning or laundry plant. An establishment where laundry or dry cleaning is performed in bulk and primarily for commercial and institutional customers. This use does not include facilities where the public drops off or picks up dry cleaning or laundry that is cleaned off-site.

Dwelling. Any building or portion of a building that is designed for or used for residential purposes and that either (a) has a minimum width of 20 feet, or (b) has a principal entrance facing the front lot line.

Dwelling unit. A habitable unit in a dwelling providing sleeping, cooking, eating, living and sanitation facilities designed for and occupied by one family only, occupied by the owner or by another family for periods of occupancy exceeding one week, and that is physically separated from any other habitable unit that may be located in the same building.

Dwelling unit, efficiency. A dwelling unit consisting of one principal room, exclusive of bathroom, kitchen, hallway, closets or dining alcove directly off the principal room, providing that such dining alcove does not exceed 125 square feet in area.

Dwelling, live-work. A dwelling unit containing an integrated living and working space that is intended to function predominately as business workspace with incidental residential use. The unit typically has a store-front, with the workspace, public display area, or show-room on the ground floor of the unit and the majority of the residence located either on the upper floor if there are two floors, or the back of the unit if there is only one floor.

Dwelling, multi-family. A building containing three or more dwelling units that is not a townhouse.

Dwelling, one-family. A building containing one dwelling unit designed for exclusive occupancy by one family and occupied exclusively by one family, having a minimum outside width of 20 feet measured at its narrowest point and placed on a permanent foundation that

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

complies with the State Building Code. This definition includes a manufactured or modular home that meets this definition and the requirements of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sections 5401 et. seq.).

Dwelling, townhouse. A structure containing three to eight dwelling units each sharing two vertical party or division walls, except that each end unit will have a single party or division wall, with no dwelling units sharing a common horizontal surface.

Dwelling, two-family. A building containing two dwelling units designed for exclusive occupancy by two families and occupied exclusively by two families. A twin home is a two-family dwelling where each unit shares a common vertical wall, and where a side lot line exists on the common wall extending to the front and rear lot lines, but is on two separate lots.

Section 6. That Section 50-41.6 of Chapter 50 be amended as follows:

50-41.6 Definitions: F.

FAA. The federal aviation administration or its duly designated and authorized successor agency.

Family. One or more persons related by blood, marriage or adoption, including foster children, and in addition to and including five other unrelated persons occupying a dwelling and living as a single housekeeping unit.

FCC. The federal communications commission or its duly designated and authorized successor agency.

Filling station. A building, structure or land used primarily for the dispensing, sale or offering for sale at retail of any automobile fuels, oils or accessories, including lubrication of automobiles and replacement or installation of minor parts and accessories but not including major repair work such as motor replacement, body and fender repair or spray painting. This use may include the retail sales of convenience goods.

Flood. A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

Flood frequency. The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Flood fringe. That portion of the flood plain outside of the floodway. Flood fringe is synonymous with "floodway fringe."

Flood hazard area. The areas identified as flood plain, floodway, or flood fringe at or below the regional flood protection elevation.

Flood peak. The highest value of stage or discharge attained during a flood event; thus peak stage or peak discharge.

Flood plain. The beds proper and the areas adjoining a wetland, lake, or watercourse that have been or may in the future be covered by a regional flood.

Flood profile. A graph or a longitudinal plot of water surface elevations of a flood event along a reach of a stream or river.

Floodproofing. A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

Floodway. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain that are reasonably required to carry and store the regional flood discharge.

Food processing. The sorting, treatment, or preparation of food products for sale or as inputs to further processing, but not including the slaughtering of small or large livestock or

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

confined animal feeding operations. Examples include: creamery operations and poultry processing.

Forest management. Tree removal from a predominantly forested area with the intent of maintaining forest cover and not resulting in conversion to non-forest, such as grassy fields or pavement. Clearcuts constitute forest management as long as tree cover returns by planting or natural regeneration.

Frontage. All the property on one side of a street between two streets that intersect such street (crossing or terminating), measured along the line of the street, or if the street is dead ended, then all of the property abutting on one between a street that intersects such street and the dead end of the street.

Funeral home or crematorium. An establishment providing services such as preparing the human dead for burial, cremating human remains, and arranging and managing funerals. This use does not include cemeteries and columbaria.

Section 7. That Section 50-41.7 of Chapter 50 be amended as follows:

50-41.7 Definitions: G.

Garage, private. An accessory building designed or used for the storage only of not more than four motor driven vehicles. Not more than one of the vehicles may be a commercial vehicle, and that vehicle shall not exceed a two ton capacity.

Garden material sales. An establishment engaged in the storage, distribution, and sale of garden materials, including a greenhouse used to raise flowers, shrubs and plant for sale. Accessory uses may include delivery services.

General development waters. Includes lakes that are generally large, deep lakes or lakes of varying sizes and depths with high levels and mixes of existing development at the time of the original classification. These lakes often are extensively used for recreation. General development rivers include agriculture and urban rivers. This class has a wide variety of existing land and recreational land use characteristics.

General flood plain. The area within a flood plain on the flood insurance rate map and on the flood boundary and floodway Map adopted in Section 50.18.1.C that does not have a delineated floodway or flood fringe.

Golf course. A tract of land laid out with at least 9 holes for playing the game of golf and improved with tees, greens, fairways and hazards. This use does not include a miniature golf course. A golf course may include a driving range, clubhouse, restaurant, putting and chipping greens, maintenance facilities, and shelters as accessory uses.

Government building or public safety facility. A building or facility housing the offices or operations of a department or agency of the city, county, state, or federal government, or a quasi-governmental, including but not limited to a building or facility that provides fire protection, police protection, or emergency medical services (not including a hospital or medical or dental clinic), together with incidental storage and maintenance of necessary vehicles.

Grade. A. For buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street;

B. For buildings having walls adjoining more than one street, the average of the elevations of the sidewalk at the centers of all walls adjoining the streets;

C. For buildings having no wall adjoining a street, the average level of the finished surface of the ground adjacent to the exterior walls of the building;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

D. Any wall approximately parallel to and not more than 15 feet from a street line is to be considered as adjoining the street. Where sidewalks do not exist the grade shall be as established by the office of the city engineer.

Grocery store. A retail sales establishment selling primarily food and beverages for off-site preparation and consumption that maintains a sizable inventory of fresh fruits, vegetables, fresh-cut meats, or fresh seafood or specialize in the sale of one type of food item. This use may also include sales of personal convenience and small household goods.

A. A small grocery store is one that contains less than 15,000 square feet of gross floor area;

B. A large grocery store is one that contains 15,000 square feet or more of gross floor area.

Groundwater management area. A geographically defined area that may be particularly sensitive in terms of groundwater quantity or quality by nature of the use or movement of groundwater, or the relationship between groundwater and surface water, and where special management measures are deemed necessary to protect groundwater and surface water resources.

Groundwater recharge volume. The portion of the water quality volume used to maintain groundwater recharge rates at development sites.

Section 8. That Section 50-41.12 of Chapter 50 be amended as follows:

50-41.12 Definitions: L.

Land development. A human-made change to, or construction on, the land surface that changes its runoff characteristics.

Land disturbing activity. Land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands of or downstream of the city, including clearing, grading, excavating, transporting and filling of land. Land disturbing activity does not include:

A. Minor land disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;

B. Construction, installation and maintenance of electric, telephone and cable television utility lines or individual service connection to these utilities;

C. Installation of septic tank lines or drainage fields unless included in an overall plan for a land disturbance activity relating to construction of a building to be served by the septic tank system;

D. Tilling, planting or harvesting of agricultural, horticultural or silviculture crops;

E. Installation of fence, sign, telephone and electric poles and other kinds of posts or poles;

F. Emergency work to protect life, limb or property and emergency repairs, except if the land disturbing activity would have required an approved erosion and sediment control plan except for the emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of Section 50-18.1.E.

Landing area. The area of the airport used for the landing, taking off, or taxiing of aircraft.

Land owner. The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

Landscape plan. An accurate scale drawing that indicates the major natural features of a site and all proposed buildings, structures and site improvements in sufficient detail to allow the evaluation of impacts on natural systems and other aspects of the development.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Laundromat. An establishment providing home type (large institutional or commercial type) washing, drying or ironing machines for use on the premises.

Link. For purposes of the connectivity index described in Section 50-23.3, links are stretches of road that connect “nodes” as defined below. Street stub-outs are considered as links, but temporary dead-end streets internal to a development, private streets in gated sections or alleys shall not be counted as links. Every road segment that connects a node in the development to the external street network shall be counted as a link in the index calculation.

Loading space. A space within the principal building or on the same lot as the principal, providing for the off street standing, loading or unloading of trucks and trailers.

Local watershed. All the water that drains to a natural waterway located primarily within the city.

Lot. Land occupied or intended for occupancy by a use permitted in this Chapter, including one main building together with its accessory buildings, and the yards and parking spaces required by this Chapter, and having its principal frontage upon a street or upon an officially approved place. For the purposes of this Chapter, the term “lot” may include two or more lots of record that are contiguous or separated only by a public easement not exceeding 25 feet in width, are owned by the same owner and where none of the parcels can be severed or legally sold, conveyed or used without the other parcels by virtues of a legally binding agreement that runs with the land and is recorded in the office of the county recorder. If at any time any parcel that had been recognized as part of any lot by reason of such proximity, ownership and agreement are severed, legally sold, conveyed or used separately from the other parcel or parcels making up said lot, the parcel so severed, legally sold, conveyed or used shall henceforth not be considered part of the lot, any uses relying on its status as part of the lot shall become nonconforming and the provision of Section 50-39 shall not be applicable to any such use.

Lot, corner. A lot abutting upon two or more streets at their intersection.

Lot, double frontage. A lot having a frontage on two streets as distinguished from a corner lot.

Lot, flag. A lot so shaped and designed that the main building site is setback from the street and that portion of the lot providing access has a width less than 25 percent of the lot width at its greatest point.

Lot, front. The area of a lot that abuts a public street is the front of the lot. For corner lots, the shortest side fronting upon a street shall be considered the front of the lot unless structures exist on the lot. In that case, the frontage shall be established by the orientation of the buildings, or of the principle entrance if building orientation does not clearly indicate lot frontage. For corner lots, where no other method determines conclusively the front of a lot, the city engineer shall select one frontage on the basis of traffic flow on adjacent streets, so that the lot is considered to front on the street with the greatest traffic flow.

Lot frontage. Frontage shall be the dimension of the lot line at the street, except where the lot line at the street is not straight, in which case the frontage shall be the dimension across the lot at the required front yard line.

Lot of record. A parcel of land that is part of a subdivision, the map of which has been recorded by the county recorder or a parcel of land described by metes and bounds the description of which has been recorded by the county recorder.

Lots on the block face. When a dimensional standard is calculated based on a dimension measured for “lots on the block face” the measurement shall apply only to (a) developed lots on the same side of the street between the next two intervening side streets,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

and (b) lots that face developed streets (not to streets shown on a plat or map that have not been constructed). For purposes of this measurement, all contiguous lots in common ownership shall be considered as a single lot (not as separate platted lots).

Low density residential lot. A single lot located in an area that is zoned for one-family or two-family residences and in which the predominant land use is such type of residences.

Low density residential structure. A one-family or two-family home.

Lowest floor. The lowermost floor of the lowest enclosed area, including basement and crawl space.

Section 9. That Section 50-41.13 of Chapter 50 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;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 10. That Section 50-41.18 of Chapter 50 be amended as follows:

50-41.18 Definitions: R.

R-district parking area. The area on a lot in a residential district where vehicles may be parked, unless a front yard parking variance has been approved pursuant to Section 50-37.9. The parking area shall be limited to an area that may include one side yard, the rear yard, and the following additional areas of the lot:

A. On a lot, other than a corner lot, containing a dwelling unit without garage, the parking area also includes the area between one side lot line and the nearest wall of the dwelling unit and its extension to the improved street abutting the front yard;

B. On a lot, other than a corner lot, containing a dwelling unit with a detached garage, the parking area also includes the area between the closest side lot line to the side wall of the dwelling unit nearest the garage and its extension to the improved street abutting the front yard;

C. On a lot, other than a corner lot, containing a dwelling unit with attached garage, the parking area also includes the area between the closest side lot line and the common wall separating the dwelling unit and the garage and its extension to the improved street abutting the front yard;

D. On any corner lot, any parking area in addition to the rear yard and one side yard may be granted by variance as provided in Section 50-37.9.

Radio or television broadcasting tower. A structure that is designed and constructed primarily for the purpose of supporting one or more antennae that transmit information (audio, video, data, but not personal wireless communications) in the form of electromagnetic signals

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

to one or more receivers without the use of a physical connection between the transmitting and receiving source. The term includes but is not limited to: lattice towers, guyed towers, and monopole towers. The term does not include a wireless communication tower, clock tower, bell tower, steeple, light pole, power pole, water tower, or similar structure that incidentally supports antennae.

Railroad yard or shipyard and related facilities. An area of land, a portion of which is covered by a system of tracks, that provides for the making up of trains by one or more railroads or private industry concerns including roadhouses and repair and overhaul shops. Necessary functions of a railroad yard include but are not limited to the classifying, switching, storing, assembling, distributing, consolidating, repairing, weighing, or transferring of cars, trains, engines, locomotives, and rolling stock. In addition, this use includes a facility or area containing wharves, docks, or other facilities used in connection with water transportation or navigation, and for the repair, service, sales or storage of boats.

Rainfall events. The design storm definitions for Duluth from "Bulletin – 71" 1992, Rainfall Frequency Atlas of the Midwest.

	Design Year	Inches
100 yr 24 hr Rainfall	100	5.2
50 yr 24 hr Rainfall	50	4.64
10 yr 24 hr Rainfall	10	3.36
5 yr 24 hr Rainfall	5	2.88
2 yr 24 hr Rainfall	2	2.31

Reach. As used in the context of flood prevention, the hydraulic engineering term used to describe longitudinal segments of a stream or river influenced by a natural or manmade obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would typically constitute a reach.

Readerboard. A sign or portion of a sign face that allows for the creation of messages by physical manipulation of simple block letters, but not including a changeable message sign (MCS) or electronic sign (ES).

Receiving stream or channel. The body of water or conveyance into which stormwater runoff is discharged.

Receiving waters. Lake Superior, St. Louis River and St. Louis Bay, which are the major receivers of city drainage.

Recharge. The replenishment of underground water reserves.

Recreational vehicle. A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this chapter, the term recreational vehicle shall be synonymous with the term "travel trailer/travel vehicle."

Recycling collection point (primary use). 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. This definition does not include processing except for can banks that crush cans as they are deposited.

Redevelopment. A change to previously existing, improved property, including but not limited to the demolition or building of structures, filling, grading, paving or excavating, but excluding ordinary maintenance activities. For purposes of the erosion and stormwater controls in Section 50-18.1.E, redevelopment does not include remodeling of buildings on the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

existing footprint, resurfacing of paved areas, and exterior changes or improvements that do not result in the disturbance of equal to or greater than one acre of land.

Regional flood. A flood that is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of a one percent chance or 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in a flood insurance study.

Regional stormwater. Stormwater BMPs designed to control stormwater runoff from multiple properties or a particular land use district, and where the owners or developers of the individual properties may participate in the provision of land, financing, design, construction or maintenance of the facility.

Regulatory flood protection elevation. An elevation corresponding with a point not less than two feet above the water surface profile associated with the regional flood plus any increases in flood stages attributable to encroachments on the flood plain. Within an A-O zone, as shown on the flood insurance rate map adopted in Section 18.1.A.2(b), an elevation above the highest adjacent grade of an existing or proposed structure equivalent to two feet plus the depth number in feet specified on the flood insurance rate map.

Religious assembly. A facility or area for people to gather together for public worship, religious training or other religious activities including a church, temple, mosque, synagogue, convent, monastery or other structure, together with its accessory structures, including a parsonage or rectory. This use does not include home meetings or other religious activities conducted in a privately occupied residence. Accessory uses may include meeting rooms and childcare provided for persons while they are attending assembly functions.

Repairs and maintenance. When used in the context of wireless telecommunications, 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 the addition, removal or change of any of the physical or visually discernable components or aspects of a wireless facility that will add to the visible appearance of the facility as originally permitted.

Research laboratory. A facility or area for conducting scientific research, investigation, testing, or experimentation, but not including facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory. This definition also includes labs for the manufacture of dentures and prostheses.

Residential care facility/Assisted living facility. A building that houses persons, on a 24 hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment which provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. This classification shall include, but not be limited to, the following; residential board and care facilities, assisted living facilities, halfway houses, group homes, congregate care facilities, social rehabilitation facilities, alcohol and drug abuse centers, and convalescent facilities.

Responsible party. In the context of stormwater regulations, any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity or their legal representatives, agents or assigns, that is named on a stormwater maintenance agreement as responsible for long-term operation and maintenance of one or more stormwater BMPs.

Restaurant (no drive-in/drive-through). A commercial establishment, including but not limited to taverns and brewpubs, where food and beverages are prepared, served, and consumed primarily within the principal building.

Restaurant (with drive-in/drive-through). A commercial establishment, including but not

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

limited to taverns and brewpubs, where customers order and are served their food and beverages at a walk-up counter or in a motor vehicle to be consumed on or off the site.

Retail store. A facility or area for the retail sale of general merchandise or food to the general public for direct consumption and not for wholesale. Typical general merchandise includes clothing and other apparel, equipment for hobbies or sports, gifts, flowers and household plants, dry goods, convenience and specialty foods, toys, furniture, books and stationery, pets, drugs, hardware and similar consumer goods. This definition does not include retail uses defined elsewhere in this Chapter.

A. A small retail store is one that contains less than 15,000 square feet of gross floor area;

B. A large retail store is one that contains 15,000 square feet or more of gross floor area.

Riding stable. An establishment or area for keeping horses or other domestic animals other than for the property owner's personal use, for compensation, hire, boarding, riding or show.

Rooming house. A building containing habitable units and that provide sleeping or living accommodations by prior arrangements, regardless of whether those accommodations are offered for compensation or not, and for definite time periods. Some or all bathroom and/or kitchen facilities, where provided, are for use on a communal basis. Individual habitable units are not owned by occupants, except that a habitable unit may be occupied by the owner of the building.

Runway. Any existing or planned paved surface or turf covered area of the airport that is specifically designated and used or planned to be used for the landing or taking off of aircraft.

Section 11. That Section 50-41.19 of Chapter 50 be amended as follows:

50-41.19 Definitions: S.

School, elementary. An public or private establishment providing educational services from kindergarten or Grade 1 through Grade 5, or from kindergarten or first grade through Grade 8, or some combination of those included years, together with incidental sports and outdoor activity areas.

School, middle or high. A public or private establishment providing educational services from Grade 6 through Grade 12, or from Grade 6 through 8, or from Grade 9 through Grade 12, or some combination of those included years, together with incidental sports and outdoor activity areas.

Seasonal camp or cabin. A facility containing one or more tent sites or cabins that is offered for use on short-term during defined seasons of the year, for compensation, and that may include accessory facilities such as showers, laundries or cooking and dining facilities.

Sediment. Solid mineral or organic material that, in suspension, is being transported, or has been moved from its original site by air, water, gravity or ice and has been deposited at another location.

Sedimentation. The process or action of depositing sediment that is determined to have been caused by erosion.

Setback. The minimum horizontal distance between a lot line and a building or structure required by this Chapter.

Shore impact zone. Land located between the ordinary high water level of public waters and a line parallel to it at a setback of 50 percent of the required structure setback, but not less than 50 feet.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Shoreland. Lands within 1,000 feet of a lake or within 300 feet of a river and its floodplain, as shown on the NR-O map. The limits of shorelands may be less than the above limits whenever the waters involved are bounded by topographic divides that extend landward from the waters for lesser distances and when approved by the commissioner.

Sidewalk. A paved surface located in the public right of way and used as a pedestrian walkway.

Sidewalk Café. An outdoor dining area located within the public right of way in front or adjoining a restaurant or other eating and drinking establishment.

Sign. Any letter, word, symbol, model, printed, projected or affixed device, poster, picture, reading matter or representation in the nature of an advertisement, announcement, direction or informative device including its structure or component parts, which is more than one square foot in area and is located outdoors or is affixed to the interior or exterior of a window or door, or is displayed within 12 inches of a window intended for viewing from the exterior of the building. A sign shall not include (a) temporary parks and recreation signs permitted pursuant to Chapter 35 of the City Code, or (b) overhead banners and devices regulated under Article III of Chapter 45 of the City Code, or (c) any street name sign, public directional, utility or transportation sign, or motor vehicle traffic signs of any kind when officially placed, or to advertising or other information affixed to any motor vehicle, provided that such vehicle's primary use is not as a stationary advertising device, or (d) any inscription on any publicly owned building when the inscription is incorporated into the architectural design as a permanent feature.

Sign, A-frame. A sign ordinarily in the shape of the letter "A," or some variation thereof, that is displayed on the ground, not permanently attached, and usually two-sided.

Sign, agricultural identification. A sign describing an agricultural use that includes the name of the farm and/or the products grown on-site.

Sign, animated. A sign that uses movement or change of lighting to depict action or to create a special effect or scene. Animated signs do not include electronic message signs.

Sign, attention getting. Flags, pennants, streamers and similar devices or ornamentations designated for the purpose of attracting attention. Flags of nations, states, and cities, or fraternal, religious and civic organizations, permanent commercial flags, or temporary holiday decorations are not considered attention getting devices.

Sign, awning. A sign that is printed or displayed upon an awning. An awning is a roof-like cover designed for protection from the weather or as a decorative embellishment, which projects from a wall or roof of a structure over a window, walkway or door, with no supports that extend to the ground.

Sign, balloons. Balloons or inflated devices used as a means of directing attention to a business or service offered.

Sign, banner. A sign that is printed or displayed upon flexible material with or without frames.

Sign, banner-exhibition. A sign that is printed or displayed upon flexible material with or without frames in conjunction with a special exhibit for an educational facility, government building, museum, library or art gallery, or religious assembly.

Sign, billboard. A sign that directs attention to a business, commodity, service, event or other activity that is sold, offered or conducted other than on the premises where the sign is located.

Sign, building directory. A sign that serves as common or collective classification for a group of persons or businesses operating in the same building or on the same lot. A building directory sign may name the persons or businesses included, but carry no other advertising

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

matter.

Sign, canopy. A sign that is printed or displayed upon a canopy. A canopy is a roofed structure constructed of fabric or other material placed to extend outward from the building and supported both by the structure and by supports that extend to the ground directly under the canopy.

Sign, construction. A temporary sign that identifies an architect, contractor, subcontractor and/or material supplier participating in construction on the property on which the sign is located and which may identify the proposed use for the property.

Sign, community event. Temporary signs that announce community events and activities, including the activities of religious assemblies, social clubs or similar groups, or special events such as fairs, rummage sales and garage sales.

Sign, directional-parking lot. A sign that identifies parking lot entrances and exits, driveway intersections, drive-through lanes, and features of a similar nature.

Sign, electronic display screen. A sign, or portion of a sign, that displays electronic video via television screens, plasma screens, digital screens, flat screens, LED screens, video boards, and holographic displays.

Sign, electronic message. Any sign, or portion of a sign, that uses changing lights to form a sign message or messages in text or image form where the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes. Time/temperature signs are not considered electronic message signs.

Sign, flashing. A sign which contains an intermittent or sequential flashing light source used primarily to attract attention. Flashing Signs do not include electronic message signs.

Sign, freestanding. A sign that is placed on or supported by the ground, independent of the principal structure on the lot. Freestanding signs may be either pole or monument signs.

Sign, freestanding monument. A freestanding sign where the base of the sign structure is on the ground or up to a maximum of 24 inches above ground. The monument base must be designed as an integral part of the sign structure. The width of the top of the sign structure can be no more than 120 percent of the width of the base.

Sign, freestanding pole. A freestanding sign that is affixed, attached or erected on one or two poles that is not itself an integral part of the sign.

Sign, ghost. A painted wall sign that remains from an earlier time or advertises the use of a building that provides evidence of the history of the use of the building or activities of the community. A ghost sign is not considered an off-premises sign.

Sign, government information sign. Traffic signs, legal notices, railroad crossing signs, signs regulating vehicular or pedestrian traffic, or designating or giving direction to streets, schools, historic sites or public buildings, and temporary emergency signs.

Sign, home occupation. A sign identifying a home occupation or permitted accessory use on the premises.

Sign, illumination types.

A. GOOSENECK REFLECTOR. Lighting designed for mounting above or to the side of signs with a long, shepherd hook-shaped arm to hold fixtures at a distance from the area of illumination.

B. ILLUMINATION, EXTERNAL. Lighting of a sign where lighting components are outside the sign structure and light is directed at the sign face.

C. ILLUMINATION, INTERNAL. Lighting of a sign constructed so that all lighting components are internal and illumination occurs as lighting is diffused through the sign face surfaces.

Sign, marquee. A permanent roof-like sign structure constructed over a building entry,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

with no supports extending to the ground, where a changeable message area is part of the vertical sign fascia.

Sign, memorial plaque. A sign, tablet or plaque memorializing a historic person, event, structure or site.

Sign, menuboard. A device that lists items for sale at an establishment with drive-through facilities.

Sign, moving. A sign that, in whole or in part, rotates, elevates or in any way alters position or geometry. Moving signs do not include clocks.

Sign, nameplate. A sign that is affixed flat against a wall of a building or imprinted into the wall of a building that designates the name of the building or the name and profession of one who resides or occupies space in the building.

Sign, non-commercial. A sign advocating action on a public issue or recommending a candidate for public office.

Sign, off-premises. A sign that directs attention to a business, product, service or entertainment not conducted, sold or offered upon the premises where the sign is located.

Sign, on-premises. A sign that directs attention to the name of the building or the name of the building management firm or to a business, principal product, service or entertainment conducted, sold or offered upon the premises where such sign is located.

Sign, parking lot information. Signs that provide information on the operation of a parking lot, such as "No Parking" or "Unauthorized users shall be towed."

Sign, political. Any sign that directs attention to an issue in an election or to either the name of a candidate running for election to a public office or the name of the office for which he is a candidate, or both.

Sign, portable. A sign whose principal supporting structure is intended, by design and construction, to rest upon the ground for support and may be easily moved or relocated for reuse. Portable signs include, but are not limited to, signs mounted upon a trailer, wheeled carrier or other non-motorized mobile structure, with wheels or with wheels removed. Portable signs do not include A-frame signs.

Sign, projecting. A sign that is attached to a structure that extends beyond the surface of the structure to which it is attached.

Sign, property identification/management. An accessory sign containing only messages related to the identification or management of the property where the sign is located, including but not limited to signs identifying entrances, exits, parking areas or hazardous areas, prohibiting trespassing, or information about limits on property use.

Sign, property identification. A sign identifying the property management company or apartment complex name of a multi-family dwelling.

Sign, public information. Signs within an educational facility, cemetery or mausoleum, museum, library or art gallery, and park, playground or forest reserve property that provide information on the use of the facility, such as directional signs, trailhead locations and information kiosks.

Sign, real estate. A sign advertising the real estate upon which the sign is located as being for rent, lease or sale. A real estate sign can also advertise an open house.

Sign, roof. A sign that is wholly erected, constructed or maintained above the roof structure or parapet of any building with the principal support attached to the roof structure.

Sign, scoreboard. A sign that records and displays the score of a game and may include such information as the name of the field or home team and advertising.

Sign, snipe. An off-premises sign painted, pasted or otherwise affixed to any tree, rock, retaining wall, fence, utility pole, hydrant, bridge, sidewalk, curb or street, bench or trash

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

receptacle. Logos and labels located on mechanical equipment, recycling bins, trash containers or dumpsters, which are part of the equipment as manufactured and/or installed, are not snipe signs.

Sign, temporary off-premises. A temporary sign that advertises a business, commodity, service, event or other activity that is sold, offered or conducted other than on the premises where the sign is located, or is sold, offered or conducted on the premises only incidentally, if at all.

Sign, under-awning. A sign that is attached to and mounted under an awning.

Sign, under-canopy. A sign that is attached to and mounted under a canopy.

Sign, wall. A sign that is mounted flat against or painted on a wall, and projects no more than 12 inches from the wall of a structure with the exposed face of the sign in a plane parallel to the face of the wall. Wall sign does not include window sign. For the purposes of this definition, a fence is not considered a wall and wall signs are prohibited mounted on fences.

Sign, window. A sign that is attached to, placed upon, printed on the interior or exterior of a window or door of a building, or displayed within 12 inches of a window intended for viewing from the exterior of such a building. A window sign may be either permanent or temporary. Window clings are considered a window sign and subject to all window sign regulations.

Significant tree. All trees of more than ten inches DBH, and all special tree species of more than six inches DBH shall be considered significant, unless they are under power lines or deemed hazardous by a certified arborist or landscape architect or professional forester. In addition, any replacement tree planted as part of a tree replacement plan shall be considered significant, even if it does not meet the size definition above.

Site. A parcel or several adjoining parcels of land under common ownership. For purposes of the natural resources overlay district, this definition is limited to apply to any parcel of land upon which work requiring a permit under this Chapter is to be performed, and includes any adjacent lands owned by the owner of the subject parcel on the date of application for any permit and any lands adjacent to the subject parcel that were owned by the same person owning the subject parcel as of January 1, 1980.

Site plan. An accurate scale drawing that indicates the major features of a proposed development in sufficient detail to allow the evaluation of the land planning, building design and other aspects of the development, and meeting all requirements of the UDC application manual.

Slope. An incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude (e.g., slope = 3:1 = 3 feet horizontal to 1 feet vertical).

Solar, geothermal or biomass power facility (primary use). Uses and structures 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: solar panels (photovoltaic and hot water), heat exchanges, biomass firing equipment, piping, and other transfer mechanisms, controls and related structural support for transporting and storing collected energy from solar, geothermal, or biomass energy systems. These structures and uses 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.

Solid land. Any land that is neither a wetland nor located in a floodway.

Solid waste. As defined in MSA 116.06, Subd. 22, and also including medical wastes and petroleum contaminated soils.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Solid waste disposal or processing facility. Any tract or parcel of land, including any constructed facility that is designed or operated for the purpose of disposing of solid waste on or in the land, at which solid waste is disposed of in or on the land or processed for disposal or reuse, together with any appurtenant facilities needed to process solid waste for disposal or for transfer to another solid waste facility, and that is not listed as a separate use in this Chapter.

Special tree species. White pines, red (Norway) pines, white cedars, white spruces, eastern hemlocks, sugar maples, American basswoods, American elms, yellow birches and all oak species.

Special use. A specific type of structure or land use listed in Table 50-19.8 that may be allowed only after review and evaluation of potential impacts on surrounding properties and the attachment of any conditions necessary to mitigate those impacts.

Stealth or stealth technology. When used in the context of wireless telecommunications, 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.

Steep slope. Land having average slopes over 12 percent, as measured over horizontal distances 50 feet or more, and that are not bluffs.

Storage warehouse. A structure containing an area available for storing raw materials, produce, goods or property, but not including mini-storage facilities.

Stormwater. Stormwater runoff, snowmelt runoff, surface runoff and drainage.

Stormwater management. The use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

Stormwater pollution prevention plan. A plan, usually required by a permit, to manage stormwater associated with industrial, commercial, public, institutional, civic or other land use activities, including construction. The plan commonly describes and ensures the implementation of practices that are to be used to reduce pollutants in stormwater and non-stormwater discharges

Stormwater pollution prevention program (MS4 program). A compilation of best management practices (BMPs) to address the six minimum control measures and other provisions of the MS4 permit, that is designed and managed to reduce the discharge of pollutants from your MS4 to the maximum extent practicable as appropriate to the community.

Stormwater best management practice (BMP). A measure, either structural or nonstructural, that is determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies. Non-structural BMPs are those practices that require modified or additional operational or behavioral practices, such as sweeping or having spill response equipment on site. Structural BMPs are those that require the construction of a structure or other physical modification on the site.

Stormwater retrofit. A stormwater BMP designed for an existing development site that previously had either no stormwater BMP in place or a practice inadequate to meet the stormwater management requirements of the site.

Stormwater runoff. Flow on the surface of the ground resulting from precipitation.

Story. That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Story, half. A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than 4 feet above the floor of such story, except that any partial story used for residence purposes, other than for a janitor or caretaker or his family, or by a family occupying the floor immediately below it, shall be deemed a full story.

Stream buffer. An area of land at or near a stream bank, wetland or water body that has intrinsic water quality value due to the ecological and biological processes it performs or is otherwise sensitive to changes that may result in significant degradation to water quality.

Street. A public dedicated right-of-way, other than an alley, which affords the principal means of access to abutting property.

Street line. The established side line of a street easement or right-of-way.

Structure. Anything constructed or erected, the use of which requires a location on the ground, or attached to something having a location on the ground. Examples include but are not limited to: backstops for tennis courts, fences or pergolas.

Structural alteration. Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial changes in the roofs or exterior walls but not including openings in bearing walls as permitted by existing ordinances.

Subdivision. The division of a lot, tract or parcel of land into three or more lots, plats, sites or other divisions of land of one acre or less in area, for the purpose, whether immediate or future, of sale or of building development. This term also includes the division of a lot, tract or parcel of land into two or more lots, plat, sites or other divisions of land of more than one acre and less than ten acres in area, if the division provides or there is shown on a plat of the division a new street or highway. The term also includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

Substantial damage. Damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 60 percent of the assessed market value of the structure as determined by the city assessor before the damage occurred. For flood plain management and flood hazard purposes, substantial damage shall occur when damage of any origin sustained by a structure, where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the assessed market value of the structure as determined by the city assessor before the damage occurred.

Substantial improvement. Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition or other improvement of a structure, the cost of which equals or exceeds 60 percent of the assessed market value of the structure as determined by the city assessor before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. For flood plain management and flood hazard purposes, substantial improvement shall be within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the assessed market value of the structure as determined by the city assessor before the "start of construction" of the improvement.

The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(b) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.” For the purpose of this Chapter, “historic structure” shall be as defined in 44 Code of Federal Regulations, Part 59.1.

Sustainable development. Development that maintains or enhances economic opportunity and community well-being while protecting and restoring the natural environment upon which people and economies depend. Sustainable development meets the needs of the present without compromising the ability of future generations to meet their own needs.

Section 12. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 20, 2014)

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

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

Nays: None – 0

Passed March 10, 2014

Approved March 10, 2014

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 10286

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING CHANGES TO DIMENSIONAL STANDARDS, HIGHER EDUCATION OVERLAY DISTRICT, USE TABLE, USE SPECIFIC STANDARDS, EXCEPTIONS AND ENCROACHMENTS, PARKING, LANDSCAPING AND PROCEDURES AND REQUIREMENTS.

The city of Duluth does ordain:

Section 1. That Section 50-14.7 of Chapter 50 be amended as follows:

50-14.7 Residential-Planned (R-P).

A. Purpose.

The R-P district is established to provide a flexible development option for residential projects that integrate creative site design, provide a variety of housing types, provide unique on-site amenities, conserve natural features, increase pedestrian connectivity, or otherwise result in a final product that provides a greater level of public benefit than would be required under the existing zone district. Each R-P district requires approval of an R-P regulating plan that includes the location, type, and intensity of proposed development and a description of public amenities or benefits included. Single-family residences, two-family residences, and townhouses, as well as accessory uses, are permitted, as shown in Table 50-19.8, provided projects are compatible in scale and character with the surrounding neighborhood and are included in the approved R-P plan.

B. Examples.

R-P Example Building Forms



C. Modifications.

An applicant may seek only the modifications in Table 50-14.7-1, based on demonstration of how the proposal supports the purpose of the R-P district as stated in Section 50-14.7.A and the following desired R-P amenities:

1. Significant preservation and protection of natural resources and undeveloped areas, including wetlands, trees, key habitat, and wildlife areas;
2. A higher level of sustainability, demonstrated in buildings, site design, and transportation, than required by Section 50-28;
3. More efficient and effective use of streets, utilities, and public facilities to support high quality development at a lesser cost;
4. Recreational facilities that are open to the public, such as parks and playgrounds;
5. Accommodations for and linkages to mass transit;
6. Creative site design as appropriate for the site, such as New Urbanist design for a walkable community or conservation development for a rural neighborhood;
7. Bike lanes and trails within the development and connecting to other trails and destinations;
8. Pedestrian amenities such as benches, plazas, pedestrian-scaled lighting, traffic calming and art;

Table 50-14.7-1: Modifications Allowed	
Chapter Requirement	Maximum Modification Allowed
Distance from property lines	Reduction in setbacks; minimum 5' setback from rights of way
Lot frontage	25% decrease
Lot area, general	20% decrease
Lot area, when clustering is used to preserve open space	Overall density of the R-P district should demonstrate a maximum of 20% decrease over base zone districts. Individual lot sizes are allowed up to a 50% decrease.
Building height	Up to a 5' increase
Landscaping	15% decrease

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Street width	As determined by city engineer
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D. Applicability.

An R-P district shall only be established in the RR-1, RR-2, and R-1 districts provided the property meets the requirements in Table 50-14.7-2;

TABLE 50-14.7-2: Characteristics of R-P Areas

Current zoning	RR-1, RR-2, R-1
Minimum lot size	4 acres

E. Rezoning approval and regulating plan required.

The establishment of an R-P district requires rezoning the property per Section 50-37.3 from a current zone district to R-P and the approval of an R-P plan per Section 50-37.11 that governs the uses, location, density, dimensional standards and character of the proposed project.

In accordance with the purpose of the R-P district, approval of the R-P plan is deemed to include subdivision approval; R-P districts are not required to submit a separate subdivision application under Section 50-37.5;

F. Development standards.

1. The development standards of the base zone district(s) where the property is located shall apply to any R-P zoned land unless waived or varied by the terms of an approved R-P regulating plan. The ordinance approving an R-P district and the approved regulating plan shall identify the previous base zone districts for each portion of the property;
2. Overall density in residential portions of the R-P shall follow the density requirements of the previous zone district unless modified as part of the R-P plan;
3. Minimum percentage of property (excluding common open space) used for residential purposes shall be 66 percent;
4. Common open space. Adequate provisions shall be made for the permanent preservation and maintenance of active or passive open space. Common open space shall not be less than 30 percent of the area of the project (not including right of way) and shall comply with the following requirements:
 - (a) Common open space shall include the shore and bluff impact zones;
 - (b) Common open space shall include, where possible, lands within the Skyline Overlay;
 - (c) Common open space shall include, where possible, wetlands, floodplains, wildlife areas, steep slopes, rock outcrops, tree stands and areas unsuitable for development in their natural state;
 - (d) No more than one-quarter of the required common open space shall consist of wetlands;
 - (e) Common open space shall not include areas within 25 feet of any structure, any impervious surface, or the area between buildings within an individual cluster of buildings;
 - (f) At least 50 percent of the common open space shall be retained in a contiguous area;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- (g) Where possible, the design should utilize features such as vegetation, fences, topography, roads or trails to delineate the boundary of the common open space to minimize potential physical encroachments into the common open space by adjacent homeowners.
 - (h) Common open space shall not include land within rights-of-way;
 - (i) Ownership of common open space. Common open space shall be owned and managed by a property owners association and shall be encumbered through an easement, restrictive covenant or other instrument suitable to the city;
5. All shoreland setbacks and other dimensional requirements from Section 50-18.1 (NR-O) shall continue to apply and cannot be varied through the R-P process;

G Required community meeting.

The applicant shall hold at least one community meeting to discuss the plan before submitting the plan for review and approval by the city. Notice of the public meeting shall be mailed to all property owners within 350 feet outside the planning area boundaries, and the city shall provide the applicant with the names and address of those property owners upon request. The applicant shall submit with the application documentation that the community meeting has taken place, the date and time of the meeting, the number of attendees, any issues raised regarding the plan and any responses to those concerns incorporated in the plan;

H Required rezoning application and regulating plan contents.

1. The rezoning application (approved per Section 50-37.3) shall include the following information:
 - (a) A concept map showing the property to be rezoned and general uses within the area;
 - (b) Maximum residential densities and maximum square footage for nonresidential land uses;
 - (c) Maximum building heights;
2. The regulating plan (approved per Section 50-37.11) shall cover all of the land in the proposed R-P district and shall regulate all future development in the R-P district. An approved R-P plan is required before any building permits may be issued within the R-P district. The R-P plan shall include maps and text describing the following information:
 - (a) General layout of development areas and building parcels in relation to the natural features to be protected and the proposed road, trail and bicycle circulation systems;
 - (b) Lot sizes and widths, building setbacks, and maximum building heights for all proposed development parcels;
 - (c) Previous base zone districts;
 - (d) A road, trail and bicycle circulation plan (including how the circulation may intersect with transit use) and a description of proposed road, trail and bike route widths, trail surfaces, a proposal for maintenance of each road and trail (which may include dedication to and maintenance by the city), and a statement as to whether public access will be permitted on each road, trail, and bicycle route;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- (e) A natural resources inventory and natural site features to be protected;
- (f) Common open space to be provided, the location of that open space, a calculation of proposed open space as a percentage of the total land area in the R-P zone, a proposal for protection and maintenance of the open space over time and a statement as to whether public access to the open space shall be provided;
- (g) Permitted and special uses for the site, which shall be consistent with those shown in Table 50-19.8; special uses listed in the R-P plan will need to apply for and receive a Special Use Permit prior to building;
- (h) Maximum residential densities and maximum square footage for nonresidential land uses;
- (i) A plan describing the demand for and location of water, sewer, and utility service to the property, including any additional right-of-way needed to accommodate those utilities. In addition, the plan shall indicate all utilities that will be owned or maintained by the public, and if any of those services are to be provided by the city or a public or quasi-public district, and provide a statement as to whether the proposed facilities will meet the engineering and maintenance standards of that entity;
- (j) Details on buffering or transitioning between uses of different intensities both on- and off-site.
- (k) A plan for storm water collection and treatment that includes a summary of land use and technical methods used to minimize storm water run-off from the site;
- (l) Off-street parking to be provided in driveways, surface lots and garages;
- (m) Any public amenities, other than common open space, to be provided by the applicant, together with a statement as to whether those amenities shall be available for public use;
- (n) Any required building types, form-based regulation or architectural design requirements, as well as a description of how those standards will be maintained and enforced over time;
- (o) If a project involves construction over a period of time in two or more phases, a phasing plan demonstrating that each phase meets density requirements, open space requirements, and provision of public amenities. Phasing plan shall include an approximate time frame for each phase of development. The applicant shall provide agreements, contracts, covenants, deed restrictions, and sureties acceptable to the City Attorney for the completion of the development according to the approved R-P plan;
- (p) Cross sections demonstrating the proportions of buildings and the relationship between those buildings, pedestrian spaces, and the streetscape;

! Previously approved developments.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

All residential developments approved prior to November 19, 2010, as low-density planned developments pursuant to Sections 50-36.1 through 50-36.3 of the previous zoning code shall be treated as approved R-P developments, and will be rezoned to the R-P zone district;

J Amendments.

Applications to amend an existing R-P plan shall follow the process described in Section 50-37.3 if they relate to uses, densities, or height. All other amendments shall follow the process in Section 50-37.11.

Section 2. That Section 50-15.2 of Chapter 50 be amended as follows:

50-15.2 Mixed Use-Neighborhood (MU-N).

A. Purpose.

The MU-N district is established to accommodate a mix of neighborhood-scale, neighborhood serving non-residential uses and a range of residential uses located in close proximity. This district accommodates both horizontal (uses located in separate structures) and vertical (uses located in the same building) types of mixed use. Non-residential uses may include small-scale retail, service and professional offices that provide goods and services to the residents of the surrounding neighborhood, as shown in Table 50-19.8;

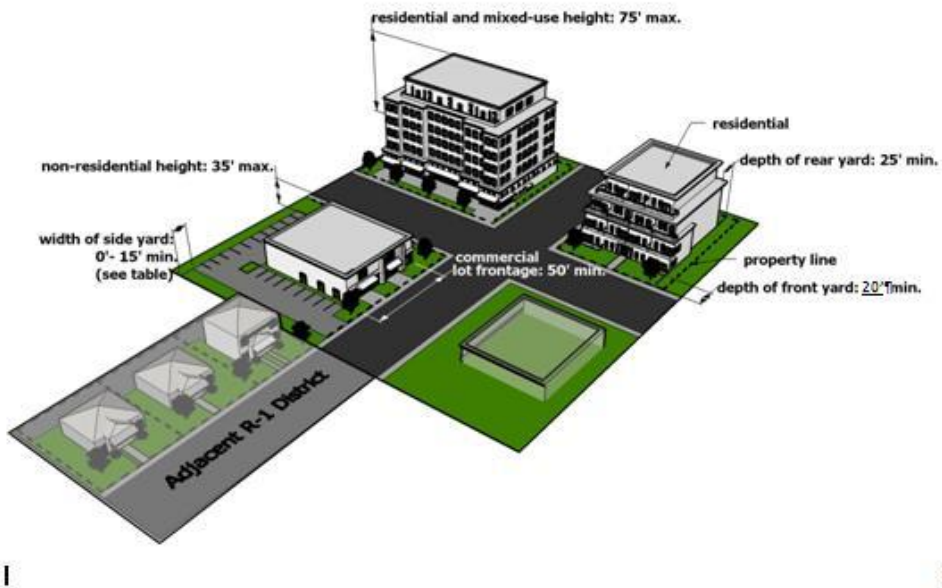
TABLE 50-15.2-1 MU-N DISTRICT DIMENSIONAL STANDARDS		
LOT STANDARDS		
Minimum lot area per family	One-family	4,000 sq. ft.
	Two-family	2,500 sq. ft.
	Multi-family	500 sq. ft.
	Efficiency unit	380 sq. ft.
	Townhouse or live-work dwelling	2,200 sq. ft.
No lot of record containing 5,000 sq. ft. or less shall be used except for a one-family dwelling or a permitted non-dwelling use		
Minimum lot frontage	One-family, two-family, or townhouse dwelling	30 ft.
	Multi-family or non-residential	50 ft.
STRUCTURE SETBACKS		
Minimum depth of front yard	One-family, non-residential, and mixed use	The smaller of <u>20</u> ft. or average of adjacent developed lots facing the same street
Minimum width of side yard	General, unless listed below	5 ft.
	Non-residential use adjacent to residential district or use	15 ft.
	Non-residential use adjacent to non-residential district or use	0 ft.
	Multi-family adjacent to single-family district or use	10 ft.
	Multi-family adjacent to multi-family district or use	0 ft.
Minimum depth of rear yard		25 ft.
STRUCTURE HEIGHT		
Maximum height of structure	Non-residential use	35 ft.
	Residential or mixed use (general)	75 ft.
	Residential or mixed use (within 500 ft. of R-1)	35 ft.
	Residential or mixed use (within 500 ft. of R-2)	50 ft.

Section 50.21 *Dimensional Standards* contains additional regulations applicable to this district.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

B. Example.

MU-N Example Building Form



C. Illustration.

Section 3. That Section 50-15.6 of Chapter 50 be amended as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

50-15.6 Mixed Use-Waterfront (MU-W).

A. Purpose.

The MU-W district is intended to provide for waterfront-dependent commercial uses and medium to high density residential development. Intended non-residential uses include visitor-related retail and services, lodging, recreational facilities and maritime uses, as well retail and service uses that take advantage of the waterfront setting, as shown in Table 50-19.8. Development may include horizontal or vertical mixed use, and should facilitate transit and pedestrian connections between developments and the surrounding areas and community;

TABLE 50-15.6-1 I MU-W DISTRICT DIMENSIONAL STANDARDS		
LOT STANDARDS		
Minimum lot area per family	Townhouse or live-work dwelling	2,200 sq. ft.
	Multi-family	500 sq. ft.
	Efficiency unit	380 sq. ft.
Minimum lot frontage		50 ft.
STRUCTURE SETBACKS		
Minimum depth of front yard		0 ft.
Minimum width of side yard	Non-residential use adjacent to residential district or use	15 ft.
	Non-residential use adjacent to non-residential district or use	0 ft.
	Multi-family adjacent to single-family district or use	10 ft.
	Multi-family adjacent to multi-family district or use	0 ft.
Minimum depth of rear yard		25 ft.
STRUCTURE HEIGHT		
Maximum height of structure	Residential or mixed use	120 ft.
	Non-residential	60 ft.
	Within 500 ft. of R-1 district	35 ft.
	Within 500 ft. of R-2 district	50 ft.

Section 50.21 *Dimensional Standards* contains additional regulations applicable to this district.

B. Example.

MU-W Example Building Forms



C. Illustration.



D. Planning commission approval required.

A planning review by the planning commission, pursuant to the procedures in Article 5, shall be required for all development, redevelopment and expansions in the MU-W district, including but not limited to construction of driveways or other access from public streets and construction of off-premises signs, but excluding the following:

1. Building construction or expansion of less than 500 sq. ft. in area;
2. Building renovations that affect the exterior of structures that do not result in an increase in building square footage;
3. Grading and construction of parking areas less than 3,000 sq. ft.

Development may not proceed until the planning commission has approved the project through planning review;

E. Development standards.

All permitted development in the MU-W shall comply with the following development standards:

1. Proposed development shall be visually and functionally oriented toward the waterfront of Lake Superior, the harbor and the St. Louis River to the maximum extent possible so that users of buildings and associated outdoor areas have direct views and physical access to the waterfront;
2. To protect public views to the waterfront from the closest landward public street running approximately parallel to the water, all primary structures shall have a maximum width of 200 feet measured along the shoreline and shall be separated from other primary structures by a minimum of 50 feet. These requirements shall not apply to portions of buildings that do not block public views of Lake Superior, the harbor and the St. Louis River from the closest landward public street running approximately parallel to the water due to topography or the location;
3. Buildings shall have a primary façade, with a functioning entrance for residents, employees or patrons facing the waterfront, and a second primary façade with a similar functioning entrance facing at least one of the adjacent streets, to the maximum extent feasible;
4. The quality of façade design and materials and the level of detail on the building façade facing the water shall be comparable to that on any other building façade containing a functioning entrance. The building façade

facing the water shall have at least 40% transparency, measured as set forth in Section 50-22.5D.1; no rectangular area greater than 30 percent of each story of the façade facing the water may be windowless, as measured from floor to floor, and no horizontal distance greater than 15 feet of each story of a facade facing the water may be windowless;

5. The parking requirements in Section 50-24 shall be met, except that where a property is not adjacent to an R zone district, the required parking may be reduced by 30 percent if the applicant can demonstrate that nearby properties provide supplemental on-street or off-street parking.

Section 4. That Section 50-15.7 of Chapter 50 be amended as follows:

50-15.7 Mixed Use-Planned (MU-P).

A. Purpose.

The MU-P district is established to provide a flexible development option for mixed use projects that integrate creative site design, provide a variety of building types, provide unique on-site amenities, conserve natural features, increase pedestrian connectivity, or otherwise result in a final product that provides a greater level of public benefit than would be required under the existing zone district. Each MU-P district requires approval of an MU-P regulating plan that includes the location, type, and intensity of proposed development and a description of public amenities or benefits included. A variety of residential and commercial uses are permitted, as shown in Table 50-19.8, provided projects are compatible in scale and character with the surrounding neighborhood and are included in the approved MU-P plan;

B. Examples.

MU-P Example Building Forms



C. Modifications.

An applicant may seek only the modifications in Table 50-15.7-1, based on demonstration of how the proposal supports the purpose of the MU-P district as stated in Section 50-15.7.A and the following desired MU-P amenities:

1. Significant preservation and protection of natural resources and undeveloped areas, including wetlands, trees, key habitat, and wildlife areas;
2. A higher level of sustainability, demonstrated in buildings, site design, and transportation, than required by Section 50-28;
3. More efficient and effective use of streets, utilities, and public facilities to support high quality development at a lesser cost;
4. Recreational facilities that are open to the public, such as parks and playgrounds;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

5. Accommodations for and linkages to mass transit;
6. Creative site and building design;
7. Bike lanes and trails within the development and connecting to other trails and destinations;
8. Pedestrian amenities such as benches, plazas, pedestrian-scaled lighting, traffic calming, and art;

Table 50-15.7-1: Modifications Allowed	
Chapter Requirement	Maximum Modification Allowed
Distance from property lines	No required yards
Building height	20% increase if not within 200' of an R-1 or R-2
Lot frontage	10% decrease
Buildings per lot	More than one building may be placed on one lot
Parking	10% decrease in addition to other allowable chapter reductions or a 10% increase over the maximum
Landscaping	20% decrease
Street width	As determined by City Engineer
Building design standards	Can propose alternative standards
Higher Education Overlay	Can propose alternative standards

D. Applicability.

An MU-P district shall only be established in the R-2, MU-N, MU-C, and MU-B districts provided the property meets the requirements in Table 50-15.7-2.

TABLE 50-15.7-2: Characteristics of MU-P Areas	
Current zoning	R-2, MU-N, MU-C, MU-B
Minimum lot size	2 acres

E. Rezoning approval and regulating plan required.

The establishment of an MU-P district requires rezoning the property per Section 50-37.3 from a current zone district to R-P and the approval of an R-P plan per Section 50-37.11 that governs the uses, location, density, dimensional standards and character of the proposed project.

In accordance with the purpose of the MU-P district, approval of the MU-P plan is deemed to include subdivision approval; MU-P districts are not required to submit a separate subdivision application under Section 50-37.5;

F. Development standards.

1. The development standards of the base zone district(s) where the property is located shall apply to any MU-P zoned land unless waived or varied by the terms of an approved MU-P regulating plan. The ordinance approving an MU-P district and the approved regulating plan shall identify the previous base zone districts for each portion of the property;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

2. Overall density in residential portions of the MU-P shall follow the density requirements of the previous zone district unless modified as part of the MU-P plan;
3. Height standards:
 - (a) Maximum building height within 200 feet of an R-1 district is 35 feet;
 - (b) Maximum building height within 200 feet of an R-2 district is 50 feet;
4. Common open space. Adequate provisions shall be made for the permanent preservation and maintenance of active or passive open space. Common open space shall not be less than 20 percent of the area of the project and shall comply with the following requirements:
 - (c) Common open space shall include the shore and bluff impact zones;
 - (d) Common open space shall include, where possible, wetlands, floodplains, wildlife areas, steep slopes, rock outcrops, tree stands and areas unsuitable for development in their natural state;
 - (e) At least 50 percent of the common open space shall be retained in a contiguous area;
 - (f) Common open space shall not include roads or right of way;
5. The development shall encourage walkable, bikeable communities through the use of complete streets, alleys, sidewalks and trails, interconnected street networks, small blocks, front porches, and buildings that are sited adjacent to streets;
6. All shoreland setbacks and other dimensional requirements from Section 50-18.1 (NR-O) shall continue to apply and cannot be varied through the MU-P process;

G Required community meeting.

The applicant shall hold at least one community meeting to discuss the plan before submitting the plan for review and approval by the city. Notice of the public meeting shall be mailed to all property owners within 350 feet outside the planning area boundaries, and the city shall provide the applicant with the names and address of those property owners upon request. The applicant shall submit with the application documentation that the community meeting has taken place, the date and time of the meeting, the number of attendees, any issues raised regarding the plan and any responses to those concerns incorporated in the plan;

H Required rezoning application and regulating plan contents.

1. The rezoning application (approved per Section 50-37.3) shall include the following information:
 - (a) A concept map showing the property to be rezoned and general uses within the area;
 - (b) Maximum residential densities and maximum square footage for nonresidential land uses;
 - (c) Maximum building heights;
2. The regulating plan (approved per Section 50-37.11) shall cover all of the land in the proposed MU-P district and shall regulate all future development in the MU-P district. An approved MU-P plan is required before any building permits may be issued within the MU-P district. The

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

MU-P plan shall include maps and text describing the following information:

- (a) General layout of development areas and building parcels in relation to the natural features to be protected and the proposed road, trail and bicycle circulation systems;
- (b) Lot sizes and widths, building setbacks, and maximum building heights for all proposed development parcels;
- (c) Previous base zone districts;
- (d) A traffic impact analysis;
- (e) A road, trail and bicycle circulation plan (including how the circulation may intersect with transit use) and a description of proposed road, trail and bike route widths, trail surfaces, a proposal for maintenance of each road and trail (which may include dedication to and maintenance by the city), and a statement as to whether public access will be permitted on each road, trail, and bicycle route;
- (f) A natural resources inventory and natural site features to be protected;
- (g) Common open space to be provided, the location of that open space, a calculation of proposed open space as a percentage of the total land area in the MU-P zone, a proposal for protection and maintenance of the open space over time and a statement as to whether public access to the open space shall be provided;
- (h) Permitted and special uses for the site, which shall be consistent with those shown in Table 50-19.8; special uses listed in the MU-P plan will need to apply for and receive a Special Use Permit prior to building;
- (i) Maximum residential densities and maximum square footage for nonresidential land uses;
- (j) A plan describing the demand for and location of water, sewer, and utility service to the property, including any additional right-of-way needed to accommodate those utilities. In addition, the plan shall indicate all utilities that will be owned or maintained by the public, and if any of those services are to be provided by the city or a public or quasi-public district, and provide a statement as to whether the proposed facilities will meet the engineering and maintenance standards of that entity;
- (k) Details on buffering or transitioning between uses of different intensities both on- and off-site;
- (l) A plan for storm water collection and treatment that includes a summary of land use and technical methods used to minimize storm water run-off from the site;
- (m) Off-street parking to be provided in driveways, surface lots and garages;
- (n) Any public amenities, other than common open space, to be provided by the applicant, together with a statement as to whether those amenities shall be available for public use;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- (o) Any required building types, form-based regulation or architectural design requirements, as well as a description of how those standards will be maintained and enforced over time;
- (p) If a project involves construction over a period of time in two or more phases, a phasing plan demonstrating that each phase meets density requirements, open space requirements, and provision of public amenities. Phasing plan shall include an approximate time frame for each phase of development. The applicant shall provide agreements, contracts, covenants, deed restrictions, and sureties acceptable to the city attorney for the completion of the development according to the approved MU-P plan.
- (q) Cross sections demonstrating the proportions of buildings and the relationship between those buildings, pedestrian spaces, and the streetscape;

I Amendments.

Applications to amend an existing MU-P plan shall follow the process described in Section 50-37.3 if they relate to uses, densities, or height. All other amendments shall follow the process in Section 50-37.11.

Section 5. That Section 50-18-5 of Chapter 50 be amended as follows:

50-18.5 Higher Education Overlay (HE-O).

A. Purpose.

The purpose of this Section 50-18.5 is to minimize the impacts of potential student use on adjacent residential neighborhoods and to encourage the development of pedestrian friendly neighborhood destinations near the UMD and St. Scholastica campuses.

B. Applicability.

This Section applies to land within the HE-O, shown in Exhibit 50-18.5-1, that (a) is zoned R-2 or MU-N; and (b) includes new development or redevelopment where the value of the redevelopment exceeds 75 percent of the market value of the land and buildings, as indicated by tax assessor's records; except for:

1. One-family or two-family dwellings;
2. Any residential development where all of the dwelling units are restricted by development agreement or covenant for occupancy by those aged 50 and over or for occupancy by those individuals and households protected by the federal Fair Housing Act amendments of 1988.

A planning review by the planning commission, pursuant to the procedures in Article 5, shall be required unless exempt in the above applicability standards;

C. Development standards.

1. General.

- (a) Vehicle ingress and egress shall be located in a manner that avoids or minimizes impacts to residents in adjacent R-1 districts and that reduces the potential for pedestrian-vehicular conflicts;
- (b) Primary buildings shall adhere to a build-to zone of 5 feet to 20 feet along primary streets. This requirement shall supersede building setbacks in Section 50-14.6 and 50-15.2. Alternatively, if the land use supervisor determines that site conditions such as existing buildings or

topography make this unfeasible, pedestrian walkways can be used to connect people from public sidewalks along primary streets to businesses and residences. These walkways shall:

- Include pedestrian-scaled lighting;
- Be raised or otherwise designed to encourage run-off and limit ponding during wet weather;
- Be visually recognizable to both pedestrians and motorists;
- Include trees and other landscaping along the length of the walkway; this landscaping can also be used to meet parking lot landscaping requirements in Section 50-25.4;
- Be at least 5 feet wide;
- Include well-marked crossings where the walkway intersects with private vehicle drives;

(c) Unless lighting meets exception criteria in Section 50-31.1.B, the maximum height of any light pole is 20 feet;

2. Residential.

(a) Required resident parking spaces shall be provided at the ratio of 0.7 space per bedroom, with a minimum of one space per dwelling unit;

(b) Visitor parking spaces shall be provided at the rate of 15 percent of required resident parking spaces;

(c) At least one bicycle or motorized scooter parking space per five parking spaces shall be provided, which shall not be located in any required yard or between the principal dwelling and the street;

(d) A development that provides an enhanced shelter with space dedicated solely for bicycle or motorized scooter parking shall be granted a reduction in the off-street parking requirement of five percent if the shelter complies with the following standards:

- The enhanced shelter shall not be located in any required yard setback;
- The enhanced shelter shall not be located between the principal building and a public street;
- The enhanced shelter shall be enclosed on at least three sides and covered to adequately protect bicycles from the elements;
- The enhanced shelter shall utilize primary exterior materials that match the primary exterior materials of the principal structure;

(e) If the development or redevelopment is determined to have mitigated the impacts of potential student use in the adjacent residential neighborhood, the development or redevelopment may adjust the parking requirements as provided in either Section 50-24.3.A or 50-24.3.B if eligible, but may not utilize both adjustments;

(f) No residential balcony, patio, or deck shall be located on any side of the property facing and within 200 feet of an R-1 district;

3. Commercial.

(a) Commercial development shall be concentrated on major roads, not on streets intended primarily for neighborhood traffic.

D. Primary streets.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

The following streets are designated as primary streets in the Higher Education Overlay District:

1. Woodland Avenue;
2. St. Marie Street;
3. Arrowhead Road;
4. College Street;
5. Kenwood Avenue, north of College Street;
6. Fourth Street;
7. London Road;
8. Superior Street;
9. Ninth Street, between Sixth Avenue East and 15th Avenue East; and
10. Eighth Street, between 15th Avenue East and Woodland Avenue.

Section 6. That Section 50-19 of Chapter 50 be amended as follows:

50-19 Permitted use table.

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
<u>P</u>	<u>Permitted Use</u>
<u>S</u>	<u>Special Use</u>
<u>I</u>	<u>Interim Use</u>
<u>A</u>	<u>Accessory Use</u>
<u>U</u>	<u>Use Allowed in the Upper Stories of the Form District Building</u>
1	<u>May Require Planning Commission Review Hearing (MU-C, MU-I, and MU-W Only)</u>
2	<u>May Require Additional Development Standards and Planning Commission Review if in the Higher Education Overlay District (HE-O)</u>
Notes:	
<u>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)</u>	
<u>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.</u>	

50-19.2 Permitted uses.

A “P” in a cell of the use table indicates that the land use is allowed by right in that base zone district, subject to compliance with the use-specific standards referenced in the final column of the use table. A “U” in a cell of the use table indicates that the land use is allowed by right in that base district on any floor of the structure other than the ground floor, subject to compliance with the use-specific standards referenced in the final column of the table. A “P” in the R-P and M-P zone district column indicates that the use is permitted only if it was included in a plan or plan amendment for the R-P and MU-P district. Permitted uses are subject to all other applicable requirements of this UDC, including those set forth in Article 4, Development Standards.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

50-19.3 Special uses and interim uses.

An “S” or an “I” in a cell of the use table indicates that the land use is allowed in that base zone district only upon approval of a special use or interim use permit as described in Section 50-37.10 and compliance with any use-specific standards referenced in the final column of the use table. Uses subject to a special use or interim use permit are subject to all other applicable requirements of this UDC, including those set forth in Article 4, Development Standards. In addition, council may approve interim uses through the procedure described in Section 50-37.10.

50-19.4 Prohibited uses.

A blank cell in the use table indicates that the land use is prohibited in that base zone district.

50-19.5 Overlay districts provisions govern.

When a property is located within the boundaries of an overlay district, the provisions for that overlay district prevail over those in the base zone district. For example, if a use is prohibited in the base zone district where the property is located, but is a permitted use in an overlay district applicable to the same property, then the use is allowed on that property. On the other hand, if a use is listed as a permitted use in the base zone district but is listed as a special use in an overlay zone district applicable to the same property, then the use is a special use for that property. Where a property is located in more than one overlay district, then the most restrictive use provision in those overlay zone districts shall apply to the property.

50-19.6 Use-specific standards.

When a land use is a permitted or a special use in a zone district, there may be additional standards that apply to that specific use. Those additional standards are cross-referenced in the last column of the use table (use-specific standards). The cross-referenced standards appear in subsection 50-20 immediately following the use table.

50-19.7 Unlisted uses.

When a proposed land use is not explicitly listed in the use table, the land use supervisor shall determine whether or not it is included in the definition of a listed use or is so consistent with the size, scale, operating characteristics and external impacts of a listed use that it should be treated as the same use. Any such interpretation shall be made available to the public and shall be binding on future decisions of the city until the land use supervisor makes a different interpretation.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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-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
RESIDENTIAL USES																									
Household Living																									
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 ²	P	P ²				P ¹	P													50-20.1.B
Dwelling, multi-family					P ²	P	P ²	P ¹	P ¹		P ¹	P	U	P	U	P	P	P	U	P	P				50-20.1.C
Dwelling, live-work							P ²	P ¹	P ¹		P ¹	P	P	P	P	P	P	P		P	P				
Manufactured home park				S	S ²	P	S ²																		50-20.1.F
Group Living																									
Co-housing facility				S	S ²	P	P ²					P													
Residential care facility/assisted living (6 or fewer)		P	P	P	P ²	P	P ²					P	U	P	U	P	P	U	U	P	P				50-20.1.D
Residential care facility/assisted living (7 or more)				S	P ²	P	P ²	P ¹	P ¹		P ¹	P	U	P	U	P	P	U	U	P	P				50-20.1.D
Rooming house					S ²		P ²	P ¹	P ¹		P ¹	P	U	P	U	P	P	U	U	P	P				50-20.1.E
PUBLIC, INSTITUTIONAL AND CIVIC USES																									
Community and Cultural Facilities																									
Bus or rail transit station							P ²	P ¹	P ¹	P	P ¹	P	P	P	P	P	P	P	P	P	P				
Cemetery or mausoleum	S	S	S	S	S ²	P	S ²	S	S	S														S	
Club or lodge (private)					S ²	P	P ²	P ¹	P ¹		P ¹	P	P	P	P	P	P	P	P	P	P			S	50-20.2.A
Government building or public safety facility		P	P	S	P ²	P	P ²	P ¹	P	P	P ¹	P	P	P	P	P	P	P	P	P	P	S	S	S	
Museum, library, or art gallery				S	S ²	P	P ²	P ¹		S	P ¹	P	P	P	P	P	P	P	P	P	P			S	
Park, playground, or forest reserve	P	P	P	P	P ²	P	P ²	P ¹	P ¹		P ¹	P	P	P	P	P	P	P	P	P	P			P	
Religious assembly, small (less than 50,000 sq. ft.)		P	P	S	P ²	P	P ²	P ¹	P ¹	S	P ¹	P	P	P	P	P	P	P	P	P	P				50-20.2.C

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 ²	P	P ²	P ¹	P ¹	S	P ¹	P	P	P	P	P	P	P	P	P					50-20.2.C		
Educational Facilities																											
Business, art, or vocational school							P ²	P ¹	P ¹	P	P ¹	P	P	P	P	P	P	P	P	P							
School, elementary		P	P	P	P ²	P	P ²	P ¹				P	U	P	U	P	P	U	U	U						50-20.2.D	
School, middle or high		S	S	S	S ²	P	S ²	S ¹				P	U	P	U	P	P	U	U	U						50-20.2.D	
University or college									P ¹			P			U	P	P	U	U	U							
Health Care Facilities																											
Hospital									P ¹																		
Medical or dental clinic					S ²	P	P ²	P ¹	P ¹	P	P ¹	P	P	P	P	P	P	P	P	P						50-20.2.B	
Nursing home					P ²	P	P ²	P ¹	P ¹		P ¹	P		P		P											
Other institutional support uses not listed in this table									P ¹																		
COMMERCIAL USES																											
Agriculture and Animal-Related																											
Agriculture, general	P	P																								50-20.3.B	
Agriculture, urban		P	P	P	P ²	P	P ²					P															
Kennel	S	S						S	S	P		P															
Riding stable	S	S	S			P					S													S			
Veterinarian or animal hospital	S	S			P ²	P	P ²	P ¹	P ¹	P	P ¹	P	P	P	P	P	P	P	P							50-20.3.I	
Food, Beverage, and Indoor Entertainment																											
Adult entertainment establishment																							P			50-20.3.A	
Convention or event center								P ¹		P	P ¹	P				P	P		P	P	P					50-20.3.H	
Indoor entertainment facility								P ¹		P	P ¹	P		P		P	P		P	P	P						

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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
Restaurant (less than 5,000 sq ft)					S ²	S	S ²	P ¹	P ¹	P	P ¹	S	P	P	P	P	P	P	P	P	P				50-20.3.Q
Restaurant (5,000 sq ft or more)						P		P ¹	P ¹	P	P ¹	P	P	P	P	P	P	P	P	P	P				50-20.3.Q
Theater							S ²	P ¹			P ¹	P		P		P	P		P	P	P				
Lodging																									
Hotel or motel							S ²	P ¹	P ¹	P	P ¹	P		P		P	P		P	P	P				
Bed and breakfast				S	P ²	P	P ²	P ¹	P ¹	P	P ¹	P		P		P		P							50-20.3.F
Seasonal camp or cabin	P	P				P					P ¹												S		50-20.3.S
Vacation dwelling unit		I	I	I	I ²	I	I ²										I								50-20.3.U
Offices																									
Bank							S ²	P ¹	P ¹	P	S	P	P	P	P	P	P	P	P	P	P				50-20.3.E
Office					S ²		P ²	P ¹	P ¹	P	P ¹	P	P	P	P	P	P	P	P	P	P				50-20.3.M
Data center							S ²	P ¹	P ¹	P	S	P	U	U	U	U	U	U	U	U	U	P			
Outdoor Recreation & Entertainment																									
Golf course		S	S			P																	P		
Marina or yacht club											P ¹											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
Personal Services																									
Business park support activities										P	P														
Preschool		S	S	S	P ²	P	P ²	P ¹	P ¹		P ¹	P	P	P	P	P	P	P	S	P	S				
Day care facility, small (14 or fewer)	P	P	P	P	P ²	P	P ²	P ¹	P ¹		P ¹	P	P	P	P	P	P	P	P	P	P				50-20.3.I
Day care facility, large (15 or more)		S	S	S	S ²	P	P ²	P ¹	P ¹		P ¹	P	P	P	P	P	P	P	S	P	S				50-20.3.I
Funeral home or crematorium					S ²		S ²	P ¹	P ¹	P		P		P		P		P				P			

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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	
Mini-storage facility										P													P	P		50-20.3.L
Personal service and repair, small (less than 10,000 sq ft)						P	P ²	P ¹	P ¹	P	P ¹	P	P	P	P	P	P	P	P	P	P	P				
Personal service and repair, large (10,000 sq. ft. or more)							S ²	P ¹	P ¹	P	P ¹	P		P		P		P		P		P				
Retail Sales																										
Adult book store																							P			Chapter 5
Building materials sales								S		P		P														50-20.3.G
Garden material sales		S						P ¹			P				P											
Grocery store, small (less than 15,000 sq ft)						P	P ²	P ¹			P ¹	P		P		P	P	P	P	P	P					50-20.3.K
Grocery store, large (15,000 sq ft or more)								P ¹			P															50-20.3.K
Retail store not listed, small (less than 15,000 sq ft)						S ² P	P ²	P ¹	P ¹		P ¹	P	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 ¹			P ¹	P		P		P	P		P	P						50-20.3.R
Vehicle-Related																										
Automobile and light vehicle repair and service							S ²	P ¹		P		P		P		P	P	P					P			50-20.3.C
Automobile and light vehicle sales, rental, or storage								P ¹		P													P			50-20.3.D
Filling station						S ² P	S ²	P ¹		P	P ¹	P		P		P	P	P					P	P		50-20.3.J
Parking lot or parking structure (primary use)								P ¹	P ¹	P	P ¹	P	S	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			
INDUSTRIAL USES																										
Industrial Service																										
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 ¹	P		P											P	P		
Industrial services										P													P	P		

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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			
Manufacturing and Mining																												
Manufacturing, light									P ¹	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		50-20.4.H
Water-dependent manufacturing, light or heavy																										P		
Transportation-Related																												
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		
Utilities																												
Electric power or heat generation plant																									P	P		
Electric power transmission line or substation	S	S	S	S	S ²	P	S ²	S	S	S	S	P	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 ²	P	S ²	S	S	S	S	P	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 ²	P	S ²	S	S	S	S	P	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
Waste and Salvage																												
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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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
Wholesale Distribution and Storage																									
Storage warehouse																									50-20.4.K
Wholesaling																									50-20.4.L
Bulk storage not listed elsewhere																									
Water-dependent bulk storage or wholesaling not listed elsewhere																									
ACCESSORY USES																									
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
TEMPORARY USES																									

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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				
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		
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		
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		50-20.6.A	
Temporary real estate sales office				A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A							
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		
FORM DISTRICT BUILDING TYPES																													
<u>Main Street Building I</u>													<u>P</u>	<u>P</u>															
<u>Main Street Building II</u>															<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>											
<u>Main Street Building III</u>																			<u>P</u>	<u>P</u>									
<u>Corridor Building I</u>													<u>P</u>																
<u>Corridor Building II</u>																<u>P</u>	<u>P</u>												
<u>Lakefront Corridor Building</u>																						<u>P</u>							
<u>Corridor Building III</u>																					<u>P</u>								
<u>Cottage Commercial I</u>													<u>P</u>					<u>P</u>											
<u>Cottage Commercial II</u>																<u>P</u>													
<u>Iconic Building</u>													<u>P</u>		<u>P</u>	<u>P</u>	<u>P</u>			<u>P</u>									

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Section 7. That Section 50-20.1 of Chapter 50 be amended as follows:

50-20.1 Residential uses.

A. 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:

1. Minimum size. A two-family dwelling shall contain at least 1,800 sq. ft. of floor area (not including garages or utility rooms or basement or attic space not used for living quarters);
2. Exterior stairways. No exterior stairways with a total vertical rise greater than five feet shall be permitted;

B. Dwelling, townhouse.

In the R-1 district 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:

1. Dwelling fronting street. Townhouse dwellings shall be located on lots in such a way that each individual dwelling unit has a minimum of 15 feet of street frontage;
2. 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;
3. 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;
4. 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 area is obscured by opaque materials when viewed at an angle perpendicular to the screening materials;

C. 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;

D. 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;

E. 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;

F. Manufactured home park.

1. 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 allowed in the flood

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

fringe district, these uses shall be subject to the requirements of Section 50-18.1 of this Chapter and the following standards;

2. 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 8. That Section 50-20.3 of Chapter 50 be amended as follows:

50-20.3 Commercial uses.

A. Adult entertainment establishment.

All adult entertainment establishments shall comply with MSA 617.242 and Chapter 5 of this Code.

B. Agriculture, general.

1. 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;
2. 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. Automobile and light vehicle repair and service.

1. No displays or storage of merchandise, parts or refuse may be located closer than 20 feet from any public right-of-way;
2. A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district;
3. 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;

D. 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.

E. Bank.

1. When in the MU-N district, the following standards apply:
 - (a) The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- (b) 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;
 - (c) 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;
 - (d) 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;
 - (e) Banks are limited to no more than two drive-through windows and one drive-through lane for ATM services on the premises;
2. 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.;
 3. 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;
 4. Drive-through lanes shall allow for stacking space for three cars;

F. Bed and breakfast.

This is a primary use of land, and the owner need not reside in the use. The use shall:

1. Have no more than 12 habitable units;
2. 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;
3. 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;
4. Be located on a lot or tract containing a minimum of 0.6 acre;
5. Contain a minimum of 1,500 sq. ft. of area on the first floor of the main building;
6. 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;
7. Shall not have signage exceeding 12 sq. ft. in size, and any signage shall complement the architecture of the structure;
8. Shall limit each guest stay to a maximum of 21 consecutive days;

G. Building materials sales.

1. Outdoor storage is limited to ten percent of the parcel's land area, and shall not be permitted in any required front yard area;
2. 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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;

3. A landscaped earth berm may be used instead or in combination with a required fence or wall;

H. Convention or event centers.

1. 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;

I. Day care facility, small and large.

1. 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;

J. Filling station.

1. No displays or storage of merchandise, parts or refuse may be located closer than ten feet from any public right-of-way;
2. A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district;

K. Grocery stores, small and large.

1. Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas;
2. Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock;

L. Mini-storage facility.

This use shall comply with the following standards:

1. The use shall be contained within an enclosed building or buildings;
2. 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;
3. The use shall be designed so that doors to individual storage units do not face any abutting street frontage;
4. 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;
5. 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.;
6. Signage shall be limited to one 40 sq. ft. illuminated pole and 20 sq. ft. 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;
7. In the RR-1 district, there shall be a minimum of 50 feet of landscaped or naturally vegetated buffer from all property lines;
8. In the R districts a dense urban screen shall be installed along all side and rear property lines;

M. Office.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

1. 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;
2. 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;
3. In the F-6 district, offices may not have drive-through facilities;

N. Other outdoor entertainment or recreation use not listed.

1. 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;

O. Parking lot or parking structure (primary use).

1. In the MU-C district, any parking structure shall be located at least 50 feet from any RC, RR or R district;
2. 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;

P. Recreational vehicle (RV) park.

1. 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;
2. 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;
3. 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;
4. New commercial recreational vehicle parks or campgrounds, subdivisions or condominium associations, and the expansion of any similar existing

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

use exceeding five units or dwelling sites may be allowed subject to the following:

- (a) 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;
- (b) 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 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;

Q. Restaurant.

- 1 In the R-2 and MU-N district, no use shall exceed 5,000 sq. ft. in gross floor area;
- 2 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;
- 3 Drive-through lanes shall allow for stacking space for 5 cars;
- 4 When in the MU-N district, the following additional standards apply:
 - (a) The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;
 - (b) 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;
 - (c) 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;
 - (d) 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;
 - (e) Restaurants are limited to one drive through lane and one speaker box;
- 5 When in the F-3 and F_5 districts, the following additional standards apply:
 - (a) Access to and from the drive-through must be through the alley, if alley exists;
 - (b) Restaurants are limited to one drive through lane;

R. Retail stores, small and large.

1. Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas;
2. Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock;
3. Retail stores limited to one drive-through window;
4. 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.;
- 5 Drive-through lanes shall allow for stacking space for three cars;
- 6 When in the MU-N district, the following standards apply:
 - (a) The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;
 - (b) 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;
 - (c) 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;
 - (d) 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;

S. Seasonal camp or cabin.

1. In the R-C and RR-1 districts, buildings shall be located not less than 200 feet from any R district;
2. In the R-C district, the design of the site shall preserve the rural character by:
 - (a) Separating each camp or cabin site by at least 50 feet, measured from the closest points on each tent or cabin area;
 - (b) Preserving all natural vegetation not required to be removed for access roads, trails or public safety;
 - (c) Using gravel or pervious paving, rather than impervious materials, for all access road and driveways serving fewer than 25 camp or cabin sites;

T Veterinarian or animal hospital.

1. 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;
2. 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;

U Vacation dwelling unit.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

1. The minimum rental period shall be as follows:
 - (a) 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;
 - (b) 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;
2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two;
3. Off-street parking shall be provided at the following rate:
 - (a) 1-2 bedroom unit, one space;
 - (b) 3-4 bedroom unit, two spaces;
 - (c) 5+ bedroom unit, three spaces;
4. 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;
5. 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;
6. 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;
7. The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first.

Section 9. That Section 50-21.3 of Chapter 50 be amended as follows:

50-21.3 Exceptions and encroachments.

The following exceptions and encroachments to required yard areas and height limits are allowed. These provisions apply to form districts except as noted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Table 50-21.3-1: Exceptions and Encroachments	
Structure or Feature	Conditions or Limits
Encroachments into Required Yard Areas	
Architectural features (sills, belt courses, eaves, cornices) awnings and canopies, bay windows, gutters and downspouts	<u>Up to 18 in.</u> into any required yard area
Unenclosed or lattice-enclosed stairs, fire escapes, and balconies opening upon fire towers	<u>Up to 5 ft.</u> into any required rear yard, except as required to comply with applicable fire code or Americans with Disabilities Act
Chimneys and flues	<u>Up to 2 ft.</u> into any required front or side setback.
Open sided porch, deck, or paved terrace	<u>Up to 10 ft.</u> into front yard, <u>but no closer than 5 ft. from any street line on a corner lot</u>
Enclosed vestibule or fixed canopy with a floor area of not more than 40 sq. ft.	<u>Up to 4 ft.</u> into front yard
Fuel pumps or pump islands	Not closer than 15 ft. from any street line or closer than 50 ft. from any residential use
Fences meeting the standards of Section 50-26.4	Fences may not be located closer than 3 ft. to any publicly maintained right-of-way
Porte cochere, carport, or canopy if every part is unenclosed except for necessary structural supports	Permitted in any side setback, but not less than 5 ft. from any side lot line
Accessory Structures	No accessory structure may be located: (a) between a street and any façade of a primary building facing that street, or (b) closer than 10 ft. to any principal structure on an adjoining property, or (c) closer than 5 ft. to any rear lot line, or (d) closer than 3 ft. to any side lot line, except as listed for specific accessory structures below.
Accessory boat dock, residential	No setback required from property lines along the water
Accessory clotheslines, play equipment, trash containers, odor-controlled composting bins and rainwater harvesting tanks	Permitted in side and rear yards
Accessory raingarden	Permitted in all (front, side and rear) yards
Accessory wind power equipment	Permitted in side and rear yards except where prohibited by adopted building code
Exceptions to Building Height Limits	
Television and radio towers, accessory communications towers for private use, religious assembly or ornamental spires and towers, belfries, monuments, tanks, water and fire towers, stage tower or scenery lofts, cooling towers, chimneys, elevator penthouses, air conditioning penthouses, skylights, smokestacks, conveyors, storage elevators and facilities, flagpoles, accessory wind power equipment, or accessory rooftop solar collectors.	<u>In the Form District, the exceptions to building height limits for religious assembly or ornamental spires and towers only apply if the applicant proposes an Iconic Building</u>

Section 10. That Section 50-24.2 of Chapter 50 be amended as follows:

50-24.2 Required parking spaces.

In all districts there shall be provided, at the time any building or structure is erected, except as provided in Section 50-24.5 *Calculation of Parking Spaces*, the number of off-street parking spaces shown in Table 50-24-1, unless an exemption from or variation of this requirement is provided in another section of this Chapter.

Table 50-24-1: Off-Street Parking Spaces Required	
Use	Requirement* (May Be Adjusted To 30% Less or 50% More)
RESIDENTIAL USES	
Dwelling, one-family	1 space per dwelling unit
Dwelling, two-family	
Dwelling, townhouse	
Dwelling, live-work	
Co-housing facility	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Table 50-24-1: Off-Street Parking Spaces Required

Use	Requirement* (May Be Adjusted To 30% Less or 50% More)
Manufactured home park	
Dwelling, Multi-family	1 space per dwelling unit
Assisted living facility (elderly)	1 space per 3 habitable units
Residential care facility	1 space per 9 residential care beds, but not less than 2 spaces
Rooming house	1 space per habitable unit
PUBLIC, INSTITUTIONAL, AND CIVIC USES	
Bus or rail transit station	No requirement
Business, art, or vocational school	1 parking space for each 8 seats in the main auditorium or 3 spaces for each classroom, whichever is greater
Cemetery or mausoleum	No requirement
Club or lodge (private)	2.5 spaces per 1,000 sq. ft. of floor area
Government building or public safety facility	As determined by land use supervisor based on anticipated use and neighborhood impacts
Hospital	2 spaces per 1,000 sq. ft.
Medical or dental clinic	4 spaces per 1,000 sq. ft. of gross floor area
Museum, library, or art gallery	1 space per 1,000 sq. ft. of gross floor area
Nursing home	1 space per 6 beds
Park, playground, or forest reserve	No requirement
Religious assembly	1 space per 4 seats or per 100 sq. ft. in main auditorium, whichever is greater
School, elementary	1 parking space for each 10 seats in the auditorium or main assembly room or 1 space for each classroom, whichever is greater
School, middle or high	1 parking space for each 8 seats in the main auditorium or 3 spaces for each classroom, whichever is greater
University or college	2 spaces per 1,000 sq. ft. of office, research, and library area plus 1 space per 1 space per 125 sq. ft., of auditorium space.
Other community facility or institutional support uses not listed	As determined by land use supervisor based on anticipated use and neighborhood impacts
COMMERCIAL USES	
Adult book store	2.5 spaces per 1,000 sq. ft. of gross floor area
Adult entertainment establishment	5 spaces per 1,000 sq. ft. of gross floor area
Agriculture	No requirement
Automobile and light vehicle repair and service	2 spaces per 1,000 sq. ft. of gross floor area
Automobile and light vehicle sales, rental, or storage	2 spaces per 1,000 sq. ft. of gross floor area
Bank	2.5 spaces per 1,000 sq. ft. of gross floor area
Bed and breakfast	1 space for manager plus 1 space per habitable unit
Building material sales	1 space per 1,000 sq. ft. of gross floor area
Business park support activities	2 spaces per 1,000 sq. ft. of gross floor area
Convention and Event Center	1 space per 4 seats or per 100 sq. ft. in main auditorium, whichever is greater
Day care facility	1 space per 5 persons care capacity
Data center	1 space per 1,000 sq. ft. of gross floor area
Filling station	4 spaces per 1,000 sq. ft. gross floor area plus 1 per service stall
Funeral home or crematorium	1 space per 50 square feet of floor space in slumber rooms, parlors, or individual funeral service rooms
Garden material sales	1 space per 1,000 sq. ft. of gross floor area
Grocery store	3 spaces per 1,000 sq. ft. of gross floor area
Golf course	2.5 spaces per 1,000 square feet of clubhouse area
Hotel or motel	2 spaces per 3 guest rooms plus 1 per 200 sq. ft. of gross floor area in all accessory uses including restaurants and meeting rooms
Indoor entertainment facility	2.5 spaces per 1,000 sq. ft. of gross floor area

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Table 50-24-1: Off-Street Parking Spaces Required

Use	Requirement* (May Be Adjusted To 30% Less or 50% More)
Kennel	1 space per 1,000 sq. ft. of gross floor area
Marina or yacht club	2.5 spaces per 1,000 sq. ft. of clubhouse area, plus 1 per 10 boat slips
Mini-storage facility	1 space per 20 storage units
Office	2.5 spaces per 1,000 sq. ft. of gross floor area
Parking lot or parking structure (primary use)	No requirement
Personal service or repair	2.5 spaces per 1,000 sq. ft. of gross floor area
Preschool	1 space per 5 persons care capacity
Restaurant	5 spaces per 1,000 sq. ft. of gross floor area
Retail store	3 spaces per 1,000 sq. ft. of gross floor area
Riding stable	No requirement
Seasonal camp or cabin	1 space for every two beds, or for each cabin or sleeping unit, whichever is greater
Theater	1 space per 6 seats or per 100 sq. ft. in main auditorium, whichever is greater
Tourist or trailer camp	2 spaces per 3 sleeping rooms, suites, or trailer spaces
Truck or heavy vehicle sales, rental, repair, or storage	1 space per 1,000 sq. ft. of gross floor area
Vacation dwelling unit	1 space for 1-2 bedrooms, 2 spaces for 3-4 bedrooms, 3 spaces for 5+ bedrooms
Veterinarian or animal hospital	2.5 spaces per 1,000 sq. ft. of gross floor area
Other commercial use not listed	As determined by land use supervisor based on anticipated use and neighborhood impacts
INDUSTRIAL USES	
Airport and related facilities	As determined by airport management
<ul style="list-style-type: none"> • Electric power or heat generation plant • Electric power transmission line • Junk and salvage services • Major utility or wireless communication tower • Radio or television broadcasting tower • Railroad or shipyard and related facilities • Solar or geothermal power facility (primary use) • Truck freight or transfer terminal • Water or sewer works • Wind power facility (primary use) • Bulk storage not listed 	No requirement
<ul style="list-style-type: none"> • Contractor's shop and storage yard • Dry cleaning or laundry plant • Recycling collection point (primary use) • Solid waste disposal or processing facility 	1 per 1,000 sq. ft. of gross floor area
<ul style="list-style-type: none"> • Manufacturing, light • Manufacturing, heavy • Manufacturing, hazardous or special • Storage warehouse 	1 per 1,000 sq. ft. of gross floor area

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Table 50-24-1: Off-Street Parking Spaces Required	
Use	Requirement* (May Be Adjusted To 30% Less or 50% More)
<ul style="list-style-type: none"> • Water-dependent manufacturing, light or heavy • Wholesaling 	
Research laboratory	As determined by land use supervisor based on anticipated use and neighborhood impacts
Other Industrial uses not listed	As determined by land use supervisor based on anticipated use and neighborhood impacts
ACCESSORY USES	
Accessory bed and breakfast	1 space for primary use dwelling; plus 1 space per habitable unit
Accessory caretaker quarters	1 space
All other accessory uses	No requirement
TEMPORARY USES	
Temporary real estate sales office	2 spaces
All other temporary uses	No requirement

**The parking space requirement may be modified by Section 50-18.5 (Higher Education Overlay District), Section 50-24.3 (Adjustment to Required Off-Street Parking), and 50-24.4 (Maximum Parking Spaces).*

Section 11. That Section 50-24.6 of Chapter 50 be amended as follows:

50-24.6 Location of parking spaces.

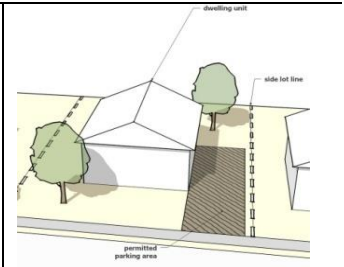
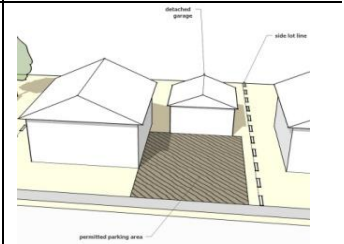
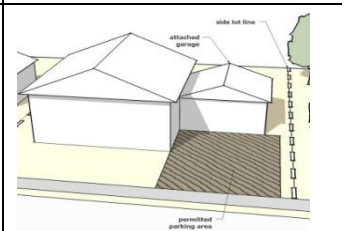
- A. On site location and exceptions.**
1. All required parking spaces shall be located on the same lot with the principal building or the primary use served; except as provided in subsection 2 below;
 2. If an increase in the number of parking spaces is required by a change or enlargement of any use, the increased parking requirement may be satisfied by utilizing:
 - (a) Primary use parking lots or parking structures located and maintained up to 500 feet from the lot containing the change or enlargement, or
 - (b) Accessory parking lots that existed on November 18, 2010, were composed of hard-surfaced, dust-free material such as concrete, bituminous, or pervious paving materials, and that are located and maintained up to 500 feet from the lot containing the change or enlargement;
 3. Where required parking spaces are not provided on site, a written agreement assuring the continued availability of the parking spaces for the uses they serve shall be required on a form approved by the city and shall be filed with the application for a building permit;

B. Parking location within the site.
 Unless a front yard parking permit was issued for the property on or before June 1, 2009, required parking spaces shall only be provided on those portions of the lot indicated in Table 50-24-3;

Table 50-24-3: Permitted Parking Areas	
Type of Lot	Permitted Parking Area
Residential Districts	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Table 50-24-3: Permitted Parking Areas

<p><u>Non-corner lot with non-dwelling unit</u></p>	<p>The rear yard and one side yard</p>	
<p>Non-corner lot with dwelling unit and no garage</p>	<p>The <u>rear yard</u>, and the area between one side lot line and the nearest side wall of the dwelling unit and its extension to the improved street abutting the front yard. (See diagram to the right)</p>	
<p>Non-corner lot with dwelling unit and detached garage</p>	<p>The <u>rear yard</u>, and the area between the closest side lot line to the side wall of the dwelling unit nearest to the garage, and its extension to the improved street abutting the front yard. (See diagram to the right)</p>	
<p>Non-corner lot with dwelling unit and attached garage</p>	<p>The <u>rear yard</u>, and the area between the closest side lot line to the common wall separating the dwelling unit and garage, and its extension to the improved street abutting the front yard. (See diagram to the right)</p>	
<p><u>Corner lot (dwelling or non-dwelling)</u></p>	<p><u>The rear yard and one side yard</u></p>	

Mixed Use and Special Purpose Districts

<p>All Mixed Use and Special Purpose Districts</p>	<p>Buildings or projects constructed after November 19, 2010, shall locate no more than 50% of off-street accessory parking within the front yard, <u>except as provided in 50-24.5.C.</u></p>
<p>Form Districts</p>	<p>Parking only permitted on those portions of the lot permitted for the building type being constructed pursuant to Sections 50-16 and 50-22.</p>

C. Optional pedestrian walkways within parking areas.

For parking areas within mixed use and special purpose districts identified in Table 50-24.3, buildings or projects may locate up to 60 percent of off-street accessory parking within the front yard if a pedestrian walkway is provided. The pedestrian walkway shall:

- Include pedestrian-scaled lighting;
- Be raised or otherwise designed to encourage run-off and limit ponding during wet weather;
- Be visually recognizable to both pedestrians and motorists;
- Include trees and other landscaping along the length of the walkway, this landscaping can also be used to meet parking lot landscaping requirements in Section 50-25.4;
- Be at least 8 feet wide; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- Include well-marked crossings where the walkway intersects with private vehicle drives.

Section 12. That Section 50-24.7 of Chapter 50 be amended as follows:

50-24.7 Parking design standards.

A. General standards.

The design of required off street parking areas and spaces shall meet the standards shown in Table 50-24-4.

Table 50-24-4: Parking Design Standards		
Parking Space Size*		
Size of Car	Minimum Size of Parking Space	
Small	8.5 ft. x 15 ft.	
Standard	9 ft. x 17 ft.	
Aisle Widths		
Angle of Parking	Minimum Width of Aisle	
	One-Way	Two-Way
Parallel/no parking	11 ft.	21 ft.
30 degree	11 ft.	21 ft.
45 degree	13 ft.	23 ft.
60 degree	18 ft.	24 ft.
<u>75 degree</u>	<u>20 ft.</u>	<u>24 ft.</u>
90 degree	20 ft.	24 ft.
Permitted Percentage of Small Car Spaces (Applies to lots with more than 5 spaces)		
Size of Parking Lot	Maximum Percentage of Small Cars	
6 to 100 spaces	40%	
100 to 149 spaces	45%	
150 or more spaces	50%	
Required Surface Treatment/Paving		
Zone District	Requirement	
All residential district parking areas not in lawful existence on June 1, 2009.	Surfaced in a dust free, hard surface material such as concrete or bituminous, or pervious paving materials, except for rear yards, which may be surfaced in aggregate materials, compressed aggregates or similar surfaces.	
All Mixed Use and Special Purpose Districts	All parking areas shall be surfaced in a dust free, hard surface material such as concrete or bituminous. Pervious paving material shall be approved by the city engineer.	

*The area set aside for a parking space may encroach beyond the face of a curb a maximum of 1.5 ft., provided that (a) it does not include trees, posts, or other obstructions that would prevent a vehicle from fully utilizing the space, and (b) it is not included in required open space, landscape area requirements, or required pedestrian walkways.

B. Parking lot and driveway entrances.

All parking lot and driveway entrances must conform to the design specification regulations of the city engineer;

C. Snow storage areas.

A portion of the each accessory surface parking area shall be designated for snow storage. The areas required to meet the minimum parking requirements of this Section 50-24 shall not be used for snow storage. Snow storage areas may be landscaped if the vegetation is selected and installed so as not to be harmed by snow storage. Snow storage areas shall not count towards those landscape areas

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

required by Section 50-25 unless they are integrated with a side or rear buffer required by Section 50-25;

D. Required parking lot walkways.

Each surface parking area that (a) serves a multi-family residential, commercial, public, institutional, civic, or mixed use, and (b) contains 50 or more parking spaces, and (c) contains any parking spaces located more than 300 feet from the front façade of the building shall contain at least one pedestrian walkway allowing pedestrians to pass from the row of parking furthest from the primary building façade to the primary building entrance or a sidewalk allowing the pedestrian to reach the primary building entrance without crossing additional driving spaces or aisles. The required walkway must be at least five feet wide, shall not be located within a driving aisle, and shall be located in a landscaped island running perpendicular to the primary building façade if possible. If located in a landscaped island, the minimum width of the island shall be increased by five feet to accommodate the walkway without reducing the amount of landscaped area. If any parking space in the parking aisle located furthest from the primary structure is more than 200 feet from the walkway, additional similar walkways shall be required within 200 feet of those spaces. If there is a public sidewalk along the street frontage located within 50 feet of any required walkway, the walkway shall connect to that sidewalk.

Section 13. That Section 50-25.1 of Chapter 50 be amended as follows:

50-25.1 Applicability.

- A. The landscaping provisions of sections 50-25.2 through 25.4 and 25.7 shall apply to lots and parcels in any zone district that contain (i) more than 10,000 sq. ft. of lot area, and (ii) a primary structure with a multi-family, mixed use, commercial, institutional, industrial, or parking principal use, when any of the following conditions occur:
1. A new primary structure is constructed;
 2. The floor area in an existing primary structure(s), taken collectively, is increased by more than 25 percent;
 3. An existing primary structure is relocated on the lot or parcel;
 4. The primary structure is renovated or redeveloped (including but not limited to reconstruction after fire, flood or other damage), and the value of that renovation or redevelopment, as indicated by building permits, is 75 percent or more of the pre-application assessor's market value of the primary structure, as shown in the records of the city assessor;
 5. A new parking lot containing 25 or more spaces is constructed or an existing parking lot containing 25 or more spaces is reconstructed. Parking lots with less than 25 spaces must only provide the minimum tree canopy coverage as indicated in Section 50-25.4.B.6;
- B. In any form district, landscaping shall not be required on the portion of a lot occupied by a principle structure;
- C. The tree preservation provisions of Section 50-25.9 apply to all development or redevelopment on lots and parcels in any zone district that contain (i) more than 10,000 sq. ft. of lot area, and (ii) a primary structure with a multi-family, mixed use, commercial, institutional, industrial, or parking principal use, as well as to any new lot of record created after November 19, 2010, regardless of the primary use of the property, in any zone district;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- D. The landscaping between differing land uses provisions of Section 50-25.5 apply to all development or redevelopment on lots and parcels when there is a change of use.

Section 14. That Section 50-27.6 of Chapter 50 be amended as follows:

50-27.6 Signs and activities exempt from permit requirements.

A. Alteration and maintenance operations.

The following activities are exempt from a zoning permit:

1. Painting, repainting, cleaning, and/or other normal maintenance and repair of a sign, not involving structural alterations or changes in the electrical components of the sign. Repairs to existing permitted illumination components are also exempt from sign permit requirements;
2. Changing of the message of an existing changeable message sign or electronic message sign;
3. Changing the sign face within an existing legal sign structure, provided no alterations are made to the sign structure and the sign area, sign height or any other dimension of the sign;

B. Illumination.

No exempt sign may be illuminated, except for the following:

1. Uplighting of official federal, state, county or city flags;
2. Lighting of official federal, state, county or city government signs as needed by the government body;

C. Exempt permanent signs.

This Section describes the types of permanent signs that are allowed without a zoning permit. All exempt signs must comply with all the regulations of this section. Exempt permanent signs are subject to the regulations of Table 50-27-1: Exempt Permanent Sign Regulations.

Table 50-27-1: Exempt Permanent Sign Regulations						
Sign	Permitted District or Use	Permitted Sign Type	Maximum Size	Maximum Height (Freestanding Signs)	Required Setback or Location (Freestanding Signs)	Number Per Lot
Agricultural Identification Sign	All agricultural uses	Freestanding or wall	RC, RR-1, RR-2: 20 sf. All other districts: 6 sf	6'	20' from front lot line & 10' from any other lot line	1 per street frontage
Bed and Breakfast	Bed and breakfast uses	Freestanding or wall	12 sf	7'	5' from any lot line	1 per lot
Building Directory Sign	All multi-family & non-residential uses	Freestanding or wall	6 sf	7'	Within 10' of building entry	1 per building entry
Day Care Facility	Residential zone districts	Wall or non-illuminated lawn sign	6 sf	7'	5' from any lot line	1 per lot
Flags – Federal, State or Local	All districts and uses	Freestanding	No Limit	No limit	5' from any lot line	No limit
Flags – Commercial	All non-residential uses	Freestanding	16 sf	Flagpole limited to maximum height of zoning district	5' from any lot line	1 per lot
Government Information Sign	All districts and uses	Freestanding or wall	No Limit	No Limit	No Limit	No Limit

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Table 50-27-1: Exempt Permanent Sign Regulations

(Federal, State, County or City)						
Home Occupation Sign	All residential dwelling uses and permitted accessory uses	Wall, window or freestanding including mounting on private lightposts	4 sf	4'	5' from any lot line	1 per lot
Memorial Plaque	All districts and uses	Freestanding or wall	No limit	Limited to maximum height of zoning district	5' from any lot line	1 per lot
Nameplate	All districts and uses	Wall	4 sf	(Not Applicable)	(Not Applicable)	1 per lot
Parking Lot Directional Sign	All parking lots and structures	Freestanding	4 sf	7'	0' from any lot line	No limit
Parking Lot Information Sign	All parking lots and structures	Freestanding or wall	16 sf	12'	0' from any lot line	3 per access point
Property Identification Sign	All multi-family residential uses	Wall	4 sf	(Not Applicable)	(Not Applicable)	1 per lot
Public Information Sign	The following uses: All educational facilities; cemetery or mausoleum; museum, library or art gallery; park, playground or forest reserve	Freestanding or wall	No limit	No limit	No limit	No limit
Public Information School and Field Identification Sign	All districts. K-12 public and private schools. Only to identify name of school, recreation field, or athletic team.	Non illuminated wall sign	No limit	No limit	No limit	No limit
Permanent Window Sign	All non-residential uses	Window	Temporary & permanent signs (combined) are limited to 30% coverage of each window	(Not applicable)	(Not applicable)	(Not applicable)
Time and Temperature Sign (Electronic)	All non-residential uses	Must be integrated into primary freestanding or wall sign	20% of sign area of free-standing or wall sign, or if stand-alone sign, 6 sf	(Not Applicable)	(Not Applicable)	1 per lot

D. Exempt temporary signs.

This Section describes the types of temporary signs that are allowed without a zoning permit. All exempt signs must comply with all the regulations of this Section.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

1. Exempt temporary signs are subject to the display periods in Table 50-27-2: *Permitted Display Period*;
2. Exempt temporary signs are subject to the regulations of Table 50-27-3: *Exempt Temporary Sign Regulations*.

Table 50-27-2: Exempt Temporary Sign Permitted Display Period Regulations	
Sign	Permitted Display Period
Attention-Getting Device	When related to a time-specific event: Combined display period of 14 days prior to the event, the time period of the event and 2 days following the event. When not related to a time-specific event: 10 days Limited to no more than 4 display periods in a year, with a minimum of 30 days between displays
Banner (General)	When related to a time-specific event: Combined display period of 14 days prior to the event, the time period of the event and 2 days following the event When not related to a time-specific event: 30 days Limited to no more than 4 display periods in a year, with a minimum of 30 days between displays
Community Event Sign	Limited to no more than 4 display periods in a year for a total aggregate display time of 20 days per year
Construction Sign	Erected only after approval of a building permit and must be removed within 7 days of issuance of an occupancy permit or completion of construction, whichever occurs first
Non-Commercial Message Sign	General: No display period limitation Election: Signs of any size related to an election or referendum may be posted in any number from 46 days before the state primary in a state general election year until 10 days following the state general election
Real Estate Sign	All real estate signs may only be erected on the specific property offered for sale or lease or the property holding an open house. Real estate for sale/lease signs: Posted for the duration the property is offered for sale or lease, and must be removed within 7 days of closing or lease Real estate open house signs: Only during the day of the open house and must be removed within 2 hours of the end of the event
Temporary Window Sign	Limited to no more than 4 display periods in a year for a total aggregate display time of 60 days per year

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Table 50-27-3: Exempt Temporary Sign Regulations

Sign	Permitted District or Use	Permitted Sign Type	Maximum Size	Maximum Height (Freestanding Signs)	Required Setback or Location (Freestanding Signs)	Number Per Lot
Attention-Getting Device	Nonresidential uses in MU-C	Freestanding	10 sf	6'	10' from any lot	1 per lot
Banner (general)	Non-residential uses	Wall or retaining wall	32 sf	(Not applicable)	(Not applicable)	1 per lot
Community Event Sign	All districts and uses	Freestanding or wall	10 sf	6'	10' from any lot	1 per lot
Construction Sign	All districts and uses	Freestanding or wall	50 sf	6'	10' from any lot	50 sf total per street frontage
Non-Commercial Message Sign, Election	All districts and uses	Freestanding, wall or retaining wall	No limit	No limit	No limit	No limit
Non-Commercial Message Sign, General	All districts and uses	Freestanding, wall or retaining wall	64 sf	6'	No limit	1 per street frontage
Real Estate Sign	All districts and uses	Freestanding or wall	Residential Districts: 4 sf All Other Districts: 12 sf	5'	10' from any lot	1 per street frontage
Temporary Window Sign	All nonresidential uses	Window	Temporary & permanent signs (combined) are limited to 30% coverage of each window	(Not applicable)	(Not applicable)	(Not applicable)

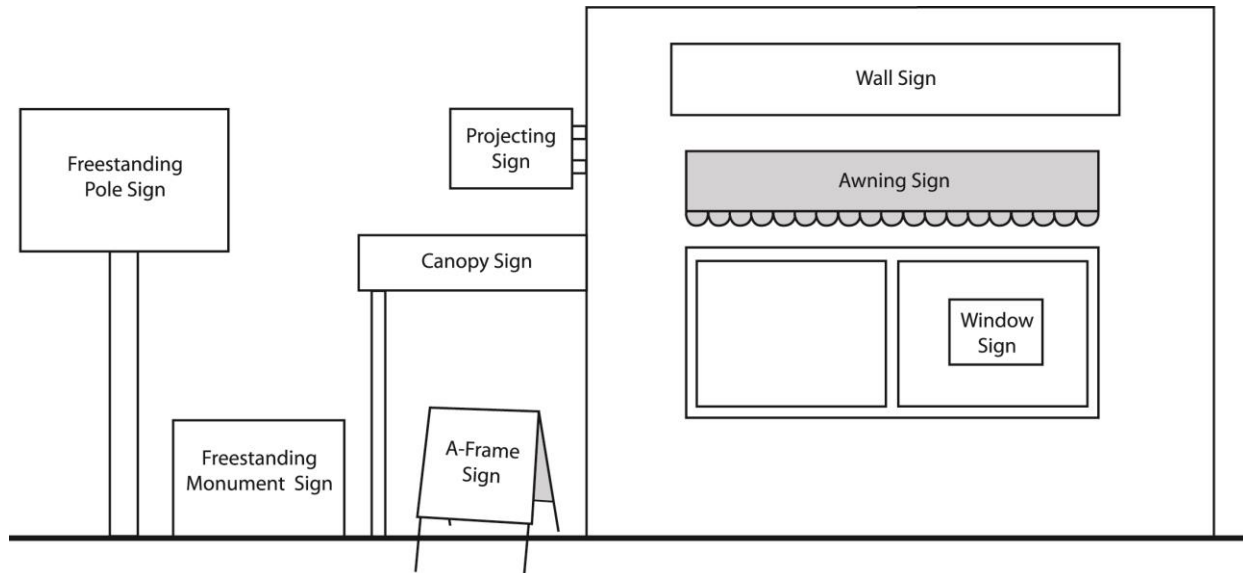


Figure 50-27.6-A: Examples of Common Sign Types

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Section 15. That Section 50-27.7 of Chapter 50 be amended as follows:

50-27.7 Sign types.

A. General regulation.

The following types of signs require a zoning permit before they can be erected on a site. Table 50-27-4: *Sign Types – Permit Required: District and Use Permissions* describes which sign types are permitted in each district. In many districts, multiple sign types for the same development may be permitted.

TABLE 50-27-4: SIGN TYPES – PERMIT REQUIRED: DISTRICT AND USE PERMISSIONS																									
KEY (REFERENCE TABLE 50-19.8 FOR USES)																									
1 : Residential Uses 1A : Multi-Family Dwelling Only 2 : Public, Institutional and Civic Uses											3 : Commercial Uses 4 : Industrial Uses														
<i>NOTE: Accessory uses are subject to the home occupation sign standards</i>																									
	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	
A-Frame Sign							3	3			3	3	3	3	3	3	3	3	3	3	3			2	
Awning	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	2	
Banner Exhibition	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	
Billboard ¹								3 4		3 4		3 4										3 4			
Canopy	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	2	
Electronic Message Sign ²	2	2	2	2	2	2	2	2 3 4	2 3 4	2 3 4	2	2 3 4	2	2	2	2	2	2	2 3	2 3			2	2	2
Freestanding Signs-Pole	2	2	2	2	2	2	2 3 4	2 3 4	2 3 4	2	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2
Freestanding Sign-Monument	1 2	1 2	1 2	1 2	1 2	1 2	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	2
Marquee							3	3			3	3					3		3	3					
Projecting Sign							3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	
Scoreboard	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	
Wall Sign	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2

¹ Billboards are permitted on any lot within the noted districts, whether developed or undeveloped, unless such lot is developed for a one-family or two-family dwelling.

² Filling station uses in any district are permitted to display fuel prices by an electronic message component, and are subject to the restrictions of that section. Electronic message signs are not allowed in the Historic Canal Park area as identified in UDC Section 50-27.9.C. Electronic message signs are allowed in the Entertainment District area as identified in UDC Section 50-27.9.C

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Section 16. That Section 50-33.4 of Chapter 50 be amended as follows:

50-33.4 General lot design and layout.

- A. All lots shall have frontage on a public street unless that is impracticable due to topography and the land use supervisor approves an alternative layout based on considerations of public safety and land use efficiency;
- B. Where practicable, side lot lines shall be at approximately right angles to the street on which the lot fronts;
- C. Where practicable, adjacent lots shall not be platted so that their long axes are at right angles to each other;
- D. No strips of land shall be platted for private ownership that control access to public streets or that are untaxable for special improvements;
- E. Where practicable, lots shall be oriented so that the long axis of the lot is within 15 degrees of east-west in order to increase solar orientation;
- F. Flag lots are prohibited in R-1, R-2, and MU-N zone districts.

Section 17. That Section 50-35 of Chapter 50 be amended as follows:

50-35 Summary table.

TABLE 50-35-1: PROCEDURES SUMMARY TABLE								
Type of Application	Review, Decision, & Appeal Authority							
R = Review D = Decision A = Appeal <> = Hearing S = Sign Notice M = Mail Notice N = Newspaper Notice RES = Resolution ORD = Ordinance AL= Action Letter COA = Certificate of Appropriateness	Public Notice Required	Pre-Application Required	Staff	Land Use Supervisor	Heritage Preservation Commission	Planning Commission	Council	Final Action
Comprehensive Land Use Plan	N			R		<R>	D	RES
UDC Text or Zoning Map Amendment								
Text Amendment	N			R		<R>	D	ORD
Map Amendment	N, S,	✓		R		<R>	D	ORD
District Plan Adoption/Amendment	S	✓		R		<D>	<A>	
Subdivision Plat Approval								
Concept Plan		✓		R				**
Preliminary Plat	S			R		<D>		AL
Final Plat				R		<D>		AL***
Quick Plat/Registered Land Survey	S			R		<D>		AL***
Vacation of Street	S, M	✓		R		<R>	D	RES
Concurrent Use of Streets Permit	S	✓		R		<R>	D	ORD
Historic Resource Designation	M				<R>	R	D	ORD
Variance	S, M		R			<D>	<A>	AL
Special Use Permit	S, M	✓		R		<D>	<A>	AL
Interim Use Permit	S, M	✓		R		<R>	D	RES
Planning Review								
General Planning Review				D		<A>		AL
Planning Commission Review When required in MU-C, MU-W, MU-I Zoning Districts and HE-O Overlay District	S, M	✓		R		<D>	<A>	
Temporary and Sidewalk Use Permit				D		<A>		AL

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

TABLE 50-35-1: PROCEDURES SUMMARY TABLE								
Type of Application	Review, Decision, & Appeal Authority							
R = Review D = Decision A = Appeal <> = Hearing S = Sign Notice M = Mail Notice N = Newspaper Notice RES = Resolution ORD = Ordinance AL= Action Letter COA = Certificate of Appropriateness	Public Notice Required	Pre-Application Required	Staff	Land Use Supervisor	Heritage Preservation Commission	Planning Commission	Council	Final Action
Zoning Permit****			D			<A>		AL
Historic Construction/Demolition Permit	S				<D>		<A>	COA
Wetland/WCA Permits			D			<A>		AL

* Mailed notice is required to affected property owners within 350 feet when the amendment involves changes in district boundaries affecting an area of 5 acres or less.

** Planning staff will provide applicant with a pre-application verification.

*** Applicant must provide documentation that the plat or RLS has been recorded with the county.

****This category includes shoreland permit, erosion and sediment control permit, sign permit, fence permit and airport environs permits. Appeals of Airport Environs Permits related to Duluth International Airport are heard by the airport board of adjustment.

Section 18. That Section 50-37.1 of Chapter 50 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;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 50-37.1.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 ½ 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;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- (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 are no more than one foot smaller than the minimum setbacks required by this Chapter;
2. The height of a new or modified structure is no more than two feet taller than the maximum required by this Chapter;
3. For properties where Section 50-24.2 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 contains one less parking space than is required, or one more parking space than the maximum allowed in 50-24.4;
4. Handicap accessibility structures can encroach into the yard setbacks;
5. For properties where 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;
6. For properties where 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;

7. The area of a new or modified sign is no more than ten percent larger than the maximum allowed by 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 five years of the preliminary plat approval;
2. Approved final subdivision plats shall lapse unless the approved final plat is recorded with the register of deeds within 180 days after 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.O *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 Chapter 10 of the 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 5 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;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- (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.
 - (a) Where applicable, Section of 50-37.1.O.4 shall apply of heritage commission 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 110 percent of the estimated cost for the city to complete the improvements.

Section 19. That Section 50-37.14 of Chapter 50 be amended as follows:

50-37.14 Historic construction/demolition permit.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

This Section applies to applications for construction or demolition within a historic district or on a historic property listed in Section 50-18.3 where the city must confirm whether the application complies with the standards in Section 50-18.3 and with all other applicable provisions of this Chapter and state law;

A. Application.

An application for a historic construction/ demolition permit shall be filed pursuant to Section 50-37.1.B;

B. Procedure.

The application shall be reviewed by the heritage preservation commission. The commission shall conduct a public hearing pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H and make a decision to adopt, adopt with modifications, or deny the application based on the criteria in subsection 50-37.14.C;

C. Criteria.

The commission shall approve the application, or approve it with modifications, if the commission determines that the application complies with all applicable provisions of this Chapter and state law and that the work to be performed shall not adversely affect the historic preservation landmark or district based on adopted historic preservation guidelines.

Section 20. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 20, 2014)

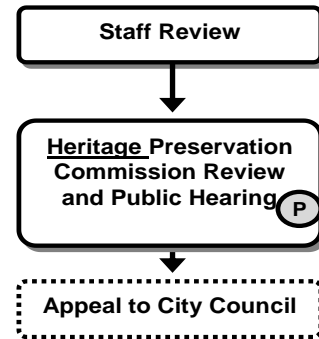
Councilor Russ moved passage of the ordinance and the same was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Historic Construction / Demolition Permit



(P) Indicates Public Hearing Required

Passed March 10, 2014
Approved March 10, 2014
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 24, 2014, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

The minutes of the council meetings held on September 9 and 12, 2013, were approved upon a unanimous vote.

- - -

REPORTS OF BOARDS AND COMMISSIONS

14-0324-13 Alcohol, gambling and tobacco commission minutes of: (a) September 4; (b) October 2; (c) November 6; 2013; (d) January 3, 2014, meetings. -- Received

14-0324-01 Library board minutes of January 28, 2014, meeting. -- Received

14-0324-02 Parks and recreation commission minutes of January 8, 2014, meeting. -- Received

- - -

At this time, 7:02 p.m., the public hearing on the proposed Housing and Redevelopment Authority (HRA) establishment of the Lincoln Park Tax Increment Financing District (TIF) began.

Rick Ball, Housing and Redevelopment executive director, reviewed at length the history and details of this project.

Andy Hughes, project manager for Sherman and Associates, reviewed specific details of the 50 apartments and 5,500 square feet of office space for local nonprofits.

At this time, 7:27 p.m., the public hearing was declared recessed and would continue at the next council meeting of April 14, and the regular order of business was resumed.

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Loren Martell commented about the extent of the large amounts of spending the school district does and the high and frequent cost overruns that the school district has.

- - -

Alison Clarke commented on: if there is an easement across the Edmunds property for the Lakewalk; Lakewalk alternative number four should be considered as a section of the whole cross city trail and a paved Ledges section is critical to alternative number four versus a foot path.

- - -

RESOLUTION TABLED

Councilor Russ moved to remove Resolution 14-0107, accepting conveyance of an easement from Peter Senich for the Western Waterfront Trail, from the table, which motion was seconded and unanimously carried.

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCE

The following entitled ordinance was read for the second time:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

INTRODUCED BY COUNCILOR RUSS

14-014 (10287) - AN ORDINANCE AUTHORIZING THE DIRECT SALE OF CERTAIN PROPERTY IN THE SPIRIT VALLEY NEIGHBORHOOD TO PETER SENICH FOR \$10,700 SUBJECT TO RETENTION OF AN EASEMENT.

Councilor Russ moved to suspend the rules to consider the ordinance at this, which motion was seconded and unanimously carried

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

- - -

Resolution 14-0107 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to accept the conveyance from Peter Senich of an easement for public park recreational area purposes, except for the use of motorized recreational vehicles, substantially in the form of that on file with the city clerk as Public Document No. 14-0324-03 for the Western Waterfront Trail at no cost to the city.

Resolution 14-0107 was unanimously adopted.

Approved March 24, 2014

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

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 2014 for a total amount not to exceed \$36,725.26, payable from the Tourism Taxes Fund 258, Finance 030, Contract Services 5310.

FURTHER RESOLVED, the parties desire to amend the agreement to update certain clauses of the agreement.

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. 14-0324-04.

Resolution 14-0126 was unanimously adopted.

Approved March 24, 2014

DON NESS, Mayor

- - -

RESOLVED, that the operation budget for the fiscal year January 1, 2014, to December 31, 2014, in the amount of \$9,151,542 for the Duluth Airport Authority is hereby approved.

FURTHER RESOLVED, that the authority included in the resolution shall submit to the city council its proposed budget in a prescribed format on or before November 30 of each year.

Resolution 14-0139 was unanimously adopted.

Approved March 24, 2014

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- - -

RESOLVED, that the operation budget for the fiscal year January 1, 2014, to December 31, 2014, in the amount of \$14,060,755 for the Duluth Transit Authority is hereby approved.

FURTHER RESOLVED, that the authority included in the resolution shall submit to the city council its proposed budget in a prescribed format on or before November 30 of each year.

Resolution 14-0140 was unanimously adopted.

Approved March 24, 2014

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:

Bong P-38 Fund, Inc., (Duluth Air Show), 4701 Grinden Drive, for August 23 - 24, 2014, with Ryan Kern, Manager.

Resolution 14-0129 was unanimously adopted.

Approved March 24, 2014

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:

AAD Temple Building Association (Duluth Balloon Festival Featuring Craft Brew Village), 700 Railroad Street, for September 19 - 21, 2014, with Kernz & Kompany, Manager.

Resolution 14-0130 was unanimously adopted.

Approved March 24, 2014

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 and further subject to approval of the liquor control commissioner:

AAD Temple Building Association (KIA of Duluth Drag Races and Car Show), 435 Garfield Avenue, for September 6 - 7, 2014, with Ryan Kern, Manager.

Resolution 14-0131 was unanimously adopted.

Approved March 24, 2014

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 20 - 22, 2014, with Linda Hanson, Manager, with the music and serving ending at 2:00 a.m.

Resolution 14-0132 was unanimously adopted.

Approved March 24, 2014

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

BY COUNCILOR GARDNER:

RESOLVED, that the city council hereby reappoints Jason Thorsell (at large) to the Duluth public utilities commission for a term expiring on March 31, 2017.

Resolution 14-0120 was unanimously adopted.

Approved March 24, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are hereby authorized to enter into a Minnesota historical and cultural grant agreement amendment with the Minnesota historical society, substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0324-05, accepting a grant in the amount of \$65,534 related to an ethnographic study of the American Indian heritage; payable into special projects fund, Finance Department 210-030-3112-4210-02 (miscellaneous federal grants).

Resolution 14-0123 was unanimously adopted.

Approved March 24, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to transfer funds from the following projects and enter into an amendment to an agreement to the CDBG program to renovate the Central Hillside Community Center by replacing exterior windows and doors in the city-owned building, increasing the contract total from \$236,916 to \$252,876.35.

2013 CDBG Program

Fund 262, Agency 020, Object 5434, Project CD13CD

<u>Project</u>	<u>Activity</u>	<u>Original Budget</u>	<u>New Grant</u>	<u>Difference</u>
PF-05	Central Hillside windows and doors	\$236,916.00	\$252,876.35	\$15,960.35

Fund 263, Agency 020, Object 5434

<u>Project</u>	<u>Activity</u>	<u>Original Budget</u>	<u>New Grant</u>	<u>Difference</u>
2220	Deferred revenue	\$15,960.35	\$0	\$(15,960.35)

Resolution 14-0135 was unanimously adopted.

Approved March 24, 2014

DON NESS, Mayor

- - -

RESOLVED, that it is deemed necessary for public convenience and safety, and it is hereby ordered that Tenth Avenue East from Superior Street to Fifth Street (City Project No. 0753TR) be improved.

FURTHER RESOLVED, that said work be done by contract and that cost of said project as estimated by the city engineer is \$3,800,000, payable from Permanent Improvement Fund 411, Department/Agency 035 (capital projects), Object 5530 (improvements other than buildings). The funding sources for this project will be as follows: \$1,874,000 from municipal state aid funds, \$950,000 from federal aid funds; \$448,000 from Water Fund 510, \$64,000 from Stormwater Utility Fund 535, \$414,000 from Sanitary Sewer Fund 530 and \$50,000 from Gas Utility Fund 520, and of these project costs \$250,000 will be assessed to benefitting properties.

FURTHER RESOLVED, that assessments shall be levied upon lands benefitting per the preliminary assessment roll (Public Document No. 14-0324-06), and may be paid in 15 annual installments at municipal bond index plus 1.50 percent interest.

Resolution 14-0119 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Approved March 24, 2014
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with DNV GL for professional services related to the development of a natural gas system computer model in an amount not to exceed \$37,000, payable from Gas Utility Fund 520, Department/Agency 500 (public works and utilities), Organization 1930 (engineering), Object 5303 (engineering services) City Project No. 1332, Requisition No. 14-0250.

Resolution 14-0122 was unanimously adopted.

Approved March 24, 2014
DON NESS, Mayor

- - -

RESOLVED, that pursuant to Section 61 of the City Charter, the city council hereby expresses its intent to cause the construction of a sanitary sewer in North 43rd Avenue West beginning at West Seventh Street and extending 280 feet northerly, 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 should be paid by special assessment, the number of installments in which assessments may be paid and the properties which should include the special assessment:

715 North 43rd Avenue West;
716 North 43rd Avenue West;
719 North 43rd Avenue West;
720 North 43rd Avenue West;
725 North 43rd Avenue West;
726 North 43rd Avenue West.

Resolution 14-0128 was unanimously adopted.

Approved March 24, 2014
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Hanco Utilities, Inc., for construction of one inch through eight inch PE natural gas mains and natural gas services at various locations in the city of Duluth and surrounding service area in the amount of \$1,140,875, payable from Gas Fund 520, Department 500 (public works and utilities), Division 1905 (capital improvements), Object 5533 (revenue), City Project No. 1315.

Resolution 14-0136 was unanimously adopted.

Approved March 24, 2014
DON NESS, Mayor

- - -

RESOLVED, that in accordance with the provisions of Section 13-97 of the Duluth City Code, 1959, as amended, the following no parking zone is hereby established:

East side of Tenth Avenue East between Superior Street and Fifth Street;
West side of Tenth Avenue East between Superior Street and Fifth Street.

Resolution 14-0137 was unanimously adopted.

Approved March 24, 2014
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

RESOLVED, that the city council hereby finds that the street right-of-way known as Helberg Drive along and across the below-described property on Rice's Point has been continuously constructed, used, kept in repair and worked as a public highway by the city, a road authority under Minnesota statute, for in excess of six years.

RESOLVED FURTHER, that, pursuant to the authority contained in Minnesota Statutes Section 160.05, Subdivision 1, the right-of-way for that street known as Helberg Drive, located on those portions of the plats of RICES POINT, FIRST SUBDIVISION OF RICE'S POINT, MUNGER-PECK RE-ARRANGEMENT OF LOT 1, FIRST SUBDIVISION OF RICE'S POINT, and the THIRD SUBDIVISION OF RICE'S POINT, all as legally described in Public Document No. 14-0324-07, on file in the office of the city clerk, is hereby declared to be a public highway.

Resolution 14-0143 was unanimously adopted.

Approved March 24, 2014

DON NESS, Mayor

- - -

RESOLVED, that the city does hereby grant to the Duluth Seaway Port Authority a license for one rail crossing and three road entrances and crossings on that property identified as Tract No. 28.5 and Tract No. 32 on Public Document No. 14-0324-08, on file in the office of the city clerk, said crossings and entry shown on said public document.

Resolution 14-0144 was unanimously adopted.

Approved March 24, 2014

DON NESS, Mayor

- - -

RESOLVED, that Ever-Green Energy, LLC, as manager of Duluth Steam is hereby authorized to submit a proposal for funding on behalf of the city of Duluth to the 2015 legislative-citizen commission on resources to obtain funding from the environment and natural resources trust fund for the engineering and project planning required in support of sustainability initiatives detailed in the 2013 Duluth steam system five-year master plan.

Resolution 14-0146 was unanimously adopted.

Approved March 24, 2014

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 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 21, 2014, 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 14-0133 was unanimously adopted.

Approved March 24, 2014

DON NESS, Mayor

- - -

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 \$1,000 to be used for approved equipment reimbursement to the city of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Duluth for the Lake Superior drug and violent crime task force and authorizing city officials to execute any documents necessary to accept said award, 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 program, police, forest service, small equipment).

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute a cooperative law enforcement agreement between the city of Duluth and the United States department of agriculture, forest service law enforcement and investigations, substantially the same as that on file in the office of the city clerk as Public Document No. 14-0324-09.

Resolution 14-0134 was unanimously adopted.

Approved March 24, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby 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. 14-0324-10, with Dakota County, Minnesota, to enable the Duluth police department to utilize a web-based field reporting application, at an annual cost that is based on user fees as follows: \$153/user (onetime fee) and \$70/user annual fee pro-rated to the go-live date, with the estimated 2014 cost not to exceed \$33,000 payable from Fund 110-160-1610-5404 (general fund, police department, administration and investigation, equipment/machinery repair and maintenance).

Resolution 14-0142 was unanimously adopted.

Approved March 24, 2014

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. 14-0324-11, with Fun Time, LLC, for the use of the Pilot House in Canal Park for operating a bicycle rental business with rent payments payable to Fund 110-121-1222-4622 (general, public administration, facilities management, rent of buildings).

Resolution 14-0106 was unanimously adopted.

Approved March 24, 2014

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 Mercury Associates, Inc., substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0324-12, for the comprehensive assessment of selected fleet management and maintenance and repair activities to improve the effectiveness and efficiency of the fleet program for an amount not to exceed \$57,600, payable from General Fund 110, Department/Agency 700 (transfers and other functions), Division 1407 (miscellaneous), Object 5319 (other professional services).

Resolution 14-0124 was unanimously adopted.

Approved March 24, 2014

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Resolution 14-0125, authorizing a contract with Thane Hawkins Polar Chevrolet for the purchase of three 2015 Chevrolet 3500 4x4 DRW regular cab and chassis pick-ups in the amount of \$111,472.95, was introduced by Councilor Hanson for discussion.

Councilor Fosle expressed his concerns that: these vehicles being replaced have only 88,000, 62,000 and 71,000 miles on them, respectively; tune-ups are not needed until 100,000 miles and the school district buses which have to transport precious cargo have 200,000-300,000 miles on them.

Resolution 14-0125 was adopted as follows:

RESOLVED, that city officials are hereby authorized to contract with Thane Hawkins Polar Chevrolet for the purchase and delivery of three 2015 Chevrolet 3500 4x4 DRW regular cab and chassis pickups for maintenance operations in accordance with Minnesota State Contract 73982, Release T-642(5) specifications and pricing for a total of \$104,434.65, plus \$6,788.25 vehicle sales tax (6-1/2 percent), plus \$250.05 registration, title and tax-exempt license fees, for a combined total amount of \$111,472.95, terms net 30, and payable from the Capital Equipment Fund 250, Department/Agency 015 (public administration), Cost Center 2014 (fiscal year-2014), Object 5580 (capital equipment), Project CE250-V1404.

RESOLVED FURTHER, that the dealer will ship vehicles to Bert's Truck Equipment in Moorhead, Minnesota, for outfitting.

Resolution 14-0125 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved March 24, 2014

DON NESS, Mayor

- - -

Resolution 14-0121, by Councilor Gardner, appointing _____ to the Duluth public utilities commission, replacing Sharla Gardner, was introduced.

Councilor Gardner moved to amend the resolution by inserting the names "Joel Sipress" into the resolution, which motion was seconded and unanimously carried.

Resolution 14-0121, as amended, was adopted as follows:

BY COUNCILOR GARDNER:

RESOLVED, that the city council hereby appoints Joel Sipress (city councilor) to the Duluth public utilities commission for a term expiring on March 31, 2017, replacing Sharla Gardner.

Resolution 14-0121, as amended, was unanimously adopted.

Approved March 24, 2014

DON NESS, Mayor

- - -

Resolution 14-0138, authorizing application to (and if offered, acceptance of) a Minnesota department of natural resources matching funds grant for 4.8 miles of additional sections of mountain bike trail, which effectuates the Duluth Traverse Trail - along Hawk Ridge and Skyline Drive, was introduced by Councilor Larson.

Councilor Hanson expressed concern that the required local match could be better spent on pothole repairs.

Resolution 14-0138 was adopted as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

RESOLVED, the city of Duluth supports the grant application made to the Minnesota department of natural resources for the regional trail program. The application is to construct 4.8 miles of mountain bike trail for the Duluth Traverse Trail.

RESOLVED, the regional trail program requires a 25 percent monetary match (\$63,000). The city of Duluth has secured the match through the parks fund (205), community resources (130), parks capital (1220), improvements other than buildings (5530), Project CM205-TRAVRS. If the city is awarded the grant of \$189,000 - to be deposited into parks fund (205), community resources (130), parks capital (1220) revenue source (4210-01) - the total project cost is \$252,000.

BE IT FURTHER RESOLVED, if the city 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 Duluth Traverse Trail project. The city will comply with all applicable laws, environmental requirements and regulations as stated in the grant agreement.

BE IT FURTHER RESOLVED, the city of Duluth hereby assures the Duluth Traverse Trail will be maintained for a period of no less than 20 years.

NOW, THEREFORE, BE IT FURTHER RESOLVED, the Duluth City Council does name the city auditor as fiscal agent for this project: Wayne Parson, City of Duluth Auditor, 411 West First Street, Room 107, Duluth, Minnesota.

Resolution 14-0138 was adopted upon the following vote:

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

Nays: Councilors Fosle and Hanson -- 2

Approved March 24, 2014

DON NESS, Mayor

- - -

Resolution 14-0141, granting approval and implementation of the Gary New Duluth recreation area mini-master plan, was introduced by Councilor Larson for discussion.

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

Dan Hinnenkamp, president of the Gary-New Duluth Community Club and chairman of the GND Alliance, and Mark Boben expressed support for the project for reasons of: the existing skating shack building holds a lot of good memories for the community where many great programs have been run; this new building is badly needed; this project will bring the community together and besides the building improvements the ground improvements will cover all the seasons.

Resolution 14-0141 was adopted as follows:

RESOLVED, that the city council hereby approves the Gary New Duluth recreation area mini-master plan and authorizes implementation of the plan, in partnership with the Gary New Duluth Development Alliance, as funding becomes available.

Resolution 14-0141 was unanimously adopted.

Approved March 24, 2014

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

INTRODUCED BY COUNCILOR JULSRUD

14-017 - AN ORDINANCE AUTHORIZING BEST VALUE PURCHASING IN CERTAIN CASES AND ESTABLISHING PROCEDURES THEREFORE, AMENDING CHAPTER 41 OF THE DULUTH CITY CODE, 1959, AS AMENDED BY ADDING A NEW SECTION 41-23.1 THERETO.

- - -

INTRODUCED BY COUNCILOR FILIPOVICH

14-016 - AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY ON RICES POINT TO THE DULUTH SEAWAY PORT AUTHORITY FOR \$102,747.75.

- - -

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR FOSLE

14-015 (10288) - AN ORDINANCE AUTHORIZING POLICE CHIEF TO EXECUTE FITNESS FACILITY USE AGREEMENTS WITH ST. LOUIS COUNTY SHERIFF'S EMPLOYEES.

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

- - -

The meeting was adjourned at 8:05 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10287

AN ORDINANCE AUTHORIZING THE DIRECT SALE OF CERTAIN PROPERTY IN THE SPIRIT VALLEY NEIGHBORHOOD TO PETER SENICH FOR \$10,700 SUBJECT TO RETENTION OF AN EASEMENT.

The city of Duluth does ordain:

Section 1.

(a) Pursuant to City Resolution 14-0054, the city council stated its intention to sell or convey certain property in the Spirit Valley Neighborhood, specifically, Lot E, Block 39, Hunter & Markell's Grassy Point Addition to Duluth, including riparian rights, St. Louis County, Minnesota, subject to an easement for public park recreational area purposes (the "property");

(b) As per Section 2-176(a) of the Duluth City Code, 1959, as amended (the "Code"), the manager of the city's physical planning division has reviewed this proposed conveyance and found it to be in conformity with the city's comprehensive land use plan;

(c) The manager of the city's physical planning division has also determined that under existing law, no building can legally be constructed on the property and therefore, the direct sale at market value by ordinance to Peter Senich as adjacent owner is authorized pursuant Section 2-178 of the Code;

(d) As per Section 2-176(c) of the Code, the county assessor has provided a written estimate of the market value of the property to be \$10,700;

(e) The property is hereby determined to be surplus to the city's future needs and is therefore appropriate for sale pursuant to Article XXXIII of Chapter 2 of the Code.

Section 2. That, subject to the conveyance of an easement by Peter Senich over Lot 13, Block 39, Hunter & Markell's Grassy Point Addition to Duluth, St. Louis County, Minnesota, for public park recreational area purposes, the proper city officials are hereby authorized to sell and convey the following described property in St. Louis County, Minnesota, by quit claim deed

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

to Peter Senich for the amount of \$10,700 to be deposited into Fund 110 (general), Agency 700 (transfers and other functions), Organization 1420 (capital programs), Object 4640 (sale of land), and further to execute all documents necessary with regard to said conveyance:

Lot E, Block 39, Hunter & Markell's Grassy Point Addition to Duluth, including riparian rights, subject to retention of an easement for public park recreational area purposes, except for the use of motorized recreational vehicles, specifically for the construction and maintenance of an eight foot wide, surfaced hiking, biking and skiing trail and cuts and fills necessary thereto, in, under, over, upon and across that part of Lot E, Block 39, Hunter & Markell's Grassy Point Addition to Duluth which falls southerly of the following described line: beginning at the northwest corner of Lot 13, of said Block 39; thence southeasterly to a point on the east line of Lot E, of said Block 39, said point being 65 feet south of the northeast corner of said Lot E and there terminating.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 26, 2014)

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

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

Nays: None -- 0

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

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10288

AN ORDINANCE AUTHORIZING POLICE CHIEF TO EXECUTE FITNESS FACILITY USE AGREEMENTS WITH ST. LOUIS COUNTY SHERIFF'S EMPLOYEES.

The city of Duluth does ordain:

Section 1. That pursuant to the provisions of Section 32 of the Duluth City Charter, the chief of police is hereby authorized to enter into fitness center use agreements in substantially the form of that on file in the office of the city clerk as Public Document No. 14-0324-14 with employees of the St. Louis County sheriff's department to allow said employees to use the city's fitness facilities located in the Public Safety Building and to deposit all amounts paid therefore into Fund 110-160-1610-4644 (general fund, police department, administration and investigation, miscellaneous fees, sales and services).

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 26, 2014)

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

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

Nays: None -- 0

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

ATTEST:
JEFFREY J. COX, City Clerk

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 14, 2014, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Larson, Russ,

Sipress and President Krug -- 9

Absent: None -- 0

- - -

The minutes of the council meetings held on September 23 (special and regular), October 14, 28, November 7 and 12, 2013, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

14-0414-27 The following communications regarding the proposed resolution accepting a grant from the Minnesota department of natural resources for the construction of the cross city trail phase II in the amount of \$288,000 (14-0179R): (a) Aaron Bransky; (b) Jodi Broadwell; (c) Max Elfelt; (d) Bryan French; (e) Josh Gorham; (f) Brian Hill. -- Received

14-0414-01 The following communications regarding proposed confirmation of assessment rolls levied to defray the assessable portions of street projects in portions of Oxford Street/Livingston Avenue/Glenwood Street (14-0104R): (a) David Kuiti; (b) Wendy Quade. -- Received

- - -

REPORTS FROM OTHER OFFICERS

14-0414-02 Clerk applications to the Minnesota gambling control board from: (a) Essentia Health Foundation on August 15, 2014 (raffle); (b) Order of Ahepa Chapter #267 on November 16, 2014 (excluded bingo). -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

14-0414-03 Alcohol, gambling and tobacco commission minutes of: (a) February 5; (b) March 5, 2014, meetings. -- Received

14-0414-28 Charter commission minutes of: (a) July 11; (b) October 10, 2012; (c) April 10; (d) July 10; (e) October 9, 2013. -- Received

14-0414-04 Civil service board minutes of February 4, 2014, meeting. -- Received

14-0414-05 Duluth economic development authority minutes of February 26, 2014, meeting. -- Received

14-0414-06 Duluth parking commission minutes of February 14, 2014, meeting. -- Received

14-0414-07 Duluth public utilities commission: (a) Minutes of February 18, 2014, meeting; (b) Resolution establishing second rate tier of \$0.11 per 100 cubic feet applicable to natural gas services outside the northern expansion area and the Fond du Lac area (14PUC-001). -- Received

14-0414-08 Duluth Seaway Port Authority minutes of December 12, 2013, meeting. -- Received

14-0414-09 Duluth transit authority: (a) Minutes of January 29, 2014, meeting; (b) January 2014 financial statement. -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

14-0414-10 Entertainment and convention center authority minutes of: (a) October 29; (b) November 26 long range planning; (c) November 26 regular; (d) December 17, 2013, meetings. -- Received

14-0414-11 Housing and redevelopment authority of Duluth minutes of: (a) November 26; (b) December 20, 2013; (c) January 28 annual; (d) January 28 regular, 2014, meetings. -- Received

14-0414-12 Spirit Mountain recreation area authority minutes of January 16, 2014, meeting. – Received

- - -

At this time, 7:03 p.m., President Krug announced that the continuation of the proposed Housing and Redevelopment Authority (HRA) establishment of the Lincoln Park Tax Increment Financing (TIF) District would begin.

Rich Ball, Housing and Redevelopment Authority executive director, reviewed how this project would support the adaptive reuse of the Lincoln Park School to benefit the neighborhood and the community, with 50 new units of affordable housing and nonprofit office space.

Angie Miller, Community Action Duluth director, commented on how the project will assist with affordable and safe housing and with the nonprofits' offices there, it will really be a hub for the neighborhood.

Pam Kramer, Duluth Local Initiatives Support Corporation (LISC) executive director, noted that this project has been worked on for about six years and when the school closed, everyone wanted a purpose for the building that would serve the neighborhood.

Bert Sherman, Sherman and Associates, reviewed the financial aspects of the project.

At this time, 7:10 p.m., the public hearing was declared closed.

- - -

At this time, 7:10 p.m., the public hearing on the proposed confirmation of assessment rolls levied to defray the assessable portions of street projects in portions of: Carver Avenue (14-0100R), Plum Street (14-0101R), Livingston Avenue (14-0102R), Skyline Parkway (14-0103R), Oxford Street/Livingston Avenue/Glenwood Street (14-0104R), and Woodland Avenue/Clover Street (14-0127R).began.

Richard Sall opposed the assessment for the reasons that: the road has always been there; the payment of property taxes should cover this and that he lived more than a block from the road being assessed.

At this time, 7:15 p.m., the public hearing was declare closed the regular meeting was resumed.

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Linda Ross Sellner expressed concern about the resolution for increasing the purchase order for an increase of salt purchases noting that the city did not have that many days of good conditions for salting with so much salt being used and that there is a need to minimize the use of salt, which pollutes Lake Superior.

- - -

Loren Martell commented that: that with the red plan some former school buildings were torn down even though professionals have commented on what good shape they were in and others that were not that old were abandoned.

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Alison Clarke felt that the report from the administration on the alternative plan number four for the Lakewalk connection at 20th Avenue East had inaccuracies that are misleading with higher costs. She expressed her thoughts on the shore land use, that the city has easements and the right the city has to use the land adjacent to the Ledges.

- - -

Paul Thorton expressed his feeling that Duluth lacks indoor recreational facilities for small children. He noted that he is attempting to create that in the Miller Hill Mall.

- - -

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

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

Mill and overlay at Carver Avenue, from West St. Marie Street to Arrowhead Road; Contract 9902850; total assessable amount of \$35,173.15 to be deposited in Fund 440.

Resolution 14-0100 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

- - -

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

Mill and overlay at Plum Street, from Ninth Avenue East to Skywood Avenue; Contract 2013422; total assessable amount of \$13,488.48 to be deposited in Fund 410.

Resolution 14-0101 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

- - -

RESOLVED, that the assessable rolls levied to defray the assessable portions of the following are hereby confirmed:

(a) Livingston Avenue Sanitary Sewer Extension for 2315, 2319, and 2331 Livingston Avenue; Contract 9902770; total assessable amount of \$25,404 to be deposited in Fund 530; and

(b) Livingston Avenue Water for 2315, 2319, and 2331 Livingston Avenue; Contract 2013424; total assessable amount of \$19,040 to be deposited in Fund 510.

Resolution 14-0102 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

- - -

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Mill and overlay at Skyline Parkway, from 11th Avenue West to Mesaba Avenue; Contract 9902860; total assessable amount of \$86,341.18 to be deposited in Fund 440.

Resolution 14-0103 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

- - -

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

Street construction on Oxford Street/Livingston Avenue/Glenwood Street, from Jean Duluth Road to Woodland Avenue; Contract 9902730; total assessable amount of \$523,348.80 to be deposited in Fund 440.

Resolution 14-0104 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

- - -

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

Woodland Avenue and Clover Street signal and intersection improvements; Contract 2014003; total assessable amount of \$297,194.40 to be deposited in Fund 440.

Resolution 14-0127 was unanimously adopted.

Approved April 14, 2014

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 14-0148 was unanimously adopted.

Approved April 14, 2014

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 3, 2014, with Elizabeth Tessier, chief financial officer.

Resolution 14-0149 was unanimously adopted.

Approved April 14, 2014

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, 2014, subject to departmental approvals and the payment of sales and property taxes:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Park Point Marina Inn & Suites, LLC (Park Point Marina Inn), 1033 Minnesota Avenue, with Michelle Mehtala, manager. (ground floor)

Resolution 14-0151 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council issues the following on sale intoxicating liquor license, on sale Sunday liquor license and on sale dancing license for the period ending August 31, 2014, subject to departmental approvals and the payment of sales and property taxes:

Black at Blue, LLC (Tavern on the Hill), 1102 Woodland Avenue, with Julie Thoreson, manager.

Resolution 14-0152 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council issues the following on sale intoxicating liquor license and on sale dancing license for the period ending August 31, 2014, subject to departmental approvals and the payment of sales and property taxes:

Red Herring, LLC (The Red Herring Lounge), 208 East First Street, Robert Giuliant, manager.

Resolution 14-0160 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council issues the following on sale intoxicating liquor license and on sale Sunday liquor license for the period ending August 31, 2014, subject to departmental approvals and the payment of sales and property taxes:

Cool Asian Bistro, Inc. (Cloud 9 Asian Bistro), 308 Lake Avenue South, Zhong Wei Lin, manager.

Resolution 14-0161 was unanimously adopted.

Approved April 14, 2014

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 intoxicating liquor license, subject to departmental approvals and the payment of sales and property taxes:

Grandma's, Inc. (Grandma's Saloon & Grill), 522 Lake Avenue South, for June 21, 2014.

Resolution 14-0162 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

BE IT RESOLVED, that the Duluth City Council approves the following temporary expansion of the designated serving area of the on sale 3.2 percent malt liquor license, subject to departmental approvals and the payment of sales and property taxes:

Bent Paddle Brewing Company, 1912 West Michigan Street, for May 17, 2014.

Resolution 14-0163 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council approves the transfer of the following off sale 3.2 percent malt liquor license for the period ending April 30, 2014, subject to departmental approvals and the payment of sales and property taxes:

D & C Letourneau (Lakeside Shortstop), 5402 East Superior Street, transferred to C & B Warehouse Distributing, Inc., with David R. Troutwine, 40 percent owner, Fred P. Troutwine, 30 percent owner and Mary K. Troutwine, 30 percent owner, same address.

Resolution 14-0164 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council hereby approves the transfer of stock of the following on sale intoxicating liquor license for the period ending August 31, 2014, subject to departmental approvals and the payment of sales and property taxes:

Azteca's Mexican Grill, Inc. (Azteca's Mexican Grill), 2224 Mountain Shadow Drive, Juan Banales, 100 percent owner, transferred to Edith Meza Macias, 100 percent owner.

Resolution 14-0165 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

- - -

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, 2014, and ending April 30, 2015, 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. 14-0414-13.

Resolution 14-0167 was unanimously adopted.

Approved April 14, 2014

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, 2014, and ending April 30, 2015, 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. 14-0414-14.

Resolution 14-0168 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following consumption and display licenses by the liquor control commissioner for the period beginning April 1, 2014, and ending March 31, 2015, subject to departmental approvals and the payment of sales and property taxes:

Order of the Owls, Nest #1200, 118 East Second Street;
Duluth Woman's Club, 2400 East Superior Street.

Resolution 14-0169 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

- - -

WHEREAS, the city council, on February 10, 2014, approved Resolution 14-0074, authorizing the purchase of two International cab and chassis units for maintenance operations.

RESOLVED, that the proper city officials are hereby authorized to contract with Crysteel Truck Equipment, Inc., for outfitting the two new cab and chassis units as plow/sander trucks in accordance with Minnesota State Contract 69462, Release No. T-765(5), and the vendor's quote of \$116,216.95, including a trade-in credit for the old cab and chassis units 1692 and 3354, terms net 30, payable from Capital Equipment Fund 250, Public Administration 015, Fiscal Year 2014, Capital Equipment 5580, Project No. CE250-V1404.

Resolution 14-0173 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of programmer analyst, which were approved by the civil service board on April 1, 2014, and which are filed with the city clerk as Public Document No. 14-0414-15, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at pay ranges 133-136, \$4,062 to \$5,425 per month.

Resolution 14-0180 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of senior programmer analyst, which were approved by the civil service board on April 1, 2014, and which are filed with the city clerk as Public Document No. 14-0414-16, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 137, \$4,787 to \$5,664 per month.

Resolution 14-0181 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

- - -

RESOLVED, Section 2-176 of the Duluth City Code, 1959, as amended requires that prior to any city-owned property being offered for sale or conveyance the city council shall, by resolution, state its intention to sell or convey such property.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

FURTHER RESOLVED, that the Duluth City Council hereby states its intention to offer for sale or conveyance property in the Lakeside neighborhood legally described as Lots 1 through 16, Block 104, London Addition to Duluth, and shown on Public Document No.14-0414-17.

Resolution 14-0166 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

- - -

RESOLVED, Section 2-176 of the Duluth City Code, 1959, as amended, requires that prior to any city-owned property being offered for sale or conveyance the city council shall, by resolution, state its intention to sell or convey such property.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby states its intention to offer for sale or conveyance of a portion of the property in the city of Duluth shown on Public Document No. 14-0414-18.

Resolution 14-0175 was unanimously adopted.

Approved April 14, 2014

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. 14-0414-19, with Barr Engineering Company for professional services related to the environmental site investigation of the former DWP railroad site redevelopment in an amount not to exceed \$61,000, payable from Fund 255-020-5319 (economic development, planning, other professional services).

Resolution 14-0186 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to professional services agreement with Bay West, Inc., substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0414-20, for professional consulting services to perform an inventory environmental assessment project in three discrete areas along the St. Louis River corridor increasing the amount by \$30,711 to \$109,711, payable from Fund 255 (economic development).

Resolution 14-0187 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into a grant from 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, payable into Fund No. 255-020-4209-02 (economic development fund, planning, direct federal grants, operating), and to execute Domestic Grant No. 14-DG-11420004-009 substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0414-21 in connection therewith.

Resolution 14-0188 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Approved April 14, 2014
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to pay Progressive Insurance Company (as subrogee: Parrish Silvernagel) the sum of \$12,832.76 in full and final settlement of the claim which arose out of a vehicle accident occurring near 27th Avenue West and Superior Street, September 17, 2013; payment to be made from Self Insurance Fund No. 610-036-1651-5842 (self-insurance - liability, insurance accounting, general city, damage/loss expense).

Resolution 14-0153 was unanimously adopted.
Approved April 14, 2014
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Hovland, Inc., for the 2012 flood repair project on west bridges in the amount of \$86,410, payable out of Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1244, S.A.P. 118-203-003 (Bridge No. L8477).

Resolution 14-0156 was unanimously adopted.
Approved April 14, 2014
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with MSA Professional Services, Inc., substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0414-22, for professional services in the Phase I mechanical systems evaluation of the HVAC (heating, ventilation, and air conditioning) system as the city's Lakewood water treatment facility, located at 8130 Congdon Boulevard, for an amount not to exceed \$49,900, payable from the Water Fund 510, Public Works and Utilities 500, Capital 1905, Capital Improvements-Revenue 5533, Project Util-1340.

Resolution 14-0159 was unanimously adopted.
Approved April 14, 2014
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Veit & Company, Inc., for Lift Station No. 23 reconstruction in the amount of \$239,995, payable from Sanitary Sewer Fund 530, Department 500 (public works and utilities), Division 1905 (capital), Object 5536 (utility infrastructure replacement), City Project No. 0084SN.

Resolution 14-0170 was unanimously adopted.
Approved April 14, 2014
DON NESS, Mayor

- - -

RESOLVED, that Contract 22051 with Limnotech for professional engineering design services be amended, based on additional flood recovery funding allowing the expansion of adjacent work already awarded to Limnotech on sections of Kingsbury and Keene creeks in the estimated amount of \$58,819, for a new total of \$265,819, payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1807 (parks, recreation and other), Object 5303 (engineering services), City Project No. 1186.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Resolution 14-0171 was unanimously adopted.
Approved April 14, 2014
DON NESS, Mayor

- - -

RESOLVED, that Contract 22061 with Barr Engineering for professional engineering design services be amended, based on additional flood recovery funding allowing the expansion of adjacent work already awarded to Barr Engineering on a section of Coffee Creek in the estimated amount of \$37,537, for a new total of \$236,037, payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1807 (parks, recreation and other), Object 5303 (engineering services), City Project No. 1186.

Resolution 14-0172 was unanimously adopted.
Approved April 14, 2014
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Watters & Sons Excavating, LLC, for 2012 flood repairs - construction of Bridge 69K19 on Toledo Street in the amount of \$251,117, payable from Disaster Recovery Fund 225, Department/Agency 125 (finance), Organization 1803 (roads and bridges), Object 5303 (engineering services), City Project No. 1233, S.A.P. 118-080-046.

Resolution 14-0177 was unanimously adopted.
Approved April 14, 2014
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 construction of Bridge No. 69K19 on Toledo Street, City Project No. 1233.

FURTHER RESOLVED, that the grant has been approved and that the amount of the grant is \$306,117.

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 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project 1233, S.A.P. 118-080-056, Flood Site No. 020.

Resolution 14-0189 was unanimously adopted.
Approved April 14, 2014
DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to accept a grant from the state of Minnesota, commissioner of public safety, bureau of criminal apprehension, in the amount of \$29,750 for the purposes of supporting the Duluth police department's participation in the Minnesota financial crimes task force and to execute the grant agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0414-23, grant

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

funds to be deposited in Fund No. 215-200-2259-4220-02 (Duluth police grant programs, police, Minnesota financial crimes task force).

Resolution 14-0145 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

- - -

BY COUNCILOR FOSLE:

WHEREAS, a resident permit parking zone in the vicinity of Denfeld High School was established by Resolution 01-0704 and further amended by Resolutions 06-0706 and 10-0248; and

WHEREAS, due to the recent reconstruction of the high school there should be ample parking for students which would no longer necessitate a resident permit parking zone surrounding the school; and

WHEREAS, the council feels that the zone should be rescinded but desires a review and recommendation to be made by the Duluth parking commission.

THEREFORE, BE IT RESOLVED, that the city council hereby requests that the Duluth parking commission review rescinding the following residential permit parking zone and make a recommendation to the council regarding such:

Those areas depicted on Public Document No. 06-1023-16, including the parking areas on both sides of 46th Avenue West south of Fourth Street and north of the alley between Grand Avenue and Fourth Street to the end of the public right-of-way for the residential permit parking zone.

Resolution 14-0155 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Dodge of Burnsville for the tax-exempt purchase and delivery of six 2014 Dodge Charger police AWD (all wheel drive) vehicles, for use as marked and unmarked patrol units by the Duluth police department, in accordance with Minnesota State Contract 72046, Release A-175(5), and the vendor's quote and specifications for \$160,896, terms net 30, FOB destination, and payable from Capital Equipment Fund 250, Public Administration 015, Fiscal Year 2014, Capital Equipment 5580, Project CE250-V1402.

RESOLVED FURTHER, that this purchase is exempt from vehicle sales tax of 6.5 percent.

Resolution 14-0158 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

- - -

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 London Road from 12th Avenue East to 21st Avenue East, two thru driving lanes with a center left turn lane; also, two designated bike lanes, one in each direction, and parallel parking on both sides of London Road.

Resolution 14-0178 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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RESOLVED, that the proper city officials are authorized to accept \$42,002 from the Arrowhead Library System for use in 2014 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 14-0182 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

- - -

The following resolutions were also considered:

RESOLVED, that the proper city officials are hereby authorized to contract with Boyer Trucks for the purchase and delivery of one 2015 Freightliner Model 114SD tandem axle cab/chassis unit for public works and utilities, in accordance with Minnesota State Contract 61001, Release T-647(5), specifications and pricing, and the vendor's quote for a total of \$109,635, plus \$7,191 vehicle sales tax (6-1/2 percent) and license fees, for a combined total amount of \$116,826, terms net 30, FOB destination, and payable from Stormwater Fund 535, Public Works and Utilities 500, Capital 1905, Capital Equipment 5580.

Resolution 14-0157 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved April 14, 2014

DON NESS, Mayor

- - -

WHEREAS, the city council, on August 26, 2013, approved Resolution 13-0447, authorizing a 2014 contract with North American Salt Company for the purchase of 8,900 tons of road salt for \$526,524; and

WHEREAS, the city needs additional salt due to harsh winter conditions from January through April 2014.

RESOLVED, that Resolution 13-0447 is hereby amended and the proper city officials are authorized to increase the 2014 purchase order to North American Salt Company by 500 tons of salt for a total of \$29,580, and a new annual contract total of \$556,104, payable from General Fund 110, Public Administration 121, Maintenance Operations 1217, Street Maintenance 2140, and Salt and Sand/Sand 5223-01.

Resolution 14-0174 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

- - -

Resolution 14-0147, by Councilor Russ, of support for a sister cities relationship with Rania, Iraq, was introduced for discussion.

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

Koresh Lakhan, Michele Naar-Obed and Ben Helgeson expressed support for the resolution for reasons of: the history and growth of sister cities; the mission and principles of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

sister cities; visitors from this city have been truly welcomed by Duluthians and the people of Rania have been isolated for years and are hungry to be part of the world community.

Resolution 14-0147 was adopted as follows:

BY COUNCILOR RUSS:

WHEREAS, the Duluth City Council supports efforts to encourage peace and understanding between the United States and other nations through direct personal contact; and

WHEREAS, Duluth has developed and participated in a sister cities program now administered by Duluth Sister Cities International, Inc. and has established sister cities relationships with Petrozavodsk, Russia; Thunder Bay, Canada; Oharo-Isumi City, Japan; and Vaxjo, Sweden; and

WHEREAS, to further the goals of global friendship and understanding, the city council would like to express its support for a sister cities relationship with Rania, Iraq.

THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby expresses its support for the development of a sister cities relationship with Rania, Iraq, and authorizes the proper city officials to execute a Sister City Agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 14-0414-24.

FURTHER RESOLVED, that the city council hereby directs and authorizes Duluth Sister Cities International, Inc. to continue to facilitate, organize and maintain said sister cities relationship, in accordance with the terms of its services agreement (City Contract No. 22124).

FURTHER RESOLVED, that the city council, on behalf of the citizens of Duluth, hereby extends an invitation of welcome to the citizens and city officials of Rania, Iraq, in the development of a vital sister city relationship.

Resolution 14-0147 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

- - -

Resolution 14-0176, authorizing the execution of a real estate purchase and sale agreement providing for the acquisition of certain property from the BNSF Railway Company for the amount of \$109,800, was introduced by Councilor Russ for discussion.

Councilors raised concerns about: how this will work; spending this much for such a small area and that there is a better way to accomplish the goal.

Councilor Fosle moved to table the resolution for clarification on issues that have been raised, which motion was seconded and carried upon the following vote:

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

Nays: President Krug – 1

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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. The HRA has established the Lincoln Park Tax Increment Financing District (the "district") within Project Area No. 1 and adopted a tax increment financing plan (the "TIF plan") therefor; all pursuant to and in conformity with applicable law, including Minnesota Statutes, Sections 469.001 to 469.047 and Sections 469.174 to 469.1794,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

all inclusive, as amended (the "act"), all as reflected in the TIF Plan prepared by the HRA in accordance with the act and presented for the council's consideration.

1.02. 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 to St. Louis County and Independent School District No. 709 having taxing jurisdiction over the property to be included in the district, notification to each county commissioner who represents part of the area proposed 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 on February 25, 2014.

1.03. Pursuant to Section 469.175, Subdivision 3 of the TIF act, the HRA has requested the city to hold a public hearing on the TIF plan and approve the TIF plan, which hearing was held this day, at which the views of all interested parties were heard.

1.04. Certain written reports (the "reports") relating to the TIF 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 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 Lincoln Park Tax Increment Financing District.

2.01. The council hereby finds, based on information contained in the TIF plan, that the Lincoln Park Tax Increment Financing District is a "housing district" under Minnesota Statutes, Section 469.174, Subd. 11 of the act.

2.02. The council further finds, based on discussions with representatives of the HRA and on the information contained in the TIF plan, that the proposed development or redevelopment 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 reasons and supporting facts for the above findings have been set forth in writing in Appendix F of the TIF plan.

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 Appendix F of the TIF plan, 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 and adoption of the TIF plan; designation of the district.

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 geographic boundaries of the district are as described in the TIF plan, which is incorporated herein by reference.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

4.03. The district is designated a housing district as defined in Section 469.174, Subdivision 11, of the act.

Resolution 14-0190 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a grant from the state of Minnesota, commissioner of agriculture in the amount of \$150,000 and to execute a grant agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 14-0414-25, on behalf of Duluth Steam, for the purpose of supporting the operations of the biomass cofiring project, for the period beginning on the date of execution of the grant agreement and ending June 30, 2017, funds to be deposited in Fund 540-920-1496-4220 (steam fund, steam department, utility revenues, state of Minnesota grants) and authorizing said officials to execute all documents necessary thereto.

Resolution 14-0154 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

- - -

Resolution 14-0179, accepting a grant from the Minnesota department of natural resources for the construction of the Cross City Trail Phase II in the amount of \$288,000, was introduced by Councilor Filipovich for discussion.

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

Richard Haney expressed support for the resolution.

Councilor Fosle expressed concerns of: why this portion is needed; this will require the school district to move their fence and reduce the bus movement/parking area; the route should be close to Grand Avenue and felt that there has been no citizen input on the bike route.

Councilors discussed the merits of the resolution and what has gone into developing the project so far.

Resolution 14-0179 was adopted as follows:

THE CITY COUNCIL FINDS:

(a) That Resolution 11-0054 authorized the city of Duluth to apply to the department of natural resources for a grant from the parks and legacy grant program for the Cross City Trail Phase II; and

(b) The grant has been approved and the amount of the grant has been determined to be \$288,000, available on a 75 percent/25 percent local matching basis; and

The matching funds will be paid from Capital Improvement Fund 450 for the Munger (cross city) trail project, City Project No. 0595TR.

RESOLVED, that the city of Duluth has 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 does hereby accept said grant and authorizes the proper city officials to enter into a grant 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 14-0179 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved April 14, 2014

DON NESS, Mayor

- - -

Resolution 14-0184, amending Resolution 09-0502 authorizing a contract with SEH, Inc. to provide professional engineering services for the Munger Trail extension, to increase the amount by \$213,000 for a new total of \$706,000, was introduced by Councilor Filipovich.

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

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THE CITY COUNCIL FINDS:

(a) That MNDOT has a contract with the city identified as MNDOT Contract No. 94505 for MNDOT to act as the city's agent in accepting federal aid funds for this project; and

(b) That the agreement is being amended to extend the amount of time needed to complete the work. Heavy rains and subsequent flooding which occurred in 2012 delayed completion of this project. In addition, funding is being added to the contract for final design of phases 2 and 4; and

(c) MNDOT and the city are willing to amend the contract as stated below.

RESOLVED, that the contract be amended to show Cindy Voigt as the city authorized representative.

FURTHER RESOLVED, that the original contract amount is changed from \$500,000 to \$706,000. Of this total, \$564,800 (80 percent) is to be paid from federal funds and \$141,200 (20 percent) will be paid from capital funds.

FURTHER RESOLVED, that the term of the agreement be changed from five to seven years from the effective date.

Resolution 14-0185 was unanimously adopted.

Approved April 14, 2014

DON NESS, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

INTRODUCED BY COUNCILOR JULSRUD

14-019 - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR YEAR 2014 BY INCREASING THE BUDGET AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

The following entitled ordinances were read for the second time:

BY COUNCILOR JULSRUD

14-017 (10289) - AN ORDINANCE AUTHORIZING BEST VALUE PURCHASING IN CERTAIN CASES AND ESTABLISHING PROCEDURES THEREFORE, AMENDING CHAPTER 41 OF THE DULUTH CITY CODE, 1959, AS AMENDED BY ADDING A NEW SECTION 41-23.1 THERETO.

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

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INTRODUCED BY COUNCILOR FILIPOVICH

14-016 (10290) - AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY ON RICES POINT TO THE DULUTH SEAWAY PORT AUTHORITY FOR \$102,747.75.

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

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The meeting was adjourned at 9:05 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10289

BY COUNCILOR JULSRUD:

AN ORDINANCE AUTHORIZING BEST VALUE PURCHASING IN CERTAIN CASES AND ESTABLISHING PROCEDURES THEREFORE, AMENDING CHAPTER 41 OF THE DULUTH CITY CODE, 1959, AS AMENDED, BY ADDING A NEW SECTION 41-23.1 THERETO.

The city of Duluth does ordain:

Section 1. That Chapter 41 of the Duluth City Code, 1959, as amended, is hereby amended by adding a new Section 41-23.1 thereto which reads as follows:

Sec. 41-23.1. Best value procurement over \$100,000.

(a) Pursuant to the authority contained in Minnesota Statutes Section 471.345 subd. 3(a) and Section 16C.28 subd 1(a)(2) and statutes cited therein, notwithstanding the provisions of Section 41-23 above, the city shall have the option of awarding contracts for construction, alteration, repair or maintenance work by means of best value contracting as described in this section where amount of the contract for the subject work is estimated to exceed \$100,000;

(b) The use of best value contracting procedures shall be available for the award of contracts:

(1) From and after the effective date of this ordinance and through the end of the year ending three years after that date, best value contracting shall be used for no more than 20 percent of the city's contracts for construction, alteration, repair or maintenance work having an estimated cost in excess of \$100,000 in any one such year;

(2) Any city official wishing to use best value contracting to contract for such construction, alteration, repair or maintenance shall obtain

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

written approval therefore from the head of the department for which such work is to be performed and from the chief administrative officer;

(3) Upon approval of proceeding with best value contracting for subject work, the above city official shall cause to be prepared a request for proposals for the provision of the subject work. Such request for proposals shall contain a listing of criteria that will be considered in determining which proposer offers, in aggregate, the best value to the city for the performance of the work, including minimum specifications for the work to be performed and a requirement that the proposer state the maximum price which the proposer will charge to perform the specified work. Said criteria shall take into account any special issues related to the work and may include, but shall not be limited to:

(A) The quality of the contractor's performance on previous projects;

(B) The timeliness of the contractor's performance on previous projects;

(C) The level of customer satisfaction with the contractor's performance on previous projects;

(D) The contractor's record of performing previous projects on budget and ability to minimize cost overruns;

(E) The contractor's ability to minimize change orders;

(F) The vendor's or contractor's ability to prepare appropriate project plans;

(G) The contractor's technical capacities;

(H) The individual qualifications of the contractor's key personnel; or

(I) The contractor's ability to assess and minimize risks;

(4) The relative weight to be given to each of the criteria shall be set forth in the request for proposals, including the criteria of price, in determining which proposal offers the best value to the city;

(5) The request for proposals shall include the right of the city to reject all proposals;

(c) Upon opening of the proposals, the above department head shall select a proposal evaluation committee who shall review the proposals and shall assign a weighted value to each of the criteria for each of the proposals in accordance with the weights as set forth in the request for proposals. In evaluating the performance of any proposer on previous projects, the exercise or assertion of said proposer's legal rights with regard to such previous project shall not be considered as a factor in evaluating such proposer's previous performance. The proposal having the highest aggregate criteria score shall be deemed to offer the best value to the city for the work and shall be recommended to the city council for award;

(d) The city council shall either vote to award the contract to the recommended proposer, shall vote to not so award the contract to the recommended proposer or shall vote to reject all proposals.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: May 17, 2014)

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 14, 2014
Approved April 14, 2014
DON NESS, Mayor

- - -

ORDINANCE NO. 10290

AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY ON RICES POINT TO THE DULUTH SEAWAY PORT AUTHORITY FOR \$102,747.75.

The city of Duluth does ordain:

Section 1. That pursuant to Section 2-176 of the Duluth City Code, 1959, as amended (the "Code"), the city council finds that:

(a) The manager of the city's physical planning division has reviewed the proposed conveyance of the property herein described (the "property") to the Duluth Seaway Port Authority (the "authority") and found conveyance thereof to be in conformity with the city's comprehensive land use plan;

(b) The St. Louis County assessor, acting as city assessor, has provided an estimate of the market value of the property in an amount of \$102,747.75; and

(c) The property described in Section 3 below is hereby determined to be surplus to the city's future needs and is therefore appropriate for sale;

Section 2. That as provided for in Section 2-177.3 of the Code, the council finds that the needs of the authority 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.

Section 3. That the proper city officials are hereby authorized to sell and convey the property in St. Louis County, Minnesota, legally described in Public Document No. 14-0414-26, on file in the office of the city clerk, by quit claim deed, to the Duluth Seaway Port Authority, a port authority under Minnesota Statutes Chapter 469, for the amount of \$102,747.75 to be deposited into Fund 450 capital improvements; Revenue Source 4640 sale of land, and further to execute all documents necessary with regard to said conveyance.

Section 4. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: May 17, 2014)

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

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

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 14, 2014
Approved April 14, 2014
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 28, 2014, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Filipovich, Fosle, Hanson, Julsrud, Larson, Russ, Sipress and President Krug -- 8

Absent: Councilor Gardner -- 1

- - -

The minutes of the council meeting held on November 25, 2013, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

14-0428-08 Alison Clarke communication regarding the Munger Trail extension (14-0203R). -- Received

14-0428-01 Minnesota state auditor audit report for Spirit Mountain recreation area authority for the years ended April 30, 2013, and 2012. -- Received

- - -

REPORTS FROM OTHER OFFICERS

14-0428-02 Clerk applications for exempt permits (raffles) to the Minnesota gambling control board from: (a) Lake Superior Marine Museum Association on November 8, 2014; (b) St. Luke's Foundation on July 21, 2014. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

14-0428-03 Duluth public utilities commission: (a) Minutes of March 18, 2014, meeting; (b) Resolution requesting that city council amend Section 43-09 of the City Code to reduce the sprinkling credit by one unit per month (14PUC-002). -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Gerald Schlafer felt that increasing the minimum wage results in fewer employees with the prices of goods or services increasing and that pothole repairs should come from cuts elsewhere and not by adding a new fee.

- - -

Ashley Wallace expressed concern on the high volume of human trafficking in Duluth and that this needs to be acknowledged and addressed.

- - -

Jim Booth felt that those who live on as little of \$1,200 month cannot afford the high range of taxes and many fees, like the street improvement fee.

- - -

Loren Martell felt that: if you get rid of all the school board naysayers, all you will hear is a false narrative; that tearing down the secondary tech center which is a beautiful building not even two decades old, is a waste of resources and if you build something you cannot afford, you need to learn a lesson from it.

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Rebecca Domagala, representing the Duluth human rights commission, spoke in support of having more appointments to the commission as they are working on details of the homeless bill of rights legislation.

- - -

Joel Kilgore commented on the need for emergency housing needs and submitted a petition (Public Document No. 14-0428-09) supporting implementation details of the homeless bill of rights.

- - -

Alison Clarke felt that the city is backing away from the commitment to extend the cross city trail between 19th and 26th avenues East and that consideration needs to be given as to what is wanted and how to accomplish it.

- - -

John Rathe felt that the street assessment fee will put seniors out of their homes and drive young couples elsewhere to live.

- - -

RESOLUTION TABLED

Councilor Russ moved to remove Resolution 14-0176, authorizing the execution of a real estate purchase and sale agreement providing for the acquisition of certain property from the BNSF Railway Company for the amount of \$109,800, from the table, which motion was seconded and unanimously carried.

Councilor Russ moved to return the resolution to the administration, as per their request, which motion was seconded and unanimously carried.

- - -

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

RESOLVED, that the city council hereby changes the total expenditure of the 2014 CDBG Program by an amount of \$38,372 due to a decrease in the allocation to the city by HUD and authorizes changes to contracts as set forth below:

2014 CDBG PROGRAM – FUND 262, AGENCY 020, OBJECT 5434, PROJECT CD14CD

<u>SUBPROJECT</u>	<u>ACTIVITY</u>	<u>PROJECT</u>	<u>AMOUNT</u>	<u>NEW GRANT</u>	<u>DIFFERENCE</u>
HOUS	1734	Homeowner rehab.- housing resource connection	\$885,800	\$860,077	(\$25,723)
PSVC		Housing and stabilization services fund	\$ 54,000	\$ 49,025	(\$ 4,975)
ADMC	AD-01	Program admin.	\$432,621	\$424,947	<u>(\$ 7,674)</u> (\$38,372)

Resolution 14-0191 was unanimously adopted.
Approved April 28, 2014
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

RESOLVED, that the city council hereby changes the total expenditure of the 2014 HOME program by an amount of \$38,656 due to an increase in the allocation to the city by HUD and authorizes changes to contracts as set forth below:

2014 HOME PROGRAM – FUND 260, AGENCY 020, OBJECT 5434, PROJECT CD14HM

<u>SUB-PROJECT</u>	<u>ACTIVITY</u>	<u>PROJECT</u>	<u>AMOUNT</u>	<u>NEW GRANT</u>	<u>DIFFERENCE</u>
GN14	1738	Homeowner rehab.- housing resource connection	\$222,243	\$107,034	(\$115,209)
CH14	6906	Rehab.-resale One Roof	\$ 90,000	\$240,000	\$150,000
GN14	AD-03	Program administration	\$ 50,583	\$ 54,448	<u>\$ 3,865</u>
					\$ 38,656

Resolution 14-0192 was unanimously adopted.
 Approved April 28, 2014
 DON NESS, Mayor

- - -

RESOLVED, that the city council hereby changes the total expenditure of the 2014 ESGP program by an amount of \$27,866 due to an increase in the allocation to the city by HUD and authorizes changes to contracts as set forth below:

2014 ESGP PROGRAM – FUND 262, AGENCY 020, OBJECT 5434, PROJECT CD14ES

<u>SUB-PROJECT</u>	<u>PROJECT</u>	<u>AMOUNT</u>	<u>NEW GRANT</u>	<u>DIFFERENCE</u>
AD-04	Program administration	\$11,699	\$13,789	\$ 2,090
AD-05	Prevention and rapid rehousing assistance	\$35,737	\$61,513	<u>\$25,776</u>
				\$27,866

Resolution 14-0193 was unanimously adopted.
 Approved April 28, 2014
 DON NESS, Mayor

- - -

RESOLVED, that by Resolution of Intent 14-0128 the council did request the administration to prepare plans and specifications for the construction of approximately 280 feet of sanitary sewer in 43rd Avenue West beginning at Seventh Street and extending northerly.

FURTHER RESOLVED, that said work be done by contract and that the estimated total cost of said improvement as estimated by the city engineer is \$76,650, payable from Sanitary Sewer Fund 530, Department 500 (public works and utilities), Division 1905 (capital), Object 5535 (non-capital improvements), and of these costs \$76,650 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 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 14-0197 was unanimously adopted.
 Approved April 28, 2014
 DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with A-1 Excavating, Inc., for the Hidden Valley water main replacement Phase I in the amount of \$1,178,511.10 payable from Water Fund 510, Department 500 (public works and utilities), Division 1905 (capital), Object 5536 (utility infrastructure replacement), City Project No. 1089.

Resolution 14-0199 was unanimously adopted.

Approved April 28, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept the conveyance of certain property from the Duluth economic development authority (DEDA), generally described in DEDA Resolution No. 14D-06, a copy of which is on file in the office of the city clerk as Public Document No. 14-0428-04(a) and which is more particularly described in Public Document No. 14-0428-04(b), for recreation-related uses.

Resolution 14-0200 was unanimously adopted.

Approved April 28, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Veit & Co., Inc., for the Seven Bridges Road realignment and slope repairs in the amount of \$372,999, payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1113, flood sites 24 and 378.

Resolution 14-0201 was unanimously adopted.

Approved April 28, 2014

DON NESS, Mayor

- - -

RESOLVED, that Contract 21000 with SEH, Inc., for professional engineering services for the Munger Trail extension from Lake Avenue to Pulaski Street be amended to increase the amount by \$116,000 for a new total of \$609,000, 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 14-0203 was unanimously adopted.

Approved April 28, 2014

DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth ("city") act as the legal sponsor of a grant in the amount of \$225,000 to fund the cleanup of contamination associated with the former city utilities facility on the currently vacant land located at 40th Avenue East and Jay Street, payable into Fund 255-020-4220-02 (economic development, planning, state of Minnesota operating grants,) to be submitted to the Minnesota department of employment and economic development (DEED) on May 1, 2014, and that the mayor and clerk are hereby authorized to apply for said grant.

FURTHER RESOLVED, that the sources and amounts of the local match identified in the application in the amount of \$75,000 are committed to the project identified, payable from Fund 520-500-1900-5700-20 (gas fund, public works and utilities, public works director's office, transfer to special revenue funds).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

FURTHER RESOLVED, that upon approval of the city's application by DEED, the mayor and clerk may enter into an agreement with the state of Minnesota for the above-referenced project.

Resolution 14-0206 was unanimously adopted.

Approved April 28, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a license agreement, a copy of which is on file in the office of the city clerk as Public Document No. 14-0428-05, with St. Louis County to allow St. Louis County and its contractor for the Highland Street construction project to dispose of "clean" excess demolition materials from the project on city-owned property at no cost to St. Louis County.

Resolution 14-0207 was unanimously adopted.

Approved April 28, 2014

DON NESS, Mayor

- - -

RESOLVED, that in accordance with the provisions of Section 33-17 of the Duluth City Code, 1959, as amended, the segments of Second Avenue West from Michigan Street to Superior Street and Third Avenue West from Michigan Street to Superior Street are no longer one way streets. This resolution will become effective after said street segments have been posted with proper signage, striping and traffic signal modifications indicating the change in designation.

Resolution 14-0194 was unanimously adopted.

Approved April 28, 2014

DON NESS, Mayor

- - -

RESOLVED, that in accordance with the provisions of Section 33-97 of the Duluth City Code, 1959, as amended, the following no parking zones are hereby established, effective only after said street segments have been posted with proper signage, striping and traffic signals:

Both sides of Second Avenue West from Michigan Street to Superior Street;
Both sides of Third Avenue West from I-35 Frontage Road to Superior Street;
Lower Side of Michigan Street from Second Avenue West to Third Avenue West.

Resolution 14-0195 was unanimously adopted.

Approved April 28, 2014

DON NESS, Mayor

- - -

RESOLVED, that in accordance with Section 33-88 of the Duluth City Code, 1959, as amended, parking shall be limited to bus parking on the lower side of Michigan Street from Second Avenue West to Third Avenue West, effective only after the DTA Multi-Modal Transit Center is complete, including installation of proper signs and striping modifications.

Resolution 14-0196 was unanimously adopted.

Approved April 28, 2014

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

RESOLVED, that the proper city officials are hereby authorized to enter into a 99 year lease agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0428-06, with Minnesota department of transportation for the lease of property on the 900 block of East Superior Street for the relocation of the historic Leif Erikson Viking Ship and pavilion with rent payments of \$100 per year payable from Fund 110-121-1222-5411 (general, public administration, facilities management, land rental/easements.)

Resolution 14-0198 was unanimously adopted.

Approved April 28, 2014

DON NESS, Mayor

- - -

The following resolutions were also considered:

RESOLVED, that the budget for the fiscal year May 1, 2014, to April 30, 2015, in the amount of \$6,063,076 as set out in the budget on file with the city clerk as Public Document No. 14-0428-07, for the Spirit Mountain recreation area authority is hereby approved.

Resolution 14-0202 was unanimously adopted.

Approved April 28, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to allocate \$80,000 from Fund 258, the tourism tax fund balance restricted for capital improvements, to the Spirit Mountain recreation area for trail construction.

Resolution 14-0205 was unanimously adopted.

Approved April 28, 2014

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR RUSS

14-020 - AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY IN THE LINCOLN PARK NEIGHBORHOOD TO GRAND AVENUE DEVELOPMENT LLC FOR \$43,400.

- - -

INTRODUCED BY COUNCILOR RUSS

14-022 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF CERTAIN PROPERTY WITHIN THE CITY OF DULUTH TO WISCONSIN CENTRAL LTD. ("CANADIAN NATIONAL") FOR \$10,500.

- - -

INTRODUCED BY COUNCILOR FILIPOVICH

14-021 - AN ORDINANCE MODIFYING THE SPRINKLING CREDIT, AMENDING SECTION 43-9 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR JULSRUD

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

14-019 (10291) - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR YEAR 2014 BY INCREASING THE BUDGET AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

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

- - -

The meeting was adjourned at 7:50 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10291

AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR YEAR 2014 BY INCREASING THE BUDGET AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

The city of Duluth does ordain:

Section 1. That Ordinance 10268 passed and approved December 16, 2013, is hereby amended by appropriating an additional \$400,000 from the general fund's fund balance as follows:

Department 121 - Public administration \$400,000

Section 2. That this ordinance shall take effect immediately upon its passage.

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

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

Nays: None -- 0

Absent: Councilor Gardner -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 28, 2014
Approved April 28, 2014
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, May 12, 2014, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

14-0512-01 David Ogren, et al. (16 signatures) petition for watermain extension in North 85th Avenue West. -- Assessor

14-0512-22 The following communications regarding the proposed Park Point small area plan (14-0217R): (a) Lisa Berthel; (b) Dawn Buck; (c) Connie Dinan (d) Burke Edgerton; (e) Mary Evans; (f) Dennis Hoelscher; (g) Pat Johnson; (h) Steve Johnson and Carol Kondrath; (i) Sandra Keyser; (j) Brian Nelson; (k) Susan Nelson; (l) Valerie Ouellette; (m) John F. Schmidt and Chelly Townsend; (n) Shannon Stevens (Schwartz); (o) Michele Walsh. -- Received

14-0512-23 Glen Filipovich communication regarding the proposed Pastoret Terrace housing project (14-0226R). -- Received

14-0512-24 The following communications regarding the proposed construction of a nuclear waste repository in the Great Lakes Basin (14-0238R): (a) Jan Karon; (b) Doretta (Dorie) Reisenweber; (c) Beth Tamminen. -- Received

- - -

REPORTS FROM OTHER OFFICERS

14-0512-25 Acting assessor letter of sufficiency regarding petition for watermain extension in North 85th Avenue West. -- Received

14-0512-02 Clerk application for exempt permit to the Minnesota gambling control board from Churches United in Ministry on June 28, 2014 (raffle). -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

14-0512-03 Duluth transit authority: (a) Minutes of February 26, 2014, meeting; (b) February 2014 financial statement. -- Received

14-0512-04 Library board minutes of March 25, 2014, meeting. -- Received

- - -

MOTIONS AND RESOLUTIONS

Councilor Fosle moved to suspend the rules to consider Resolution 14-0217 at this time, which motion was seconded and unanimously carried.

Resolution 14-0217, adopting the Park Point small area plan recommendations and amending the comprehensive plan - future land use map in three locations, was introduced by Councilor Russ.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Josh Gorham, St. Louis County public health nurse, and Patrick Weber publicized an event called Meet on the Street, where public fun events will be held on East Third Street in the Lincoln Park neighborhood, to bring the community together.

- - -

Shawna MullenEardley promoted Bus Bike Walk Month in May.

- - -

Loren Martell commented on the red plan survey that was taken and what he claimed as misinformation in it.

- - -

John Rathe commented on the street utility fee and felt that: citizens need to know more about it; citizens will be put out of their homes and street improvements should already be paid for by property taxes.

- - -

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

RESOLVED, that city officials are hereby authorized to contract with Northland Constructors of Duluth, LLC, for the purchase of hot mix fines as needed during year 2014 for pothole filling and permanent patching in accordance with city-approved specifications and the vendor's bid of \$48.90 per ton for 8,000 tons, a total amount of \$391,200, terms net 30, payable from General Fund 110, Public Administration 121, Maintenance Operations 1217, Street Maintenance 2140, Blacktop 5222.

Resolution 14-0209 was unanimously adopted.

Approved May 12, 2014

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following 3.2 percent malt liquor license for the period ending April 30, 2015, and approves issuance of the following on sale wine license for the period ending August 31, 2014, subject to departmental approvals and further subject to approval of the liquor control commissioner:

T&J Enterprise, LLC (The Bank of Superior), 3 West Superior Street, with Joel Graff, 50 percent owner, and Tom Haller, 50 percent owner.

Resolution 14-0242 was unanimously adopted.

Approved May 12, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute a temporary construction easement, substantially in the form of that on file in the office of the city clerk as

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Public Document No. 14-0512-05, with Wisconsin Central Ltd. ("Canadian National"), related to its Steelton Hill project.

Resolution 14-0210 was unanimously adopted.

Approved May 12, 2014

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 public hearing and the city planning commission found that the unimproved right of way is useless for all purposes; and

(c) The city planning commission, at its Wednesday, April 30, 2014, special meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the following described platted road easement described below and as described and depicted on Public Document No. 14-0512-06:

VACATION LEGAL DESCRIPTION:

A portion of the 80 foot wide Palmetto Street easement shown in Book P, Miscellaneous Records, page 18-19, more particularly described as follows:

An 80 foot wide street easement crossing the W 1/2 of W 1/2 of SE 1/4 of NW 1/4 lying South of State Trunk Highway No. 94 Section 20 Township 50 North Range 14 West of the Fourth Principal Meridian', the centerline of said street described as: Commencing at the center of said Section 20, thence northerly on the north-south quarter line of said Section 20 for a distance of 54 feet, more or less, to the center of the street shown in said Book P, said point being the point of beginning of the centerline to be described; thence westerly for a distance of 25 feet, more or less, along the center of the street shown in said Book P, to a point of curvature; thence on a curve to the right, said curve having a radius of 546.43 feet and a delta angle of 47°55'30" for a distance of 457.06 feet, more or less, along the center of the street shown in said Book P, to a point of common curvature; thence on a curve to the left, said curve having a radius of 546.43 feet and a delta angle of 101°27'00" for a distance of 967.53 feet, more or less, along the center of the street shown in said Book P, to a point of common curvature; thence on a curve to the right, said curve having a radius of 475.72 feet and a delta angle of 53°15'20" for a distance of 442.17 feet, more or less, along the center of the street shown in said Book P, to a point on the east-west quarter line of said Section 20, said point being the point of ending.

Sidelines of said street easement aka public highway easement to terminate on the west line of the Southeast Quarter of the Northwest Quarter of said Section 20 and on the southerly right-of-way line of State Trunk Highway No. 94.

(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. 14-0512-06 showing the platted easement to be vacated.

Resolution 14-0219 was unanimously adopted.

Approved May 12, 2014

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- - -

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 unimproved right of way is useless for all purposes; and

(c) The city planning commission, at its Wednesday, April 30, 2014, special meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the following described platted road easement described below and as described and depicted on Public Document No. 14-0512-07:

VACATION LEGAL DESCRIPTION:

All that part of the platted 16 foot alley lying southerly and southeasterly of Block 8 of HAZLEWOOD ADDITION TO ONEOTA, according to the recorded plat thereof filed in the St. Louis County recorder's office in Duluth, Minnesota, bounded as follows:

On the Southwest: By the southeasterly extension of the southwesterly line of Lot 1 of said Block 8.

On the Southeast: By the northwesterly right of way line of the L.S and M. Railroad of said HAZLEWOOD ADDITION TO ONEOTA AND the southeasterly right-of-way line of the platted 16 foot alley of said HAZLEWOOD ADDITION TO ONEOTA.

On the Northeast: By a line drawn parallel with and distant 32.73 feet southwesterly of the southeasterly extension of the northeasterly line of Lot 3, said Block 8.

On the Northwest: By the southeasterly line of said Block 8.

Said parcel contains 2,032 square feet or .047 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. 14-0512-07 showing the platted easement to be vacated.

Resolution 14-0220 was unanimously adopted.

Approved May 12, 2014

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 public hearing and the city planning commission found that the unimproved right of way is useless for all purposes; and

(c) The city planning commission, at its Wednesday, April 30, 2014, special meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the following described platted road easement described below and as described and depicted on Public Document No. 14-0512-08:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

VACATION LEGAL DESCRIPTION:

A 20 feet strip of Second Street (Platted as Fifth Street) lying adjacent to and northwesterly of Block 8 of HAZLEWOOD ADDITION TO ONEOTA, according to the recorded plat thereof, filed in the St. Louis County Recorder's Office in Duluth, Minnesota.

Said vacated strip is to be retained for utility easement purposes.

Said parcel contains 6,463 square feet or 0.15 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. 14-0512-08 showing the platted easement to be vacated.

Resolution 14-0221 was unanimously adopted.

Approved May 12, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute an agreement for reconstruction of the Mission Creek Trail overpass, substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0512-09(a), with Wisconsin Central Ltd. ("Canadian National"), related to its Steelton Hill project.

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute a permanent air rights easement, substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0512-09(b), with Canadian National, granting the city an air rights easement for the mission creek trail overpass.

Resolution 14-0233 was unanimously adopted.

Approved May 12, 2014

DON NESS, Mayor

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WHEREAS, the Minnesota GreenStep Cities program is a program of the Minnesota pollution control agency and partner state agencies, and is a voluntary challenge, assistance and recognition program tailored to help Minnesota cities achieve their sustainability and quality of life goals, focusing on obtaining cost savings, energy use reduction, and encouraging civic innovation; and

WHEREAS, the GreenStep Cities program provides recognition for cities that demonstrate leadership and excellence in sustainability; and

WHEREAS, the Duluth City Council has adopted several resolutions over the past decade which tie to the goals of the GreenStep program, such as: Resolution 98-0480, *Principles to Consider Environment*; Resolution 01-0350, *Pledge to Reduce GHG Emissions*; Resolution 05-0730, *Governing Principles for Comprehensive Plan*; Resolution 06-0368, *Guidelines for Planning a Sustainable Community*; and, Resolution 13-0125, *LEED Design Principles*; and

WHEREAS, these previously implemented sustainability initiatives qualify the city to be recognized as a Step One Green Step City; and

WHEREAS, the Next Generation Act of 2007 adopted by the Minnesota state legislature set forth goals for reducing state greenhouse gas emissions, increasing energy conservation, increasing renewable energy resources, and reducing per capita use of fossil fuel; the legislature further directed the Minnesota pollution control agency and the office of energy security in collaboration with Clean Energy Resource Teams to recommend municipal actions and policies that work toward meeting the state's greenhouse gas emission reduction goals; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

WHEREAS, the Minnesota GreenStep Cities program assists in facilitating technical assistance the implementation of these sustainable development best practices.

THEREFORE, BE IT RESOLVED, that the Duluth city council hereby authorizes city participation in the Minnesota GreenStep Cities program and further authorizes the proper city officials to take the necessary actions for implementation of this program.

Resolution 14-0211 was unanimously adopted.

Approved May 12, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into Cooperative Construction Agreement No. 05553, a copy of which is on file in the office of the city clerk as Public Document No. 14-0512-10, with the Minnesota department of transportation. This agreement provides for payment by the city to the state for the city's share of the cost of water main relocation, design and construction performed on T.H. 61 (London Road) within the corporate city limits in the amount of \$25,763.40, payable out of Water Fund 510, Agency 35 (capital projects accounts), Object 5530 (improvements other than buildings), S.P. 6925-137, City Project No. 1361.

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute the agreement and any amendments to the agreement.

Resolution 14-0212 was unanimously adopted.

Approved May 12, 2014

DON NESS, Mayor

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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 the design phase and to increase the amount by an estimated amount of \$148,708 for a new total of \$161,068, payable from Permanent Improvement Fund 411, Department/Agency 035 (capital projects accounts), Object 5530 (improvements other than buildings), City Project No. 1251.

Resolution 14-0213 was unanimously adopted.

Approved May 12, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Hanco Utilities, Inc., for construction of an eight inch gas main in Third Street from First Avenue East to Mesaba Avenue in the amount of \$592,785.25, payable from Gas Fund 520, Department 500 (public works and utilities) Division 1905 (capital improvements) Object 5533 (revenue), City Project No. 0840GS.

Resolution 14-0227 was unanimously adopted.

Approved May 12, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept the dedication of a shared use path easement from Independent School District 709 in the form of Public Document No. 14-0512-11 on file in the office of the city clerk dedicating to the general public a 20 foot wide shared use path easement over the property described therein running from

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Duluth's Middle Water Reservoir to 13th Street providing public access to the existing shared use path.

Resolution 14-0223 was unanimously adopted.

Approved May 12, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to amend Agreement C21589 with SAS Associates, substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0512-12, for professional services in the development of master plans for city parks. The amended agreement will add additional duties for Chester Bowl Park and Lower Chester Recreation Area and increase the fee by \$9,740, and a total contract amount not to exceed \$55,240, payable from Parks Fund 205, Community Resources 130, Parks Capital 1220, Improvements Other than Buildings 5530, Project CM205-mstrpl.

Resolution 14-0208 was unanimously adopted.

Approved May 12, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Rock Solid Trail Contracting, LLC, for the Duluth Traverse Trail - Mission Creek Phase II project in the amount of \$221,142, payable from Parks Fund 205, Department/Agency 130 (community resources), Division 1220 (parks capital), Object 5530 (improvements other than buildings), Project No. cm205-travrs; and Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1807 (parks, recreation and other), Object 5310 (contract services), Flood Project 323B, Bid Number 14-03DS, Requisition Number 14-0217, City Project Number 1323.

Resolution 14-0230 was unanimously adopted.

Approved May 12, 2014

DON NESS, Mayor

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The following resolutions were also considered:

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 and Duluth Real Estate LLC, a Delaware limited liability company, entered into a Development Agreement, as hereinafter defined, pursuant to which the Developer, as hereinafter defined, agreed to develop a facility containing approximately 185,000 square feet of office space and approximately 15,000 square feet of retail space, and the City agreed to cause the development of a public parking facility and skywalks, all within or connected with the property located on West Superior Street between Fourth Avenue West and Fifth Avenue West with an extension to and across adjoining properties. The Developer will lease the Private Improvements, as hereinafter defined, to Maurices Incorporated, a Delaware corporation, and Maurices Incorporated, will guaranty the payment and performance of the Developer under the Development Agreement.

1.02 The City has established a Development Program and a Plan for Development District No. 17 pursuant to Minnesota Statutes, Sections 469.124 to 469.134, and has created Tax Increment Financing District No. 26 (a redevelopment district) located in Development District No. 17. Such Development Plan and Tax Increment Financing Plan for Tax Increment

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Financing District No. 26 provides for the use of tax increment from such tax increment financing district for certain project costs, as hereinafter described.

1.03 The City applied for and received from the State of Minnesota, through the Department of Employment and Economic Development, a grant of \$8,500,000 to assist in the payment of certain Qualified Grant Costs, as hereinafter defined, in connection with the development of such parking facility.

1.04 The City intends to operate such parking facility as a revenue producing convenience, from which revenue is or may be derived as described in Minnesota Statutes, Chapter 475.

1.05 Pursuant to Minnesota Statutes, Chapters 475 and 469 and Section 469.178, Laws of Minnesota 1977, Chapter 257 and the home rule charter of the City, the City is authorized to issue and sell its revenue obligations for the purpose of financing a portion of the public development costs associated with the Public Improvements, as hereinafter defined.

1.06 The City Council hereby determines that it is necessary, expedient and in the best interest of the City that the City issue, sell and deliver its \$11,500,000 Taxable Tax Increment and Parking Facility Revenue Bond, Series 2014A (the "Bond") to finance a portion of the Qualified City Costs, as hereinafter defined.

1.07 Maurices Incorporated, as the purchaser of the Bond, has proposed to purchase the Bond at a cash price of \$11,500,000, upon condition that the Bond matures and bear interest on the terms and annual rate set forth in Section 3. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted.

Section 2. Definitions.

"Affiliate" means, as to any entity, any other entity, that controls, is controlled by, or is under common control with, such entity.

"Alley Bridge" means the improvements to be constructed through and within the Alley Parcel, connecting the Parking Facility with the Parking Facility Extension.

"Alley Parcel" means an above grade portion of the public alley between and adjacent to the DNT Easement Parcel and the Parking Facility Parcel through and within which the Alley Bridge and a skywalk are to be constructed, as more specifically described in the Ground Lease.

"Available Tax Increment" means 90% of the Tax Increment received by the City from the County with respect to the Land and the DNT Parcel and improvements thereon from the TIF District during the six months preceding any Payment Date.

"Bond" means the City's Taxable Tax Increment and Parking Facility Revenue Bond, Series 2014A, in the original principal amount of \$11,500,000.

"Closing Date" means the date on which the City delivers the Bond to the Purchaser and receives the proceeds of the Bond from the Purchaser.

"Company" means Maurices Incorporated, and (a) any other entity that acquires all or substantially all of the assets of Maurices Incorporated, and (b) any successors by merger to Maurices Incorporated.

"Company Lender" means a financial institution that is a party to a loan agreement or other credit facility with the Company, or an Affiliate to the Company.

"County" means St. Louis County, Minnesota.

"Current Expenses" means the reasonable expenses, paid or accrued, of operation, maintenance and repair of the Parking Improvements, as determined in accordance with generally accepted accounting principles, including but not limited to management fees and expenses, insurance costs, including the allocation of the City's self-insurance costs, common area charges, expenses of the City under the Ground Lease, the DNT Easement and the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Operation and Easement Agreement (except for such expenses which are extraordinary expenses which are to be paid out of the Capital Account for Funded Depreciation), all materials, supplies and labor needed for current operations, maintenance and repairs, and charges for the accumulation of appropriate reserves for Current Expenses which do not recur monthly but may reasonably be expected to be incurred; but shall exclude depreciation and interest expense.

“DEED” means the State of Minnesota, through the Department of Employment and Economic Development.

“Developer” means Duluth Real Estate LLC, a Delaware limited liability company.

“Development” means the Private Improvements and the Public Improvements.

“Development Agreement” means the Development Agreement by and between the Developer and the City, pursuant to which the Private Improvements and the Public Improvements are to be developed, as the same may be amended from time to time.

“Disbursing Agreement” means the Disbursing Agreement among the City, the Developer, Title and DEED, pursuant to which the Revenue Bond Funds are disbursed for Qualified City Costs and the Grant is disbursed for Qualified Grant Costs, as the same may be amended from time to time.

“DNT Easement Agreement” means the Easement Agreement by and between the Developer and Forum Communication Company, pursuant to which the Developer has been granted the DNT Easement Rights, as the same may be amended from time to time.

“DNT Easement Parcel” means the portion of the DNT Parcel on and within which the Parking Facility Extension is to be constructed pursuant to the DNT Easement Agreement.

“DNT Easement Rights” mean all of the rights and obligations of the “Parking Facility Owner” (as that term is defined in the DNT Easement Agreement), under and pursuant to the DNT Easement Agreement.

“DNT Parcel” means the parcel located in the City of Duluth, St. Louis County, Minnesota, legally described as the West Half of Lot 68 and all of Lot 70, Duluth Proper, First Division, West First Street, St. Louis County, Minnesota.

“Existing Skywalk Improvements” means modifications and improvements to the existing skywalks located on, within or adjacent to the DNT Parcel and the Alley Parcel to be constructed by the Developer pursuant to the Development Agreement.

“Fiscal Year” means a calendar year.

“Funded Depreciation” means the amount approved by the City Council (as part of its approval of the annual budget for the Parking Improvements) for major repairs and replacements to the Parking Improvements, including capital costs and extraordinary expenses of the City under the Ground Lease, the DNT Easement and the Operating and Easement Agreement.

“Grant” means the \$8,500,000 grant to the City from DEED to assist in the development of the Parking Facility, as more fully described in the Grant Agreement.

“Grant Agreement” means the General Obligation Bond Proceeds Grant Agreement - Construction Grant for the 425 Public Parking Ramp Project between the City and DEED regarding the Grant, as the same may be amended from time to time.

“Ground Lease” means the Ground Lease between the Developer and the City pursuant to which the Developer will lease to the City the Ground Lease Premises, as the same may be amended from time to time.

“Ground Lease Premises” means the Parking Facility Parcel, the Alley Parcel and the DNT Easement Parcel, each as defined in the Ground Lease.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

“Land” means the real property located in the City of Duluth, St. Louis County, Minnesota, legally described as follows:

Parcel 1: Lot 65, West Superior Street, Duluth Proper, First Division, St. Louis County, Minnesota.

Parcel 2: Lots 67, 69, 71, 73, 75, 77 and 79, EXCEPT the E’y 5 feet of the W’y 34 feet thereof, West Superior Street, Duluth Proper, First Division, St. Louis County, Minnesota and all that part of Government Lot 5, Section 27, Township 50 North, Range 14 West of the Fourth Principal Meridian, which is necessary to make said Lot 79 on Superior Street, a full lot, with a frontage of 50 feet on said Street and a depth of 140 feet of Fifth Avenue West, Duluth, EXCEPT that portion of said lots and Government Lot 5 lying within 29 feet of the east line of Fifth Avenue West as originally platted.

“Operation and Easement Agreement” means the Operation and Easement Agreement between the Developer and the City.

“Parking Facility” means the multi-level parking structure with approximately 485 parking spaces to be constructed on the Parking Facility Parcel by or at the direction of the City in accordance with the provisions contained in the Ground Lease and the Development Agreement, along with any and all other structures, driveways, and other improvements that are constructed, placed or located on or within the Parking Facility Parcel during the term of the Ground Lease, as the same may from time to time exist, and the appurtenances to all of the foregoing. For the avoidance of doubt, the parties acknowledge and agree that the term “Parking Facility” as used herein: (a) has the same meaning as the term “Project” as defined in the Grant Agreement, and (b) does not include the Alley Bridge or the Parking Facility Extension.

“Parking Facility Extension” means the improvements to be constructed by (or at the direction of) the City on the DNT Easement Parcel in accordance with the provisions contained in the Ground Lease, the Development Agreement, and the DNT Easement Agreement, which improvements will provide ingress to and egress from the Alley Bridge and Parking Facility, along with any and all other structures, sidewalks, driveways, and other improvements that are constructed, placed or located on the DNT Easement Parcel during the term of the Ground Lease, as the same may from time to time exist, and the appurtenances to all of the foregoing.

“Parking Facility Fund” means the 425 West Superior Street Parking Facility Fund created by Section 4.01 of this Resolution to account for the Revenue Bond Funds, the Revenues, the Current Expenses, the Funded Depreciation of the Parking Improvements and debt service on the Bond.

“Parking Facility Parcel” means the portion of the Land on and within which the Parking Facility is to be constructed, as described and defined in the Ground Lease, as the same may be amended from time to time pursuant to the Ground Lease.

“Parking Improvements” means the Parking Facility, the Alley Bridge and the Parking Facility Extension.

“Payment Date” means April 1 and October 1 of each year, commencing on October 1, 2016.

“Private Improvements” means a facility containing approximately 185,000 square feet of office space, together with necessary vertical transportation and connection facilities, storage and building services facilities and approximately 15,000 square feet of retail space to be constructed on the Land and owned by the Developer and leased to the Company.

“Public Improvement Premises” means the Parking Facility Parcel, the Alley Parcel, the DNT Easement Parcel and the Skywalk Parcel.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

“Public Improvements” means the Parking Facility, the Alley Bridge, the Parking Facility Extension, the Skywalks and the Existing Skywalk Improvements.

“Purchaser” means Maurices Incorporated, a Delaware corporation, and its permitted successors or assigns.

“Qualified City Costs” means all capital costs properly chargeable to the construction, installation and equipping of the Public Improvements, which qualify as reimbursable or payable as TIF Eligible Costs, and which include: (a) all costs under the terms of any contract or contracts for the construction, installation or equipping of the Public Improvements, including reimbursement to the Developer and/or the City for all advances and payments made in connection with the Public Improvements; (b) obligations incurred for labor and materials in connection with the construction, installation or equipping of the Public Improvements; (c) the cost of payment and performance or other bonds and any and all types of insurance that may be necessary or appropriate to be in effect during the course of construction of the Public Improvements; (d) all costs of design, engineering and architectural services, including the costs for test borings, surveys, estimates and preliminary investigations therefor, and for supervising installation, as well as for the performance of all other duties required by or consequent to the proper installation of the Public Improvements; (e) the City’s share of acquisition and site preparation expenses for the land underlying the Public Improvement Premises, including remediation and demolition expenses, which share shall not exceed a fraction, the numerator of which shall be the gross floor area of the Public Improvements and the denominator of which shall be the gross floor area of all improvements constituting a part of the Development; and (f) all other costs and expenses incurred by the City, including reimbursement to the Developer, in connection with the financing, construction, consulting, project management, installation and equipping of the Public Improvements.

“Qualified Grant Costs” means all capital costs properly chargeable to the construction, installation and equipping of the Parking Facility, and which are qualifying as costs reimbursable or payable by the Grant, including (a) all costs under the terms of any contract or contracts for the construction, installation or equipping of the Parking Facility, including reimbursements to the City and/or the Developer for all advances and payments made in connection with the Parking Facility; (b) obligations incurred for labor and materials in connection with the construction, installation or equipping the Parking Facility; (c) the cost of payment and performance or other bonds and any and all types of insurance that may be necessary or appropriate to be in effect during the course of construction of the Parking Facility; (d) all costs of design, engineering and architectural services, including the costs for test borings, surveys, estimates and preliminary investigations therefor, and for supervising installation, as well as for the performance of all other duties required by or consequent to the proper installation of the Parking Facility; (e) the City’s share of acquisition and site preparation expenses for the land underlying the Parking Facility Parcel, including remediation and demolition expenses, which share shall not exceed a fraction, the numerator of which shall be gross floor area of the Parking Facility, and the denominator of which shall be the gross floor area of all improvements constituting a part of the Development; and (f) all other costs and expenses incurred by the City, including reimbursement to the Developer, in connection with the financing, construction, consulting, project management, installation and equipping of the Parking Facility.

“Revenue Bond Funds” means the proceeds of the Bond.

“Revenues” means the gross earnings and all income derived from the operation of the Parking Improvements from receipts, rates, fees and charges established by the City Council, including hourly, daily, monthly and event parking, and the net proceeds (i) of the sale of any

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

portion of the Parking Improvements and the City's rights under the Ground Lease, subject to the terms of the Grant Agreement, (ii) from insurance for damages to the Parking Improvements, to the extent not used to repair the damage to the Parking Improvements, all as provided for and subject to the Ground Lease and Grant Agreement; and (iii) from condemnation awards for taking of all or a part of the Parking Improvements, to the extent not used to restore the Parking Improvements, all as provided for and subject to the Ground Lease and the Grant Agreement.

"Skywalk Parcel" means the parcel(s) within the Land within which the Skywalks are to be constructed and the easements on which the Existing Skywalk Improvements will be constructed.

"Skywalks" mean the above and below grade walkways located on easements within or through the Land to be constructed pursuant to the Development Agreement.

"Tax Increment" means that portion of the real property taxes which are paid with respect to the Land and the DNT Parcel and the improvements thereon, and which are remitted to the City as tax increment of the TIF District pursuant to the TIF Act. The term Tax Increment does not include any amounts retained by or payable to the State Auditor under Section 469.177, Subd. 11 of the TIF Act, or any amounts retained or payable to the County for administrative fees.

"TIF Account" means the Tax Increment Account for Tax Increment District No. 26 described in Section 4.01 hereof.

"TIF Act" means Minnesota Statutes, Section 469.174 through 469.1794, as amended.

"TIF District" means the City's Tax Increment Redevelopment District No. 26 located within the City's Development District No. 17.

"TIF Eligible Costs" means those capital costs permitted by the TIF Act for redevelopment tax increment districts, as otherwise limited by the TIF Plan and by the Development Agreement for the Public Improvements.

"TIF Plan" means the City's Tax Increment Financing Plan for the TIF District adopted pursuant to the TIF Plan.

"Title" means First American Title Insurance Company, a California corporation.

Section 3. Terms of the Bond.

3.01 The Bond shall be a single Bond, dated as of the date of delivery, in fully registered form, in the amount of \$11,500,000, and lettered and numbered R-1. The Bond shall have a final maturity date of April 1, 2044, with semiannual installments of principal and interest on April 1 and October 1 of each year (each a "Payment Date") commencing on October 1, 2016, in the amounts determined, as set forth in Section 4 hereof and in the Bond. The Bond shall bear interest on the unpaid principal, as set out in the Bond, at the rate of 4.0% per annum. Payments shall be applied first to interest due through each Payment Date and thereafter to reduce principal. There shall be no accruing of interest on any unpaid interest after April 1, 2017. The Bond shall terminate on April 1, 2044, or upon payment in full of the principal and interest of the Bond. This Bond may be prepaid, in whole or in part, at the option of the City on any date.

3.02 The City appoints the City Clerk as Registrar. The effect of registration and the rights and duties of the City with respect thereto are as follows:

(a) Register. The Registrar must keep a bond register for the Bond in which the Registrar provides for the registration of ownership of the Bond and the registration of transfers and exchanges of the Bond.

(b) Transfer of Bond. Subject to the provisions of clause (a) of this section, upon surrender for transfer of the Bond duly endorsed by the registered owner thereof or

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

accompanied by a written instrument of transfer, in form satisfactory to the Registrar, duly executed by the registered owner thereof or by an attorney duly authorized by the registered owner in writing, the Registrar will authenticate and deliver, in the name of the designated transferee, one new bond in an aggregate principal amount equal to the then outstanding principal amount of the Bond so surrendered and of like maturity, as requested by the transferor. The Registrar may, however, close the books for registration of any transfer after the 15th day of the month preceding each interest payment date and until such interest Payment Date.

(c) Exchange of Bond. When a Bond is surrendered by the registered owner for exchange the Registrar will authenticate and deliver one new bond in an aggregate principal amount equal to the then outstanding principal amount of the Bond surrendered and of like maturity, as requested in writing by the registered owner or the owner's attorney.

(d) Cancellation. A Bond surrendered upon any transfer or exchange will be promptly canceled by the Registrar and thereafter disposed of as directed by the City.

(e) Improper or Unauthorized Transfer. When a Bond is presented to the Registrar for transfer, the Registrar may refuse to transfer the Bond so presented until the Registrar is satisfied that the endorsement on the Bond or separate instrument of transfer is valid and genuine and that the requested transfer is legally authorized. The Registrar will incur no liability for the refusal, in good faith, to make transfers which it, in its judgment, deems improper or unauthorized.

(f) Persons Deemed Owners. The City and the Registrar may treat the person in whose name a Bond is registered in the bond register as the absolute owner of the Bond, whether the Bond is overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on the Bond and for all other purposes, and payment so made to a registered owner or upon the owner's order will be valid and effectual to satisfy and discharge the liability upon the Bond to the extent of the sum or sums so paid.

(g) Taxes, Fees and Charges. For a transfer or exchange of a Bond, the Registrar may impose a charge upon the owner thereof sufficient to reimburse the Registrar for any tax, fee or other governmental charge required to be paid with respect to the transfer or exchange.

(h) Mutilated, Lost, Stolen or Destroyed Bond. If a Bond becomes mutilated or is destroyed, stolen or lost, the Registrar will deliver a new Bond of like amount, number, maturity date, redemption privilege and tenor in exchange and in substitution for and upon cancellation of the mutilated Bond or in lieu of or in substitution for any Bond destroyed, stolen or lost, upon the payment of the reasonable expenses and charges of the Registrar and City in connection therewith; and, in the case of a Bond destroyed, stolen or lost, upon filing with the Registrar of evidence satisfactory to the Registrar that the Bond was destroyed, stolen or lost, and of the ownership thereof, and upon furnishing to the Registrar and City of an appropriate bond or indemnity in form, substance and amount satisfactory to it and as provided by law, in which both the City and the Registrar must be named as obligees. A Bond so surrendered to the Registrar will be canceled by the Registrar. If the mutilated, destroyed, stolen or lost Bond has already matured or been called for redemption in accordance with its terms it is not necessary to issue a new Bond prior to payment.

(i) Limitation on Transfers and Pledges of the Bond. The Bond has been issued without registration under state or federal securities laws, pursuant to an exemption for such issuance; and accordingly the Bond may not be assigned, transferred or pledged in whole or part, nor may a participation interest in a Bond be given pursuant to any participation agreement, except (a) with the written consent of the City, or (b) without the written consent of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

the City if (1) the sale or transfer of the Bond is made to a purchaser of, and in connection with, the sale and purchase of all or substantially all of the Private Improvements; or (2) the pledge of the Bond is to a Company Lender who has required a pledge of the Bond pursuant to a loan agreement or other credit facility; or (3) to an Affiliate of the Company; and in each case, such transferee or such financial institution shall provide an investment letter substantially in the form of the investment letter provided by the Purchaser on the Closing Date.

3.03 The Bond shall be printed or typewritten in substantially the following form:

No. R-____

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS

CITY OF DULUTH

TAXABLE TAX INCREMENT AND PARKING FACILITY REVENUE BOND
SERIES 2014A

Principal Amount	Annual Rate
\$11,500,000	4.0%

THIS BOND HAS NOT BEEN REGISTERED UNDER ANY FEDERAL OR STATE SECURITIES LAWS AND MAY NOT BE SOLD OR OTHERWISE DISPOSED OF OR TRANSFERRED WITHOUT THE WRITTEN CONSENT OF THE CITY OF DULUTH OR IN LIMITED CIRCUMSTANCES, UPON SATISFYING THE CONDITIONS SET FORTH IN THE RESOLUTION.

The CITY OF DULUTH, located in St. Louis County, Minnesota (the "City"), hereby acknowledges itself to be indebted and, for value received, hereby promises to pay the Principal Amount specified above together with interest thereon at the Annual Rate specified above (the "Payment Amounts"), to MAURICES INCORPORATED, a Delaware corporation, or its permitted registered assigns (the "Registered Owner"), but only in the manner, at the times, from the sources of revenue, and to the extent hereinafter provided.

This Bond is issued by the City pursuant to a resolution adopted on _____, 2014, by the governing body of the City (the "Resolution") and is issued for the purpose of financing public development costs described in a Development Program and a Plan for Development District No. 17, in the Tax Increment Plan for Tax Increment Redevelopment District No. 26 and in the Resolution, which include, but are not limited to, the City's public parking facility and skywalks located on, within or adjacent to the Land and on the DNT Parcel each as described on Exhibit A hereto and on adjoining street and alley rights of way, all of which are referred to as the Public Improvement Premises in the Resolution. This Bond is issued pursuant to Minnesota Statutes, Chapters 469 and 475 and Section 469.178 and Laws of Minnesota 1977, Chapter 257, and the home rule charter of the City.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

The Payment Amounts due on this Bond shall be payable solely from, and to the extent that the City shall receive (i) Available Tax Increment, as hereinafter defined, and (ii) Revenues of the Parking Facility pledged to the Debt Service Account, as set forth in the Resolution.

For purposes of this Bond, Available Tax Increment shall mean 90% of the Tax Increment received by the City from St. Louis County with respect to the Land and the DNT Parcel and improvements thereon, located in the City's Tax Increment Redevelopment District No. 26 (the "TIF District") within Development District No. 17 during the six months preceding any Payment Date specified below and which the City is entitled to retain pursuant to the provisions of Minnesota Statutes, Sections 469.174 through 469.1794, as the same may be amended or supplemented from time to time (the "TIF Act") (after deduction of the state auditor fee and county auditor fee). For purposes of this Bond, the Parking Improvements means the City's Public Parking Facility located on, within and through the Ground Lease Premises as defined in the Resolution (the "Parking Improvements"). In the Resolution, the City has pledged and appropriated the Revenue to be derived from the operation of the Parking Improvements, in excess of Current Expenses and Funded Depreciation, to the Debt Service Account at the times and in the amounts determined pursuant to the Resolution for payment of the principal and interest on the Bond.

This Bond is a limited obligation of the City, payable solely from the Debt Service Account within the 425 West Superior Street Parking Facility Fund to which the City in the Resolution has pledged and appropriated the Available Tax Increment and certain Revenues of the Parking Improvements, as set forth above and more specifically as described in the Resolution, and the Bond is further secured by the covenants and agreements contained in the Resolution.

Interest payable on this Bond shall start to accrue as of the date of execution and delivery hereof. Payments under this Bond shall be applied first to accrued interest and then to the unpaid principal amount hereof. There shall be no accruing of interest on any unpaid interest after April 1, 2017. The payments on this Bond shall be made by the City on a semi-annual basis on April 1 and October 1 commencing October 1, 2016, and continuing through April 1, 2044 (each referred to herein as a "Payment Date"). This Bond shall terminate and be of no further force and effect on the earlier of April 1, 2044, or upon payment in full of the principal and interest on this Bond.

This Bond is prepayable, in whole or in part, on any date at the option of the City.

Reference is hereby made to the provisions of the Resolution for a fuller statement of the definitions of Tax Increment, Available Tax Increment and Revenues of the Parking Improvements and the rights and obligations of the City to pay the Payment Amounts of this Bond, and said provisions are hereby incorporated into this Bond as though set out in full herein. All terms not otherwise defined herein has the meaning as defined in the Resolution.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

This Bond is a revenue obligation and not a general obligation of the City and is payable by the City only from the sources and subject to the qualifications stated or referenced herein. Neither the full faith and credit nor the taxing powers of the City are pledged to the payment of the principal of or interest on this Bond and no property or other asset of the City, save and except the above-referenced Available Tax Increment and Revenues of the Parking Improvements pledged to the Debt Service Account, is or shall be a source of payment of the City's obligations hereunder.

This Bond is issued by the City in aid of financing a project pursuant to and in full conformity with the Constitution and laws of the State of Minnesota, including the TIF Act, Laws of Minnesota 1977, Chapter 257 and Minnesota Statutes Chapter 475.

This Bond may not be assigned without the written consent of the City except in limited circumstances and upon satisfying the conditions set forth in the Resolution. Upon such assignment, the assignor shall promptly notify the City at the office of the City Clerk by registered mail, and the assignee shall surrender the same to the City Clerk either in exchange for a new fully registered bond or for transfer of this Bond on the registration records for the Bond maintained by the City. Each permitted assignee shall take this Bond subject to the foregoing conditions and subject to all provisions stated or referenced herein.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions, and things required by the Constitution and laws of the State of Minnesota to be done, to have happened, and to be performed precedent to and in the issuance of this Bond have been done, have happened, and have been performed in regular and due form, time, and manner as required by law; and that this Bond, together with all other indebtedness of the City outstanding on the date hereof and on the date of its actual issuance and delivery, does not cause the indebtedness of the City to exceed any constitutional or statutory limitation thereon.

IN WITNESS WHEREOF, the City of Duluth, Minnesota, by its City Council, has caused this Bond to be executed by the manual signatures of its Mayor and attested by its City Clerk, and has caused this Bond to be issued on and dated _____, 2014.

CITY OF DULUTH, MINNESOTA

By _____
Its Mayor

ATTEST:

By _____
Its City Clerk

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

CERTIFICATE OF REGISTRATION

It is hereby certified that the foregoing Bond, as originally issued on _____, 2014, was on said date registered in the name of Maurices Incorporated and that, at the request of the Registered Owner of this Bond, the undersigned has this day registered the Bond in the name of such Registered Owner, as indicated in the registration blank below, on the books kept by the undersigned for such purposes.

Registered Owner Maurices Incorporated	Date of Registration ___/___/2014	Signature of City Clerk _____
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Duluth, MN 558__
Federal Tax ID No.:
__-_____

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto _____ 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 of the within Bond, with full power of substitution in the premises.

Dated: _____

Notice: The assignor's signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or any change whatsoever.

The City Clerk will not effect transfer of this Bond unless the information concerning the assignee requested below is provided.

Name and Address: _____

Taxpayer Identification Number: _____

THIS BOND HAS NOT BEEN REGISTERED UNDER ANY FEDERAL OR STATE SECURITIES LAWS AND MAY NOT BE SOLD OR OTHERWISE DISPOSED OF OR TRANSFERRED WITHOUT THE WRITTEN CONSENT OF THE CITY OF DULUTH OR IN LIMITED CIRCUMSTANCES, UPON SATISFYING THE CONDITIONS IN THE RESOLUTION.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

EXHIBIT A TO TAXABLE TAX INCREMENT AND PARKING FACILITY REVENUE BOND Land

PID No.: 010-0920-00540

Parcel 1: Lot 65, West Superior Street, Duluth Proper, First Division, St. Louis County, Minnesota.

PID No.: 010-0920-00550

Parcel 2: Lots 67, 69, 71, 73, 75, 77 and 79, EXCEPT the E'ly 5 feet of the W'ly 34 feet thereof, West Superior Street, Duluth Proper, First Division, St. Louis County, Minnesota and all that part of Government Lot 5, Section 27, Township 50 North, Range 14 West of the Fourth Principal Meridian, which is necessary to make said Lot 79 on Superior Street, a full lot, with a frontage of 50 feet on said Street and a depth of 140 feet of Fifth Avenue West, Duluth, EXCEPT that portion of said lots and Government Lot 5 lying within 29 feet of the east line of Fifth Avenue West as originally platted.

DNT Parcel

PID No.: 010-090-01170

Parcel 3: West Half of Lot 68 and all of Lot 70, Duluth Proper, First Division, West First Street, St. Louis County, Minnesota.

Section 4. Funds and Accounts; Application of Available Tax Increment; Application of Revenues; Application of Proceeds of the Bond.

4.01 The City covenants and agrees to maintain throughout the term of the Bond the Tax Increment Account for Tax Increment District No. 26 (the "TIF Account") and the 425 West Superior Street Parking Facility Fund (the "Parking Facility Fund").

(a) The TIF Account shall be maintained for the purpose of the application and proper allocation of the Tax Increment from the TIF District. On the business day prior to each Payment Date, the City shall transfer the Available Tax Increment from the TIF Account to the Debt Service Account. The City Treasurer shall pay to the Purchaser on each Payment Date the Available Tax Increment on deposit in the Debt Service Account.

(b) The Parking Facility Fund and the accounts therein shall be maintained for the application and proper allocation of the Revenue Bond Funds and the Revenues of the Parking Improvements and shall be used only for the purposes described below. There is hereby created in the Parking Facility Fund the following accounts:

(i) the "Construction Account" into which the Revenue Bond Funds shall be credited.

(ii) the "Revenue Account," into which shall be deposited as received the entire Revenues of the Parking Improvements, which money shall then be used to pay Current Expenses and then divided between the Capital Account and the Debt Service Account in the amounts and in the manner set forth in Section 4.02 hereof and used for the purposes hereinafter set forth.

(iii) the "Capital Account," which shall be used to pay Funded Depreciation of the Parking Improvements.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(iv) the "Debt Service Account," which shall first be used for the payment of the principal of and interest on the Bond.

4.02 The Revenues of the Parking Improvements shall be credited to the Revenue Account, as received and used or credited periodically, as hereinafter provided, to the accounts hereinabove created, and used and applied only for the following purposes and in the following order of priority:

(a) First, as a first charge on the Revenues of the Parking Improvements, such amount as may be required to pay the reasonable and necessary Current Expenses of the Parking Improvements which are then due and payable and to retain for Current Expenses which are not then due and which do not recur monthly (such as insurance premiums which may be payable annually or semi-annually) but may reasonably be expected to be incurred. Such amounts spent or retained in the Revenue Account, as set forth in prior sentences, shall be used only to pay claims duly verified and allowed as Current Expenses of the Parking Improvements necessarily incurred in operating the Parking Improvements and maintaining it in proper operating condition, and maintaining an adequate working capital reserve for this purpose. The amount of the Revenues in the Revenue Account, as of June 30 and December 31 of each year, as applicable, retained for Current Expenses which are not then due and which do not recur monthly, but may reasonably be expected to be incurred shall be the "Retained Amount."

(b) Second, on the first day of each month, or as soon thereafter as practicable, there shall be set aside in the Capital Account 1/12 of the amount approved by the City Council in the annual budget for the Parking Improvements as the Funded Depreciation for the applicable Fiscal Year.

(c) Third, (i) on the business day prior to October 1 of each year, there shall be set aside in the Debt Service Account an amount equal to 90% of the difference between the amount on deposit in the Revenue Account derived from Revenues received during the period from the prior January 1 through June 30 and the Retained Amount as of such June 30; and (ii) on the business day prior to April 1 of each year, there shall be set aside in the Debt Service Account the difference between the amount on deposit in the Revenue Account derived from Revenues received during the prior Fiscal Year and the Retained Amount as of the prior December 31. The City Treasurer shall pay to the Purchaser on each Payment Date the Revenues on deposit in the Debt Service Account.

4.03 (a) The City shall keep proper books of records and accounts in which full, true and correct entries shall be made of all dealings or transactions of or in relation to the affairs of the Parking Improvements, in accordance with generally accepted accounting principles consistently applied.

(b) The City will cause an examination and audit of the Parking Improvements as part of the City's annual audit of its financial records. The City shall report to the Purchaser within 180 days of the end of each Fiscal Year the following:

(i) a detailed statement of Revenues and Current Expenses of the Parking Facility Fund; and

(ii) a balance sheet, as of the end of each Fiscal Year, that details the balances in each of the accounts within the Parking Facility Fund.

(c) The City shall provide to the Purchaser copies of the quarterly reports on the operation of the Parking Improvements provided to the City by the manager of the Parking Improvements.

(d) The City shall prepare a budget for the Parking Improvements not less than sixty days prior to the beginning of the next Fiscal Year. Such budget shall include

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

estimated Revenues, Current Expenses, amounts to be deposited in the Capital Account and amounts on deposit in the Capital Account to be expended on Funded Depreciation.

4.04 The City's financial commitment for payment of the Bond under this Resolution is a revenue obligation only and will be paid by the City only out of (i) Available Tax Increment; and (ii) Revenues from the Parking Improvements pledged and deposited in the Debt Service Account as provided for in Section 4.02(c). The City makes no representations or warranties that the Available Tax Increment and the Revenues pledged to the Debt Service Account will be sufficient to pay the principal of or interest on the Bond. The Purchaser shall be required to execute and deliver on or prior to the Closing Date a certificate that the Purchaser (i) acknowledges that Available Tax Increment is subject to calculation by the County and changes in State law and that the Available Tax Increment may be less than forecasted; (ii) acknowledges that the estimates of Available Tax Increment which may have been made by the City or its agents, officers or employees are estimates only, are made for the sole use and benefit of the City and are not intended for the Purchaser's reliance; and (iii) further acknowledges that the estimates of Revenues pledged to the Debt Service Account which may have been made by the City or its agents, officers or employees are estimates only, are made for the sole use and benefit of the City and are not intended for the Purchaser's reliance.

4.05 Upon receipt of the Revenue Bond Funds from the Purchaser on the Closing Date, such funds shall be credited to the Construction Account. The Revenue Bond Funds shall be applied solely for Qualified City Costs and if there are any Revenue Bond Funds remaining after payment of all Qualified City Costs, the balance in the Construction Account shall be used to prepay the Bond. Disbursement from the Construction Account shall be made pursuant to the terms and conditions set forth in the Disbursing Agreement, substantially in the form set forth as public document No. 14-0512-13(a). The proceeds of the Grant shall be disbursed for Qualified Grant Costs pursuant to the Disbursing Agreement and the Grant Agreement.

4.06 Proceeds of the Bond and funds on deposit in the Parking Facility Fund and the TIF 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 Qualified City Costs and/or payment of costs of the Parking Improvements, including the principal and interest on the Bond, when due.

4.07 The City hereby covenants and agrees with the Purchaser that it will establish, impose, maintain and revise when necessary charges for use of the Parking Improvements (other than the reserved parking spaces in the Parking Facility Extension) at the times and in the minimum amounts required to pay the Current Expenses, the Funded Depreciation and additional Revenues necessary to pay the principal and interest on the Bond (less the estimated Available Tax Increment for the applicable Fiscal Year) based on the schedule set forth as public document No. 14-0512-13(b); provided, however, the Purchaser may, from time to time, provide the City with a written waiver of compliance with this rate covenant.

Section 5. Certificate of Proceedings. 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 Bond and other affidavits and certificates as may reasonably be requested to show the facts relating to the legality and marketability of the Bond 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Section 6. Resolution a Contract. The provisions of this Resolution shall constitute a contract between the City and the Purchaser, and after issuance of the Bond, no change or alteration of any kind in the provisions of this Resolution may be made, except as agreed in writing by the City and the Purchaser until the Bond has been paid in full as to both principal and interest.

Resolution 14-0204 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: President Krug -- 1

Approved May 12, 2014

DON NESS, Mayor

- - -

Resolution 14-0239, by councilors Gardner, Larson and Julsrud, of support for the Women's Economic Security Act, was introduced for discussion.

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

Patti Larson and Elizabeth Olson expressed support for the resolution.

Resolution 14-0239 was adopted as follows:

BY COUNCILORS GARDNER, LARSON AND JULSRUD:

WHEREAS, the Duluth City Council supports policies and efforts to increase the economic security of women and families in Minnesota including:

- Closing the gender pay gap;
- Increasing income for working women and their families;
- Expanding access to high-quality, affordable, early learning and childcare;
- Expanding family and sick leave for working families;
- Protecting caregivers and pregnant women from discrimination in the workplace;
- Enhancing protections for victims of domestic violence through employment and housing protections;
- Providing incentives to move more women into nontraditional, high wage jobs;
- Supporting women-owned small business development in traditionally male dominated fields;
- Supporting programs that assist older women's economic security with retirement savings plans and protecting caregivers from financial hardship; and

WHEREAS, the Women's Economic Security Act, a Minnesota legislative initiative contains many of the above-referenced goals.

THEREFORE, BE IT RESOLVED, the Duluth City Council hereby expresses its support for the Women's Economic Security Act and further supports local efforts to build a stronger economic future for women and working families.

Resolution 14-0239 was unanimously adopted.

Approved May 12, 2014

DON NESS, Mayor

- - -

Resolution 14-0214, of intent to support the request by One Roof Community Housing, Duluth Housing and Redevelopment Authority 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Councilors Fosle and Hanson expressed concerns that this and the other projects are over budget and hard to support.

Councilors and Keith Hamre, director of planning and construction services, discussed various issues and merits of this and the following resolutions at length.

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

Karla Snyder, deputy director of the housing and redevelopment authority, reviewed the history of this project, the financing and how the ownership would transfer with this funding approval.

Resolution 14-0214 was adopted as follows:

RESOLVED, that the Duluth City Council hereby expresses its support for the One Roof, Duluth HRA 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 14-0214 was adopted upon the following vote:

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

Nays: Councilors Fosle and Hanson -- 2

Approved May 12, 2014

DON NESS, Mayor

- - -

Resolution 14-0215, of intent to support the request by Grant Carlson to the state of Minnesota for the award of low-income housing tax credits for the historic Burnham Apartments project, was introduced by Councilor Russ for discussion.

Councilors expressed concerns that: this particular project's model is not the best fit for this location; parking is not adequate; the best use for this location is not housing and that more partnerships for development need to be found.

Resolution 14-0215 failed upon the following vote (Public Document No. 14 0512 26):

Yeas: Councilor Hanson -- 1

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

- - -

Resolution 14-0226, 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 for discussion.

Councilor Gardner moved to amend the resolution to add the following paragraph:

"FURTHER RESOLVED, that the request by Pastoret, LLC, for the Pastoret Terrace project shall be given top priority for support in 2014." which motion was seconded and discussed.

Councilors Larson, Russ, Julsrud and Sipress opposed the amendment for reasons of: the Minnesota housing finance agency (MHFA) should make the decision; the council may be setting a precedent by prioritizing and that is not wise; there needs to be a proven track record before this kind of amendment is made and it creates an unhealthy competition instead of considering each project on its own merits.

Councilors Filipovich, Hanson and Gardner expressed their support for the amendment, prioritizing the desperate need for this improvement in this area of town.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Councilor Gardner's amendment failed as follows:

Yeas: Councilors Filipovich, Gardner and Hanson -- 3

Nays: Councilors Fosle, Julsrud, Larson, Russ, Sipress and President Krug -- 6

Councilors Fosle, Julsrud and Hanson expressed concerns of not supporting any improvements to this building because of the current ownership's management practices prior to the fires and the oversaturation of SRO housing.

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

Megan St. Claire, representative of Sand Companies, a management company that might be chosen for this location, commented at length that there will be a professional management company that has previous experience with MHFA and follow their standards.

Resolution 14-0226 was adopted as follows:

RESOLVED, that the Duluth City Council hereby expresses its support for Pastoret, LLC's, request for funding to the Minnesota housing finance agency for low-income housing tax credits and intent to support tax increment financing for the Pastoret Terrace project.

Resolution 14-0226 was adopted upon the following vote:

Yeas: Councilors Filipovich, Gardner, Larson, Russ, Sipress and President Krug -- 6

Nays: Councilors Fosle, Hanson and Julsrud -- 3

Approved May 12, 2014

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 \$2,500 (Revenue 262-020-4700, community development, planning, other sources) for the Downtown tactical urbanism project, which will create a seasonal parklet for public use, funds to be disbursed to the Healthy Duluth Area Coalition, and to execute any documents required to be executed to accept such grant from Fund 262, Organization 020, Object 5434 (community development, planning, grants and awards).

Resolution 14-0216 was unanimously adopted.

Approved May 12, 2014

DON NESS, Mayor

- - -

Resolution 14-0231, authorizing grant agreement with DEED related to the Maurices office tower project in the amount not to exceed \$8,500,000; Resolution 14 0234, authorizing first amendment to pedestrian passageway agreement pertaining to the property of Northwest Communications, Inc., with Forum Communications Company related to the Maurices office tower project; and Resolution 14 0235, authorizing various agreements with Duluth Real Estate LLC related to the Maurices office tower project, were introduced by Councilor Russ.

President Krug announced that she would be abstaining on these three resolutions because she has a conflict of interest.

Resolutions 14-0231, 14-0234 and 14-0235 were adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with the state of Minnesota department of employment and economic development, substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0512-14, accepting a grant in an amount of up to \$8,500,000 to fund a portion of the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

costs of development, design and construction of a public parking facility in conjunction with the Maurices office tower, payable to the construction account within the parking facility fund.

Resolution 14-0231 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: President Krug -- 1

Approved May 12, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a first amendment to the pedestrian passageway agreement pertaining to the property of Northwest Publications, Inc., with Forum Communication Company, a North Dakota corporation, substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0512-15, approving modifications to the skywalks in the so-called warehouse and News-Tribune buildings in conjunction with the Maurices office tower project.

Resolution 14-0234 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: President Krug -- 1

Approved May 12, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into the agreements with Duluth Real Estate, LLC, a Minnesota limited liability company, substantially in the form of those on file in the office of the city clerk bearing the public documents numbers set forth below, related to the Maurices office tower project:

DOCUMENT	Public Document No.
Development Agreement	14-0512-16(a)
Ground Lease	14-0512-16(b)
Disbursing Agreement	14-0512-16(c)
Operating and Easement Agreement	14-0512-16(d)
Pedestrian Passageway Agreement pertaining to the Maurices office tower property	14-0512-16(e)

Resolution 14-0235 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: President Krug -- 1

Approved May 12, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a first amendment to Pedestrian Passageway Agreement pertaining to the Chinese Lantern Building with A & L Partnership, LLP, a Minnesota limited liability partnership, substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0512-17, approving

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

modifications to the skywalks in the building in conjunction with the Maurices office tower project.

Resolution 14-0236 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: President Krug -- 1

Approved May 12, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a door agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0512-18, with 414 West First Unit Owners' Association, approving modifications to the skywalk doors in the so-called "Water and Gas Building" in conjunction with the Maurices office tower project.

Resolution 14-0237 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: President Krug -- 1

Approved May 12, 2014

DON NESS, Mayor

- - -

Resolution 14-0238, by councilors Sipress and Gardner, opposing the construction of a nuclear waste repository in the Great Lakes basin, was introduced for discussion.

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

John LaForge, employee of NukeWatch, spoke in support of the resolution, citing the hazards associated with this repository on the Great Lakes.

Councilor Fosle noted that in the future he will not support resolutions like this because of the irrelevance to city council business.

President Krug stated that she opposes the resolution because it is not appropriate business of the council and staff time.

Resolution 14-0238 was adopted as follows:

BY COUNCILORS SIPRESS AND GARDNER:

WHEREAS, Ontario Power Generation is proposing to construct an underground long-term burial facility for all of Ontario's low and intermediate level radioactive nuclear waste at the Bruce Nuclear Generating Station which is located approximately one kilometer inland from Lake Huron and about 400 meters below the lake level; and

WHEREAS, the Great Lakes are vital to the economic and agricultural well-being of both the United States and Canada; and

WHEREAS, Lake Huron and connecting waters are a source of drinking water for millions of people downstream in both the United States and Canada; and

WHEREAS, the governments of both Canada and the United States share the responsibility and obligation to protect Great Lakes waters from contamination, including nuclear waste leakage; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

WHEREAS, both the Canadian and United States government recognized the importance of anticipating, preventing and responding to threats to Great Lakes waters under the 2012 Protocol Amending the Agreement Between Canada and the United States of America on Great Lakes Water Quality; and

WHEREAS, the potential damage to the Great Lakes from any leak or breach of radioactivity at the proposed repository site far outweigh any suggested economic benefit.

THEREFORE, BE IT RESOLVED, that the Duluth City Council, in order to protect the Great Lakes, and its tributaries, hereby states its opposition to the proposed nuclear waste repository at the Bruce Nuclear Generating Station or any other proposition for the construction of a nuclear waste repository within the Great Lakes Basin.

FURTHER RESOLVED, that the city of Duluth hereby urges the governments of Ontario and Canada to reject and seek alternatives to the proposal by Ontario Power Generation.

FURTHER RESOLVED, that copies of this resolution be provided to Ontario Premier Kathleen Wynne, Canada's Prime Minister Stephen Harper, Canada's Federal Minister of the Environment Leona Aglukkaq, Governor Mark Dayton, U.S. senators Amy Klobuchar and Al Franken, U.S. Representative Rick Nolan, state senators Roger Reinert and Tom Bakk, and state representatives, Tom Huntley, Mary Murphy and Erik Simonson, as well as Joint Review Panel Deep Geological Repository for Low and Intermediate Level Radioactive Waste Case Reference Number 17520, panel co-manager, Ms. Debra Myles, all members of Ontario's Provincial Parliament and all members of Canada's Parliament.

Resolution 14-0238 was adopted upon the following vote:

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

Nays: President Krug -- 1

Approved May 12, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept a grant from the University of Minnesota and execute said grant agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 14-0512-19, in the amount of \$5,750, said funds to be deposited in Fund 240-300-SG80-4270 (library, special gifts, library, miscellaneous), for the purpose of supporting the Duluth Public Library's Seed Library.

Resolution 14-0224 was unanimously adopted.

Approved May 24, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept Grant Agreement No. 1312-02460 from the Minnesota historical society, substantially the same as that on file in the office of the city clerk as Public Document No. 14-0512-20, in the amount of \$7,000, said funds to be deposited in Fund 240-300-SG80-4270 (library, special gifts, library, miscellaneous) and further authorizes a match to grant in the amount of \$4,688, funds to be paid from Fund 250-015-2012, Project CE250-E1210, (capital equipment, administrative services, fiscal year 2012, non-rolling capital outlay) for the purpose of purchasing a digital microfilm reader/scanner/printer for the Duluth public library.

Resolution 14-0225 was unanimously adopted.

Approved May 12, 2014

DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR GARDNER

14-023 - AN ORDINANCE AMENDING CHAPTER V, SECTION 36, OF THE CITY CHARTER, CIVIL SERVICE, REMOVING THE PROVISION RELATING TO RANDOM SELECTION FOR ENTRY-LEVEL EMPLOYEES.

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INTRODUCED BY COUNCILOR RUSS

14-024 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING CHANGES TO THE PERMITTED USE TABLE.

- - -

INTRODUCED BY COUNCILOR RUSS

14-025 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO MU-I FOR THE PROPERTY LOCATED AT 2501 RICE LAKE ROAD LAYING SOUTH OF WEST ARROWHEAD ROAD, EAST OF NORTH ARLINGTON ROAD, AND WEST OF RICE LAKE ROAD.

- - -

INTRODUCED BY COUNCILOR RUSS

14-026 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO MU-I FOR THE PROPERTY LOCATED AT 2501 RICE LAKE ROAD LYING SOUTH OF WEST ARROWHEAD ROAD, EAST OF NORTH ARLINGTON ROAD, AND WEST OF NORTH BLACKMAN AVENUE.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR RUSS

14-020 (10292) - AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY IN THE LINCOLN PARK NEIGHBORHOOD TO GRAND AVENUE DEVELOPMENT, LLC, FOR \$43,400.

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

- - -

INTRODUCED BY COUNCILOR RUSS

14-022 (10293) - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF CERTAIN PROPERTY WITHIN THE CITY OF DULUTH TO WISCONSIN CENTRAL, LTD. ("CANADIAN NATIONAL") FOR \$10,500.

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

- - -

INTRODUCED BY COUNCILOR FILIPOVICH

14-021 (10294) - AN ORDINANCE MODIFYING THE SPRINKLING CREDIT, AMENDING SECTION 43-9 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

The meeting was adjourned at 9:53 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10292

AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY IN THE LINCOLN PARK NEIGHBORHOOD TO GRAND AVENUE DEVELOPMENT, LLC, FOR \$43,400.

The city of Duluth does ordain:

Section 1. That pursuant to Section 2-176 of the Duluth City Code, 1959, as amended (the Code), the city council finds that:

(a) City Resolution 14-0076 approved the sale or conveyance of certain property in the Lincoln Park neighborhood;

(b) As per Section 2-177.4, of the Duluth City Code, 1959, as amended (the Code), the city may convey property to a non-governmental entity at no cost or at less than market value if the council finds that such conveyance will further other important interests or objectives and that such conveyance is necessary for the accomplishment of such interests;

(c) That the sale of property to Grand Avenue Development, LLC, is in the best interests of the city and its people and that the transaction furthers the general plan for economic development in the Lincoln Park neighborhood;

(d) As per Section 2-176(c) of the Code, the county assessor has provided an estimate of the market value to be \$43,400;

(e) 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 and pursuant to Article XXXIII of Chapter 2 of the Code.

Section 2. That the proper city officials are hereby authorized to sell and convey the following described property in St. Louis County, Minnesota, by quit claim deed, to Grand Avenue Development, LLC, a limited liability company, for the amount of \$43,400 to be deposited into Fund 110 (general), Agency 700 (transfers and other functions), Organization 1420 (capital programs), Object 4640 (sale of land), and further to execute all documents necessary with regard to said conveyance:

All of those portions of Lots 315, 317 and 319, Block 72, DULUTH PROPER Second Division, according to the plat thereof on file and of record in the office of the county recorder for St. Louis County, Minnesota, lying northwesterly of the following-described line:

Commencing at the southerly-most corner of said Lot 319, thence proceeding in a northeasterly direction along the southeasterly lot line of said Lot 319 to the easterly-most corner of said Lot 319; thence turning to the northwest and proceeding in a northwesterly direction along the northeasterly lot line of said Lot 319 to a point eighty (80) feet to the northwest of the easterly-most corner of said Lot 319; thence proceeding in a northeasterly direction along a line eighty (80) feet from and parallel to the southeasterly lot line of said Lot 317 to a point on the northeasterly lot line of said Lot 317; thence turning in an easterly direction and proceeding to a point on the northeasterly line of said Lot 315 which is forty-five (45) feet northwest of the most easterly corner of said Lot 315; and there terminating.

Subject to an easement for streets and utilities across the northwesterly ten (10) feet of said Lots 315, 317 and 319 and northwesterly thirty (30) feet of said Lot 319.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: June 15, 2014)

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 12, 2014
Approved May 12, 2014
DON NESS, Mayor

- - -

ORDINANCE NO. 10293

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF CERTAIN PROPERTY WITHIN THE CITY OF DULUTH TO WISCONSIN CENTRAL, LTD. ("CANADIAN NATIONAL") FOR \$10,500.

The city of Duluth does ordain:

Section 1.

(a) 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 14-0175, on file in the office of the city clerk as Public Document No. 14-0512-21(a);

(b) Pursuant to Section 2-177.4 of the Code, the city council finds that the conveyance to Wisconsin Central Ltd ("Canadian National") of certain property described in Public Document No. 14-0512-21(b) (the "property") will allow Canadian National to proceed with its Steelton Hill project which will: 1) provide for the development of new and upgrade of existing tracks as part of its Steelton Hill project representing a \$30 million dollar investment in rail infrastructure within the city and St. Louis County adding approximately 4.5 miles of new track between Commonwealth Avenue in Gary-New Duluth to I-35 near Nopeming; 2) allow goods to move more efficiently reducing rail congestion in Duluth; 3) allow Canadian National to replace a bridge over Commonwealth Avenue with a bridge compliant with Mn/DOT height clearances allowing industrial truck traffic to access Beck's Road from planned industrial redevelopment at both Atlas Industrial Park and the former USX site; 4) allow Canadian National to replace the Mission Creek recreational trail bridge with a new structure which will allow for an improved bridge foundation and trail surface; and 5) provide construction jobs in the area and result in a positive economic impact to local hotels, restaurants and business;

(c) Pursuant to Section 2-177.4 of the Code, the city council further finds that the conveyance of the property to Canadian National at market value will further the important city interests or objectives as set forth in Section 1(b) above, and that such conveyance is necessary to the accomplishment of such interests;

(d) Pursuant to Section 2-176(b) of the Code, the city's planning department has reviewed the proposed sale of the property for conformity to the city's comprehensive plan and reported that the sale of the property to Canadian National conforms with said comprehensive plan on file in the office of the city clerk as Public Document No. 14-0512-21(b);

(e) Pursuant to Section 2-176(c) of the Code, the county assessor has provided a written estimate of the market value of the property to be \$9,800; Canadian National's certified general real estate appraiser has provided a written estimate of the market value of the property to be \$10,500;

Section 2. That the proper city officials are hereby authorized to execute the purchase agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0512-21(b), for the conveyance by quit claim deed and easement agreement of the property in St. Louis County, Minnesota legally described therein to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Canadian National for the sum of \$10,500, said sum to be payable into General Fund 110, Department 700, Division 1420, Revenue Source 4640.

Section 3. That the proper city officials are hereby further authorized to execute deeds, easements and all other documents necessary to effectuate the sale of the property to developer.

Section 4. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: June 15, 2014)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 12, 2014
Approved May 12, 2014
DON NESS, Mayor

- - -

ORDINANCE NO. 10294

AN ORDINANCE MODIFYING THE SPRINKLING CREDIT,
AMENDING SECTION 43-9 OF THE DULUTH CITY CODE, 1959,
AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 43-9 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 43-9. Allowance for outdoor use--conditions.

During the months of May through September, the amount of wastewater determined to be discharged by a user shall be reduced by the amount of water assumed to be used during such months in such manner that it does not enter the sanitary sewer system, subject to the following; provided, that such reduction shall not exceed the difference between the actual water consumption during each such month, reduced by 100 cubic feet, and the average of water consumption as determined for the immediately preceding months of October through March. The director of public works and utilities of the city is hereby authorized to promulgate regulations not inconsistent with the provisions of this Section, which regulations shall be published in the official newspaper of the city ten days prior to going into effect and shall be available for examination and copying at the office of public works and utilities department during normal business hours.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: June 15, 2014)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 12, 2014
Approved May 12, 2014
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, May 27, 2014, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

14-0527-01 Jodi Broadwell communication regarding the proposed designation of the Clayton Jackson McGhie Memorial as a Duluth heritage preservation landmark (14-027-O). -- Received

14-0527-02 The following communications regarding the proposed Park Point small area plan (14-0217R): (a) Lisa Berthel; (b) Jodi Broadwell; (c) Jan Cohen; (d) Karen Edgerton; (e) Regina Fodness; (f) Gary Glass; (g) Judith Karon; (h) Noel Knudson; (i) Debra McLaughlin; (j) Keith McLaughlin; (k) Park Point Community Club; (l) David Poulin; (m) Betsy Snow; (n) Mary Vanderwerp. -- Received

14-0527-14 The following communications regarding the street system maintenance utility fees (14-0267R): (a) Mike Akervik; (b) Jim Booth; (c) Karen Holden; (d) Joseph Kleiman; (e) Richard Paulson. -- Received.

- - -

REPORTS OF BOARDS AND COMMISSIONS

14-0527-03 Civil service board minutes of March 4, 2014, meeting. -- Received

14-0527-04 Duluth parking commission minutes of March 7, 2014, meeting. -- Received

14-0527-05 Housing and redevelopment authority audit report for the year ended September 30, 2013. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Loren Martell commented on: the school district's spending; that sometimes what is labeled "negativity" is actually the truth; that commenting against the Red Plan is considered "naysaying" and that sometimes "good intentions" can lead to a train wreck.

- - -

Bill Fornear, city employee, requested that the city honor their contract and discuss seniority.

- - -

RESOLUTION TABLED

Councilor Russ moved to remove Resolution 14-0217, adopting the Park Point small area plan recommendations and amending the comprehensive plan - future land use map in three locations, from the table, which motion was seconded and unanimously carried.

Councilor Russ move to return the resolution to the administration because other resolutions address this issue, which motion was seconded and unanimously carried.

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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

BE IT RESOLVED, that the Duluth City Council issues the following on sale intoxicating liquor license and on sale Sunday liquor license for the period ending August 31, 2014, subject to departmental approvals and the payment of sales and property taxes:

Chipotle Mexican Grill of Colorado, LLC. (Chipotle Mexican Grill #2210), 1600 Miller Trunk Highway, licensed premises to include the first floor premises and outdoor patio.

Resolution 14-0150 was unanimously adopted.

Approved May 27, 2014

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:

College of St. Scholastica (John Baggs Memorial Scholarship Golf Tournament), 1200 Kenwood Avenue, for June 14, 2014, with Ken Kolquist, manager.

Resolution 14-0247 was unanimously adopted.

Approved May 27, 2014

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing an off site gambling premise permit application for Irving Community Association for July 30, 2014, to August 2, 2014, with any specific restrictions.

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 14-0248 was unanimously adopted.

Approved May 27, 2014

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 27-29, 2014, from 7:00 p.m. to midnight on June 27, 2014, from 7:00 p.m. to 1:00 a.m. on June 28, 2014, and 11:00 a.m. to 3:00 p.m. on June 29, 2014.

PDL of Duluth, Inc. (Club Saratoga), 331 Canal Park Drive, for June 21, 2014, 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 20 and 21, 2014, with music and serving ceasing at 1:15 a.m.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Grandma's Angie's, Inc. (Little Angie's Cantina), 11 East Buchanan Street, in conjunction with Grandma's Marathon, for June 21, 2014, with the serving ceasing at 2:00 a.m. Resolution 14-0249 was unanimously adopted.

Approved May 27, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of manager, workforce development, which were reviewed by the civil service board on May 6, 2014, and which are filed with the city clerk as Public Document No. 14-0527-06, 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 1085, \$5,060 to \$6,230, to Pay Range 1085-1105, \$5,060 to \$6,836 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 14-0265 was unanimously adopted.

Approved May 27, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Turnstone Historical Research for the completion of an ethnographic study of the American Indian heritage of Duluth in accordance with the Minnesota historical society's grant agreement, for services not to exceed \$65,534 payable from the special projects fund, Finance Department 210-030-3112-4210-02 (miscellaneous federal grants).

Resolution 14-0256 was unanimously adopted.

Approved May 27, 2014

DON NESS, Mayor

- - -

RESOLVED, Section 2-176 of the Duluth City Code, 1959, as amended, requires that prior to any city-owned property being offered for sale or conveyance the city council shall, by resolution, state its intention to sell or convey such property.

FURTHER RESOLVED, that the Duluth City Council hereby states its intention to offer for sale or conveyance property in the Piedmont Heights neighborhood legally described and shown on Public Document No. 14-0527-07 subject to an easement for public park recreational purposes to be determined pursuant to a survey.

Resolution 14-0257 was unanimously adopted.

Approved May 27, 2014

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. 14-0527-08, to the flood hazard mitigation project to acquire and demolish flood damaged properties from voluntary owners, increasing the contract total from \$2,400,000 to \$2,880,000 and to extend the contract length by one year.

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).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

State Cost	Address	Special Flood Hazard Area (Flood Map)	Year Built
100%	114 Proco Court Duluth 55808	No	1920
100%	118 Proco Court Duluth 55808	No	1920
100%	2624 West Second Street Duluth 55806	No	1906
100%	5 South 59th Avenue West Duluth 55807	no structure	n/a
100%	127 Chester Parkway Duluth 55805	No	1914
100%	9133 Brook Street Duluth 55810	No	1910
100%	815 East 13th Street Duluth 55811	No	1923

Resolution 14-0266 was unanimously adopted.
 Approved May 27, 2014
 DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to pay to Dairy Farmers of America the sum of \$11,135.56 in full and final settlement of the claim which arose out of a vehicle accident occurring near 1925 West First Street on December 15, 2013; payment to be made from Self Insurance Fund No. 610-036-1651-5842 (self-insurance - liability, insurance accounting, general city, damage/loss expense).

Resolution 14-0246 was unanimously adopted.
 Approved May 27, 2014
 DON NESS, Mayor

- - -

RESOLVED, that it is deemed necessary for public convenience and safety and it is hereby ordered that the following streets (City Project No. 0846TR, S.A.P. 118-110-008) be improved:

Superior Street/First Street from 40th Avenue West to 46th Avenue West;
 40th Avenue West from Michigan Street to Grand 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 \$620,195.10, payable from Permanent Improvement Fund 411, Department/Agency 035 (capital projects accounts), Object 5530 (improvements other than buildings). The funding sources for this project will be as follows: \$620,195.10 from MSAS Fund 90, and of these project costs, \$158,561.27 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 at municipal bond index fund rate plus 1.50 percent interest.

Resolution 14-0240 was unanimously adopted.
 Approved May 27, 2014
 DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a license agreement-utilities, a copy of which is on file in the office of the city clerk as Public Document No. 14-0527-09 with the Regents of the University of Minnesota accepting a license to install and maintain a natural gas main and appurtenances on University of Minnesota Duluth property.

Resolution 14-0244 was unanimously adopted.

Approved May 27, 2014

DON NESS, Mayor

- - -

RESOLVED, that pursuant to Section 61 of the City Charter, the property owners by petition initiated the construction of a water main in North 85th Avenue West beginning at Vinland Street and extending 970 feet northerly, and hereby request 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 should be paid by special assessment, the number of installments in which assessments may be paid, and the properties which should be included in the special assessment:

8431 Vinland Street;
2910 North 85th Avenue West;
2924 North 85th Avenue West;
3010 North 85th Avenue West;
3014 North 85th Avenue West;
3016 North 85th Avenue West;
3020 North 85th Avenue West;
3030 North 85th Avenue West;
3114 North 85th Avenue West;
3003 North 85th Avenue West;
3029 North 85th Avenue West;
3115 North 85th Avenue West.

Resolution 14-0245 was unanimously adopted.

Approved May 27, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Hovland, Inc. for the 2014 Lake Avenue concrete patch and sidewalk project in the amount of \$231,394, with \$189,754 payable from Water Fund 510, Department 500 (public works and utilities), Division 1945 (utility operations), Object 5310 (contract services), and \$41,640 payable from Permanent Improvement Fund 411, Department 035 (capital projects), Object 5530 (improvements other than buildings), of which \$37,040 will be assessed to benefitting properties, City Project No. 1313.

Resolution 14-0252 was unanimously adopted.

Approved May 27, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Sinnott Contracting, LLC for the 2014 bituminous patch project in the amount of \$328,603.75, with \$251,515 payable from Water Fund 510, Department 500 (public works and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

utilities), Division 1945 (utility operations), Object 5310 (contract services), \$15,719.69 payable from Gas Fund 520, Department 500 (public works and utilities), Division 1945 (utility operations), Object 5310 (contract services), \$31,439.38 payable from Sanitary Sewer Fund 530, Department 500 (public works and utilities), Division 1945 (utility operations), Object 5310 (contract services), and \$15,719.69 payable from Stormwater Fund 535, Department 500 (public works and utilities), Division 1945 (utility operations), Object 5310 (contract services), and \$14,210 payable from Permanent Improvement Fund 411, Department 035 (capital projects), Object 5530 (improvements other than buildings), City Project No. 1358.

Resolution 14-0253 was unanimously adopted.

Approved May 27, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with LHB, Inc., for professional engineering services to provide design engineering for the Congdon Boulevard erosion repair project in the amount of \$91,808, payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1808 (disaster aid and revenues), City Project No. 1324.

Resolution 14-0255 was unanimously adopted.

Approved May 27, 2014

DON NESS, Mayor

- - -

RESOLVED that the city of Duluth gives to Officer Brad Wick of the city of Duluth police department, the police canine named Abe, in recognition of the completion of Abe's invaluable service to the city.

BE IT FURTHER RESOLVED, that the proper city officials are authorized to execute any documents necessary to transfer ownership of Abe to Brad Wick.

Resolution 14-0243 was unanimously adopted.

Approved May 27, 2014

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 \$2,500 for Washington Community Center's new refrigerator, funds to be deposited in 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 grant from the Duluth legacy endowment fund in the amount of \$1,000 for Clean and Green 2014, funds to be deposited in 205-130-1219-4270 (parks fund, community resources, parks operating, miscellaneous grants) and to execute any documents required to be executed to accept such grant.

FURTHER RESOLVED, that the proper city officials are hereby authorized to accept a grant on behalf of North Country Trail Association, acting as their fiscal agent, from the Duluth legacy endowment fund in the amount of \$500, for a MN Hiking Celebration, funds to be deposited in 205-130-1219-4270 (parks fund, community resources, parks operating, miscellaneous grants) and payable from 205-130-1219-5434 (parks fund, community resources, parks operating, grants and awards), and to execute any documents required to accept such grant.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

FURTHER RESOLVED, that the proper city officials are hereby authorized to accept a grant from the Duluth legacy endowment fund, on behalf of Hartley Nature Center, acting as their fiscal agent, in the amount of \$2,000 for ski rental upgrades at Hartley Nature Center, funds to be deposited in 205-130-1219-4270 (parks fund, community resources, parks operating, miscellaneous grants) and payable from 205-130-1219-5434 (parks fund, community resources, parks operating, grants and awards) 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, on behalf of Lake Superior Botanical Gardens, acting as their fiscal agent, in the amount of \$2,500 for Protecting Our Pollinators: Demonstration Gardens to be developed by the Lake Superior Botanical Gardens at the Lake Superior Zoo, funds to be deposited in 205-130-1219-4270 (parks fund, community resources, parks operating, miscellaneous grants) and payable from 205-130-1219-5434 (parks fund, community resources, parks operating, grants and awards) and to execute any documents required to accept such grant.

Resolution 14-0251 was unanimously adopted.

Approved May 27, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to award \$15,000 to Hartley Nature Center pursuant to the matching provision of the city's neighborhood playground equipment revitalization program (formed under City Council Resolution 09-0439); funding awarded from Parks Fund Capital Budget 205-130-1220-5434 (parks fund, community resources, parks' capital, grants and awards).

Resolution 14-0263 was unanimously adopted.

Approved May 27, 2014

DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth does hereby accept the USS Duluth anchor as a gift from the USS Duluth Crewmembers Association.

FURTHER RESOLVED, the city hereby expresses its appreciation for this gift on behalf of the city and its citizens.

Resolution 14-0264 was unanimously adopted.

Approved May 27, 2014

DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 14-0254, authorizing a contract with Titan Machinery, Inc., for the purchase and delivery of a Case Model 821F wheel loader in the amount of \$172,044, was introduced by Councilor Hanson.

Councilor Fosle opposed the resolution because he felt the fleet study report should be received before proceeding with this purchase.

Resolution 14-0254 was adopted as follows:

RESOLVED, that the proper city officials are authorized to contract with Titan Machinery, Inc., for the purchase and delivery of a Case Model 821F wheel loader for the maintenance operations division in accordance with Minnesota State Contract 73166, Release

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

L 331(5), and the vendor's quote of \$194,544 - less a trade-in value of \$22,500 for an old Case loader unit 3394 - for a combined total of \$172,044, terms net 30, FOB destination, payable from Capital Equipment Fund 250, Public Administration 015, Fiscal Year 2014, 2014 capital equipment, Project CE250-V1404.

Resolution 14-0254 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved May 27, 2014

DON NESS, Mayor

- - -

Resolution 14-0218, confirming the appointments and reappointments of members to city boards and commissions, was introduced by Councilor Gardner.

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

Mike Hoenke spoke on the need for appointments to the Duluth human rights commission, questioning when those additional appointments would be coming.

Resolution 14-0218 was adopted as follows:

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. 14-0527-10, for terms expiring on March 31 of various years, are confirmed.

Resolution 14-0218 was unanimously adopted.

Approved May 27, 2014

DON NESS, Mayor

- - -

RESOLVED, that the reappointment by Mayor Ness of Nancy Aronson Norr to the Duluth economic development authority for a term expiring on May 26, 2020, is confirmed.

Resolution 14-0258 was unanimously adopted.

Approved May 27, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a temporary license agreement with the state of Minnesota department of transportation, substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0527-11, authorizing the city to enter upon the DWP site and perform environmental drilling on and testing of the property.

Resolution 14-0241 was unanimously adopted.

Approved May 27, 2014

DON NESS, Mayor

- - -

Resolution 14-0259, adopting the Park Point small area plan recommendation improving that section of South Eighth Street between Lake Avenue and Minnesota Avenue and Minnesota Avenue from the north end of the existing easement to its intersection with South Lake Avenue and South 13th Street; Resolution 14-0260, adopting the Park Point small area plan recommendation for the future relocation of the "S" curve connection between South Lake Avenue to Minnesota Avenue at South 13th Street to South Eighth Street; Resolution

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

14-0261, adopting the Park Point small area plan recommendations regarding the future improvement of utilities infrastructure and amending the comprehensive plan - future land use map in three locations; and Resolution 14-0262, adopting the Park Point small area plan recommendations regarding wayfinding and use of improved and unimproved rights-of-way for public access, were introduced by Councilor Russ for discussion.

Keith Hamre, director of planning and construction services, summarized the issues and details of this project.

Councilor Gardner moved to amend the last paragraph of Resolution 14-0262, by adding the language, "including reinstatement of the language in the plan that 'Tier 2 access points will not be advertised in any pamphlets,'" which motion was seconded and discussed.

Councilor Gardner further moved to amend Resolution 14-0262 by adding the following paragraph:

"FURTHER RESOLVED, within 90 days of the passage of this resolution, the Park Point street end coalition, community club and parks commission shall meet with planning staff to develop amendments to the current list of 16 Tier 2 access points," which motion was seconded and discussed.

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

Garner Moffat, planning commission member, spoke in support of the recommendations of the planning commission.

Burke Edgerton, Bob Swanson, Betty Sola, Mike Medlin, Dale Sola, Val Olet, Deborah Medlin, Justin Medlin, JC Curtis, Brian Nelson, Lisa Berthel, David Kaszler, David Poulin, Shannon Stevens, Melanie Goldish, Roy Marlow, Steven Sola and Bill Burns spoke at length in opposition to the small area plans, citing reasons of: moving the "S" curve creates a traffic issue when one does not currently exit; moving a road due to commercial development pressure is not a good idea when there is no commercial development pressure because there is no commercial development land available; it is not fiscally responsible to spend millions of dollars for property acquisition and road construction to build a road five blocks long which will displace homeowners and shrink the tax base; it is not the right thing to do to pass a resolution for a long range plan that has no timeline for a start date nor funding and leave those property owners not able to sell their homes; it is not a good idea to create a safety issue for the bridge operator by limiting his line of sight to 300 feet; all these issues should not be created for about 60 days of heavy road traffic; concerns that the Minnesota department of natural resources, the Coast Guard, the city of Duluth bridge operators, the corps of engineers, homeland security and Park Point businesses should have been consulted; Alternative 3 is the most flawed plan; homeowners will have to pick up the tab for this project; many trees will be lost; there is no public good/benefit for moving this curve; if safety is one of the reasons for this change, just put a stop sign and crosswalk in; these proposals would do nothing to address the traffic that happens in the summer; just changing the parking restrictions without moving the pedestrian lane could accomplish the desired affect; no more access points are needed based on tourist reviews; the Tier 2 plan is putting a tremendous burden on a few individuals on the point; there needs to be a study to determine what the problems are at 31st Street and the Tot Lot area; the attorney general has determined that regarding vacating street ends where there is public access to water, that they cannot be vacated unless they are determined to be perfectly useless; there has not been a clear, consistent answer as to what the objectives are that the city is trying to achieve; on street parking between Eighth Street and the bridge is very difficult; fix the Tier 1 access first; Park Point is a unique, wonderful community that does not need this change and it will be 20 years plus before this plan would be implemented.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Councilors Gardner, Russ, Larson, Fosle, Julsrud, Sipress, Filipovich and President Krug commented at great length at the issues.

Councilor Julsrud suggested returning resolutions 14-0259, 14-0260 and 14-0262 to the administration for further discussion. She stated that if they are not returned to the administration that she would be abstaining to reflect that she wishes to have further discussion on those resolutions.

Resolution 14-0259 failed upon the following vote (Public Document No. 14-0527-16):

Yeas: Councilor Russ -- 1

Nays: Councilors Filipovich, Fosle, Gardner, Hanson, Larson, Sipress and President Krug -- 7

Abstention: Councilor Julsrud -- 1

- - -

Resolution 14-0260 failed upon the following vote (Public Document No. 14-0527-15):

Yeas: Councilors Gardner and Sipress -- 2

Nays: Councilors Filipovich, Fosle, Hanson, Larson, Russ and President Krug -- 6

Abstention: Councilor Julsrud -- 1

- - -

Resolution 14-0261 was adopted as follows:

RESOLVED, that the city council finds the following:

(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 Park Point small area plan, a land use plan for one of the sub-areas identified in the comprehensive land use plan; and

(c) The city planning division, in the Park Point small area plan, proposes a number of recommendations for future expansion and placement of utility infrastructure; and

(d) Three amendments to the comprehensive land use plan - future land use map; and

(e) The city planning commission has reviewed the Park Point small area plan recommendations, conducted a public hearing on April 30, 2014, at special meeting, and recommended adoption of the Park Point small area plan recommendations and the proposed amendments to the comprehensive land use plan - future land use map.

BE IT FURTHER RESOLVED, that these recommendations from the Park Point small area plan be adopted as identified in Public Document No. 14-0527-12.

Resolution 14-0261 was adopted upon the following vote:

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

Nays: Councilors Fosle and Hanson -- 2

Approved May 27, 2014

DON NESS, Mayor

- - -

Councilor Gardner's amendment to Resolution 14-0262 regarding the Tier 2 access point not being advertised carried unanimously.

Councilor Gardner's amendment to Resolution 14-0262 regarding additional study and meetings in 90 days on the Tier 2 access points carried unanimously.

Resolution 14-0262, as amended, was adopted as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

RESOLVED, that the city council finds the following:

(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 Park Point small area plan, a land use plan for one of the sub-areas identified in the comprehensive land use plan; and

(c) The city planning division, in the Park Point small area plan, proposes a number of recommendations for improvements to way finding for recreational, residential and commercial use; and

(d) The plan also endorses the Tier 1 and Tier 2 beach access system, parks and recreation recommendation but with fewer Tier 2 access points and more distance between those points; and

(e) The city planning commission has reviewed the Park Point small area plan recommendations, conducted a public hearing on April 30 2014, at special meeting, and recommended adoption of the Park Point small area plan recommendations and the proposed amendments to the comprehensive land use plan - future land use map.

BE IT FURTHER RESOLVED, that these recommendations from the Park Point small area plan are adopted as identified in Public Document No. 14-0527-13, including reinstatement of the language in the plan that "Tier 2 access points will not be advertised in any pamphlets."

FURTHER RESOLVED, within 90 days of the passage of this resolution, the Park Point street end coalition, community club and parks commission shall meet with planning staff to develop amendments to the current list of 16 Tier 2 access points.

Resolution 14-0262, as amended, was adopted upon the following vote:

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

Nays: Councilors Fosle and Hanson -- 2

Approved May 27, 2014

DON NESS, Mayor

- - -

Resolution 14-0267, by President Krug and councilors Julsrud and Larson, amending Resolution 13-0593, adopting license, permit, fine, penalty and other charges for 2014, by adding street system maintenance utility fees, was introduced for discussion.

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

Beverly Massie and Bob Woods spoke in opposition to additionally paying for pot holes, clean water and stormwater.

Councilor Gardner moved to table the resolution for consideration with Ordinance 14-036, which motion was seconded and unanimously carried.

- - -

Resolution 14-0270, by Councilor Julsrud, of intent to reduce the street lighting system utility fee prior to repeal, was introduced for discussion.

Councilor Folse moved to amend the last paragraph of the resolution by changing the date of "December 31, 2018," to "December 31, 2015," which motion was seconded and unanimously carried.

Councilor Julsrud moved to table the resolution, as amended, which motion was seconded and unanimously carried.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR JULSRUD

14-038 - AN ORDINANCE AMENDING THE BUDGET OF THE CITY OF DULUTH FOR YEAR 2014 BY INCREASING THE BUDGET AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

- - -

INTRODUCED BY COUNCILOR HANSON

14-018 - AN ORDINANCE AMENDING SECTIONS 27-5, 27-6, 27-7 AND 27-8 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO PEDDLERS AND CANVASSERS.

- - -

INTRODUCED BY COUNCILOR RUSS

14-027 - AN ORDINANCE DESIGNATING THE CLAYTON JACKSON MCGHIE MEMORIAL, AT 31 NORTH SECOND AVENUE EAST, AS A DULUTH HERITAGE PRESERVATION LANDMARK.

- - -

INTRODUCED BY COUNCILOR RUSS

14-028 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO MU-C FOR THE PROPERTY LOCATED AT THE NORTHWEST CORNER OF SOUTH ARLINGTON AVENUE AND WEST PALM STREET (KWIK TRIP INC).

- - -

INTRODUCED BY COUNCILOR RUSS

14-029 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING SUBDIVISION STANDARDS.

- - -

INTRODUCED BY COUNCILOR RUSS

14-030 - AN ORDINANCE GRANTING TO ST. LUKE'S HOSPITAL A CONCURRENT USE PERMIT FOR A NEW SKYWALK LOCATED IN THE TENTH AVENUE EAST RIGHT-OF-WAY.

- - -

INTRODUCED BY COUNCILOR RUSS

14-031 - AN ORDINANCE GRANTING TO ST. LUKE'S HOSPITAL A CONCURRENT USE PERMIT FOR SNOW MELT SYSTEMS AND UNDERGROUND DUCT BANK IN THE RIGHT-OF-WAY OF TENTH AVENUE EAST, SECOND STREET, FIRST STREET AND THE FIRST STREET ALLEY.

- - -

INTRODUCED BY COUNCILOR RUSS

14-032 - AN ORDINANCE GRANTING TO DULUTH REAL ESTATE, LLC, A CONCURRENT USE PERMIT FOR TIE-BACK ANCHORS UNDER THE RIGHT-OF-WAY OF WEST FIRST STREET ALLEY BETWEEN NORTH FOURTH AND NORTH FIFTH AVENUES WEST.

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

INTRODUCED BY COUNCILOR RUSS

14-033 - AN ORDINANCE GRANTING TO DULUTH REAL ESTATE, LLC, A CONCURRENT USE PERMIT FOR SHOTCRETE WALLS AND SOIL NAIL ANCHORS UNDER THE RIGHT-OF-WAY OF FOURTH AVENUE WEST AND FIFTH AVENUE WEST BETWEEN WEST SUPERIOR STREET AND WEST FIRST STREET ALLEY.

- - -

INTRODUCED BY COUNCILOR RUSS

14-034 - AN ORDINANCE GRANTING TO DULUTH REAL ESTATE, LLC, A CONCURRENT USE PERMIT FOR SKYWALK AND BUILDING FOUNDATION IN THE RIGHT-OF-WAY AT THE NORTHWEST CORNER OF WEST SUPERIOR STREET AND FOURTH AVENUE WEST.

- - -

INTRODUCED BY COUNCILOR RUSS

14-035 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-P FOR THE PROPERTY LOCATED AT THE ROCKRIDGE SCHOOL SITE (ISD #709).

- - -

BY PRESIDENT KRUG AND COUNCILORS JULSRUD AND LARSON

14-036 - AN ORDINANCE CREATING A STREET SYSTEM MAINTENANCE UTILITY AND AUTHORIZING CHARGES THEREFORE, ADDING A NEW ARTICLE XIII TO CHAPTER 45 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILORS JULSRUD AND GARDNER

14-037 - AN ORDINANCE REPEALING ARTICLE XII, CHAPTER 45, OF THE DULUTH CITY CODE, 1959, AS AMENDED, REPEALING THE STREET LIGHTING SYSTEM UTILITY EFFECTIVE DECEMBER 31, 2019.

Councilor Fosle introduced his amendment to Section 1 of the ordinance to change effective date from "December 31, 2019," to "December 31, 2015," and moved to table it for the second reading of the ordinance, which motion was seconded and carried unanimously.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR GARDNER

14-023 (10295) - AN ORDINANCE AMENDING CHAPTER V, SECTION 36, OF THE CITY CHARTER, CIVIL SERVICE, REMOVING THE PROVISION RELATING TO RANDOM SELECTION FOR ENTRY-LEVEL EMPLOYEES.

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

- - -

INTRODUCED BY COUNCILOR RUSS

14-024 (10296) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING CHANGES TO THE PERMITTED USE TABLE.

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

- - -

INTRODUCED BY COUNCILOR RUSS

14-025 (10297) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO MU-I FOR THE

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

PROPERTY LOCATED AT 2501 RICE LAKE ROAD LYING SOUTH OF WEST ARROWHEAD ROAD, EAST OF NORTH ARLINGTON ROAD, AND WEST OF RICE LAKE ROAD.

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

- - -

INTRODUCED BY COUNCILOR RUSS

14-026 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO MU-I FOR THE PROPERTY LOCATED AT 2501 RICE LAKE ROAD LYING SOUTH OF WEST ARROWHEAD ROAD, EAST OF NORTH ARLINGTON ROAD, AND WEST OF NORTH BLACKMAN AVENUE.

The ordinance failed upon a unanimous vote (Public Document No. 14-0527-17).

- - -

The meeting was adjourned at 10:06 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10295

AN ORDINANCE AMENDING CHAPTER V, SECTION 36, OF THE CITY CHARTER, CIVIL SERVICE, REMOVING THE PROVISION RELATING TO RANDOM SELECTION FOR ENTRY-LEVEL EMPLOYEES.

The city of Duluth does ordain:

Section 1. That Chapter IV, Section 21 of the 1912 Home Rule Charter of the city of Duluth, as amended, is hereby amended, to read as follows:

Sec. 36. Same--Powers and duties; exceptions for those persons entitled to worker's compensation benefits.

(A). The board, with the approval of the council, shall make rules and regulations for the proper conduct of its business, and shall provide: for the classification of all employees, except (1) the officers mentioned in Chapter IV (sections 18 through 34, inclusive) of this Charter; (2) two deputy chiefs of police, who at the time of appointment as such must be a sworn law enforcement officer in the classified service of the city; (3) two deputy fire chiefs, who at the time of appointment as such must be employed in the fire department of the city; (4) an equal opportunity representative; and (5) day laborers, officers of election boards, special police officers, special detectives and other temporary employees; for open competitive and free examination as to fitness-- for an eligibility list from which vacancies shall be filled; for a period of probation before employment is made permanent; and for promotion on the basis of merit, experience and record. Employees within the scope of this Chapter, who are in office at the time of the adoption of this Charter, shall retain their positions, unless removed for cause. The council may, by ordinance, confer upon the board such further rights and duties as may be deemed necessary to enforce and carry out the principles of this Chapter;

(B). Notwithstanding anything to the contrary in paragraph (A) above, the board, with the approval of the council, may establish noncompetitive or other alternative evaluation procedures for the employment of persons with disabilities

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

when because of such disabilities the procedures prescribed by paragraph (A) would not provide such disabled applicants with equal employment opportunity. The board may authorize the appointment of any such person to a position in the classified service if it determines that such person has so demonstrated the ability to perform the duties of the position;

(C). Notwithstanding anything to the contrary in paragraph (A) above or in any ordinance of the city, any person who is employed or has been employed by the city in any classified or unclassified position, who has sustained personal injury arising out of and in the course of such person's employment with the city within the meaning of the state worker's compensation law so that such person may be entitled to receive worker's compensation benefits as a result of such personal injury, or has sustained personal injury or developed a disease or debilitating condition such that the person may qualify for disability benefits pursuant to a long term disability insurance program provided by the city by collective bargaining agreement or otherwise, may be employed in any classified position deemed appropriate by the chief administrative officer without having to comply with the ordinary classified service procedures regarding application for employment, testing, and certification from an eligible list. Any person employed in a classified position pursuant to this paragraph shall not be compensated for employment in such position at a rate which is greater than that currently prescribed for the city position or classification which such person occupied when the above-mentioned personal injury was sustained, or the above-mentioned disability occurred. The implementation of this Subsection (C) shall be subject to the provisions of any pertinent collective bargaining agreement to which the city is a party.

Section 2. That this ordinance shall take effect 90 days after its passage and publication. (Effective date: August 28, 2014)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 27, 2014
Approved May 27, 2014
DON NESS, Mayor

- - -

ORDINANCE NO. 10296

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING CHANGES TO THE PERMITTED USE TABLE.

The city of Duluth does ordain:

Section 1. That Section 50-19.8 of Chapter 50 be amended as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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-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
RESIDENTIAL USES																									
Household Living																									
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 ²	P	P ²				P ¹	P													50-20.1.B
Dwelling, multi-family					P ²	P	P ²	P ¹	P ¹		P ¹	P	U	P	U	P	P	P	U	P	P				50-20.1.C
Dwelling, live-work							P ²	P ¹	P ¹		P ¹	P	P	P	P	P	P		P	P					
Manufactured home park				S	S ²	P	S ²																		50-20.1.F
Group Living																									
Co-housing facility				S	S ²	P	P ²					P													
Residential care facility/assisted living (6 or fewer)		P	P	P	P ²	P	P ²					P	U	P	U	P	P	U	U	P	P				50-20.1.D
Residential care facility/assisted living (7 or more)				S	P ²	P	P ²	P ¹	P ¹		P ¹	P	U	P	U	P	P	U	U	P	P				50-20.1.D
Rooming house					S ²		P ²	P ¹	P ¹		P ¹	P	U	P	U	P	P	U	U	P	P				50-20.1.E
PUBLIC, INSTITUTIONAL AND CIVIC USES																									
Community and Cultural Facilities																									
Bus or rail transit station							P ²	P ¹	P ¹	P	P ¹	P	P	P	P	P	P	P	P	P	P				
Cemetery or mausoleum	S	S	S	S	S ²	P	S ²	S	S	S														S	
Club or lodge (private)					S ²	P	P ²	P ¹	P ¹		P ¹	P	P	P	P	P	P	P	P	P				S	50-20.2.A
Government building or public safety facility		P	P	S	P ²	P	P ²	P ¹	P	P	P ¹	P	P	P	P	P	P	P	P	P	P	S	S	S	
Museum, library, or art gallery				S	S ²	P	P ²	P ¹		S	P ¹	P	P	P	P	P	P	P	P	P	P			S	
Park, playground, or forest reserve	P	P	P	P	P ²	P	P ²	P ¹	P ¹		P ¹	P	P	P	P	P	P	P	P	P	P			P	
Religious assembly, small (less than 50,000 sq. ft.)		P	P	S	P ²	P	P ²	P ¹	P ¹	S	P ¹	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 ²	P	P ²	P ¹	P ¹	S	P ¹	P	P	P	P	P	P	P	P	P					50-20.2.C
Educational Facilities																									

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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	
Business, art, or vocational school							P ²	P ¹	P ¹	P	P ¹	P	P	P	P	P	P	P	P	P				
School, elementary		P	P	P	P ²	P	P ²	P ¹	P ¹			P	U	P	U	P	P	U	U	U				50-20.2.D
School, middle or high		S	S	S	S ²	P	S ²	S ¹	S ¹			P	U	P	U	P	P	U	U	U				50-20.2.D
University or college									P ¹			P			U	P	P	U	U	U				
Health Care Facilities																								
Hospital									P ¹															
Medical or dental clinic					S ²	P	P ²	P ¹	P ¹	P	P ¹	P	P	P	P	P	P	P	P	P				50-20.2.B
Nursing home					P ²	P	P ²	P ¹	P ¹		P ¹	P		P		P								
Other institutional support uses not listed in this table									P ¹															
COMMERCIAL USES																								
Agriculture and Animal-Related																								
Agriculture, general	P	P																						50-20.3.B
Agriculture, urban		P	P	P	P ²	P	P ²					P												
Kennel	S	S						S	S	P		P												
Riding stable	S	S	S			P					S												S	
Veterinarian or animal hospital	S	S			P ²	P	P ²	P ¹	P ¹	P	P ¹	P	P	P	P	P	P	P						50-02.3T
Food, Beverage, and Indoor Entertainment																								
Adult entertainment establishment																						P		50-20.3.A
Convention or event center								P ¹		P	P ¹	P				P	P		P	P	P			50-20.3.H
Indoor entertainment facility								P ¹		P	P ¹	P		P		P	P		P	P	P			
Restaurant (less than 5,000 sq ft)					S ²	S	S ²	P ¹	P ¹	P	P ¹	S	P	P	P	P	P	P	P	P	P			50-20.3.Q
Restaurant (5,000 sq ft or more)						S		P ¹	P ¹	P	P ¹	S	P	P	P	P	P	P	P	P	P			50-20.3.Q
Theater							S ²	P ¹			P ¹	P		P		P	P		P	P	P			
Lodging																								

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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
Hotel or motel							S ²	P ¹	P ¹	P	P ¹	P		P		P	P		P	P	P				
Bed and breakfast				S	P ²	P	P ²	P ¹	P ¹	P	P ¹	P		P		P		P						50-20.3.F	
Seasonal camp or cabin	P	P				P					P ¹												S	50-20.3.S	
Vacation dwelling unit		I	I	I	I ²	I	I ²									I									50-20.3.U
Offices																									
Bank							S ²	P ¹	P ¹	P	S	P	P	P	P	P	P	P	P	P	P			50-20.3.E	
Office					S ²		P ²	P ¹	P ¹	P	P ¹	P	P	P	P	P	P	P	P	P	P			50-20.3.M	
Data center							S ²	P ¹	P ¹	P	S	P	U	U	U	U	U	U	U	U	U	P			
Outdoor Recreation & Entertainment																									
Golf course		S	S			P																	P		
Marina or yacht club											P ¹											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	
Personal Services																									
Business park support activities										P	P														
Preschool		S	S	S	P ²	P	P ²	P ¹	P ¹		P ¹	P	P	P	P	P	P	P	S	P	S				
Day care facility, small (14 or fewer)	P	P	P	P	P ²	P	P ²	P ¹	P ¹		P ¹	P	P	P	P	P	P	P	P	P	P			50-20.3.I	
Day care facility, large (15 or more)		S	S	S	S ²	P	P ²	P ¹	P ¹		P ¹	P	P	P	P	P	P	S	P	S			50-20.3.I		
Funeral home or crematorium					S ²		S ²	P ¹	P ¹	P		P		P		P						P			
Mini-storage facility										P												P	P	50-20.3.L	
Personal service and repair, small (less than 10,000 sq ft)						P	P ²	P ¹	P ¹	P	P ¹	P	P	P	P	P	P	P	P	P	P				
Personal service and repair, large (10,000 sq. ft. or more)							S ²	P ¹	P ¹	P	P ¹	P		P		P		P			P				
Retail Sales																									
Adult book store																						P		Chapter 5	
Building materials sales								S		P	P													50-20.3.G	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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
Garden material sales	S						P ¹				P				P										
Grocery store, small (less than 15,000 sq ft)					P	P ²	P ¹			P ¹	P		P		P	P	P	P	P	P					50-20.3.K
Grocery store, large (15,000 sq ft or more)							P ¹				P														50-20.3.K
Retail store not listed, small (less than 15,000 sq ft)				S ²	P	P ²	P ¹	P ¹		P ¹	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 ¹			P ¹	P		P		P	P		P	P						50-20.3.R
Vehicle-Related																									
Automobile and light vehicle repair and service						S ²	P ¹		P		P		P		P	P	P				P				50-20.3.C
Automobile and light vehicle sales, rental, or storage							P ¹		P												P				50-20.3.D
Filling station				S ²	P	S ²	P ¹		P	P ¹	P		P		P	P	P				P	P			50-20.3.J
Parking lot or parking structure (primary use)							P ¹	P ¹	P	P ¹	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				
INDUSTRIAL USES																									
Industrial Service																									
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 ¹	P		P										P	P			
Industrial services									P												P	P			
Manufacturing and Mining																									
Manufacturing, light								P ¹	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			
Transportation-Related																									
Airport and related facilities	S																				P				50-20.4.A

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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
Railroad yard or shipyard and related facilities																							P	P	
Truck freight or transfer terminal										P													P	P	
Utilities																									
Electric power or heat generation plant																							P	P	
Electric power transmission line or substation	S	S	S	S	S ²	P	S ²	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 ²	P	S ²	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 ²	P	S ²	S	S	S	S	P	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
Waste and Salvage																									
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
Wholesale Distribution and Storage																									
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	
ACCESSORY USES																									
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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 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	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	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	
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	
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	
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	
TEMPORARY USES																												
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		
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	
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			
Temporary real estate sales office				A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A								
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		
FORM DISTRICT BUILDING TYPES																												
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							

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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
Cottage Commercial I													P				P							
Cottage Commercial II															P									
Iconic Building												P		P	P	P		P						

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: June 29, 2014)

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

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

Nays: None – 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 27, 2014
Approved May 27, 2014
DON NESS

- - -

ORDINANCE NO. 10297

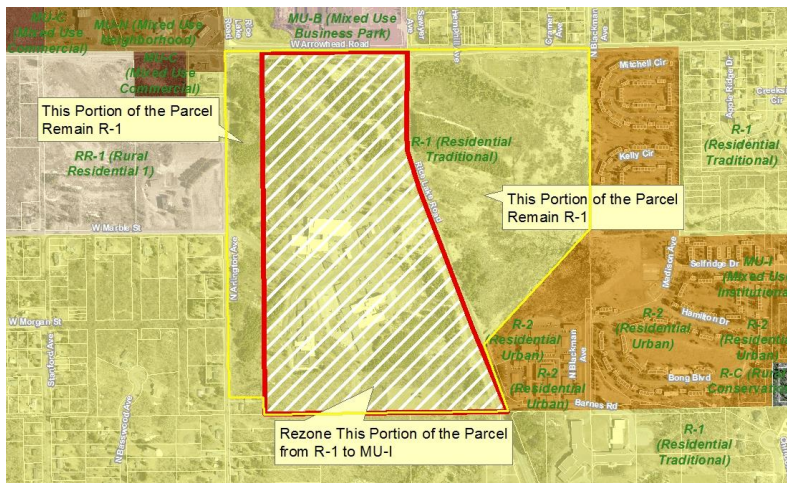
AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO MU-I FOR THE PROPERTY LOCATED AT 2501 RICE LAKE ROAD LAYING SOUTH OF WEST ARROWHEAD ROAD, EAST OF NORTH ARLINGTON ROAD, AND WEST OF RICE LAKE ROAD (SAINT LOUIS COUNTY).

The city of Duluth does ordain:

Section 1. That the approximately 95 acres of the subject property of Parcel 010-2710-03940 located at 2501 Rice Lake Road (formerly known as the Saint Louis County Poor Farm) and as more particularly described in Exhibit A and by the following:

NW1/4 EX PART BEG AT SE COR THENCE WLY 599.85 FT TO E LINE OF RICE LAKE ROAD THENCE NWLY ALONG SAID ROAD 515 FT THENCE NELY 1142.30 FT TO NE COR OF SE1/4 OF NW1/4 THENCE SLY 1314.62 FT TO PT OF BEG & EX W 253 FT, S16-T5ON-R14W, and excepting the portions of the parcel east of Rice Lake Road, be reclassified from R-1 to MU-I.

Section 2. 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. 14-015)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: June 29, 2014)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed May 27, 2014
Approved May 27, 2014
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, June 9, 2014, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

14-0609-27 Susan Connor communication regarding the proposed street system maintenance utility and fees and the proposed resolution modifying the voting process for municipal elections (14-0267R, 14-0280R and 14-036-O). -- Received

14-0609-28 Brett Groehler communication regarding the proposed street system maintenance utility and fees and resolution of intent to reduce the street lighting system utility fee (14-0270R, 14-0280R, 14-036-O and 14-037-O). -- Received

14-0609-01 The following communications regarding the proposed street system maintenance utility and fees (14-0267R and 14-036-O): (a) William Andersen; (b) Carl F. Anderson; (c) Deann Barta; (d) Carmyn Geissler; (e) Elizabeth Hansen; (f) Russell Hauptert; (g) Joe Kleiman; (h) Gerard E. Lawson; (i) Eli Madrinich; (j) Deb Musick; (k) Carla Netland; (l) Zora Newberg; (m) Donald and Donna Pelofske; (n) MaryJo Twight; (o) Kathryn Zabelle Stodola; (p) Marilyn Zambory. -- Received

14-0609-29 The following communications regarding the proposed resolution modifying the voting process for municipal elections (14-0280R): (a) Darrell Anderson; (b) Bryan Jensen; (c) Donn Larson; (d) Derek Neas; (e) Patrick O'Connor; (f) Ken Risdon; (g) Scott Yeazole. -- Received

14-0609-30 The following communications regarding the proposed reduction of the street lighting system utility fee (14-0270R and 14-037-O): (a) Glen Kush; (b) Richard Paulson. -- Received

- - -

REPORTS FROM OTHER OFFICERS

14-0609-02 Clerk application for exempt permit to the Minnesota gambling control board from Duluth Amateur Hockey Association on January 12, 2015 (raffle). -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

14-0609-03 Civil service board minutes of April 1, 2014, meeting. -- Received

14-0609-04 Duluth airport authority minutes of April 15, 2014, meeting. - Received

14-0609-05 Duluth citizen review board minutes of March 25, 2014, meeting. -- Received

14-0609-06 Duluth parking commission minutes of April 10, 2014, meeting. -- Received

14-0609-07 Duluth public utilities commission minutes of April 15, 2014, meeting. -- Received

14-0609-08 Housing and redevelopment authority of Duluth minutes of February 25, 2014, meeting. -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

14-0609-09 Library board minutes of April 22, 2014, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Gerald Schlafer commented on climate change, noting that with global warming money there is an increase in marathon races and increased productivity of carbonated beverages. He also felt that global warming is an industry with tens of millions of dollars spent on it and it has not changed the earth's temperature.

- - -

Sydney Nelson commented on the role of youth in local government and how to get youth input on local issues.

- - -

Karen Lewis commented on public safety and sink holes, specifically in the alley at Second Avenue West, between First and Second streets and how dangerous it is.

- - -

RESOLUTION TABLED

Councilor Julsrud moved to remove Resolution 14-0270, of intent to reduce the street lighting system utility fee prior to repeal, from the table, which motion was seconded and unanimously carried.

Councilor Fosle moved to amend the resolution regarding the effective date from "December 31, "2018," to "December 31, 2015," which motion was seconded and discussed.

Councilor Fosle explained that this amendment is to eliminate the fee as soon as possible.

Other councilors commented on how this fee is needed to cover the immediate need of on-going maintenance and the installation of lower cost LED lights.

The amendment failed as follows:

Yeas: Councilor Fosle -- 1

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

Councilors Filipovich and Larson and President Krug opposed the resolution for reasons of: these fees should be talked about in the budget process; there is not a plan to replace this fee yet; this change could increase property taxes; the current council would be locking future councils into this and it is not fiscally responsible to pass this now without a plan to replace it,

Councilors Gardner, Sipress, Russ, Fosle and Julsrud supported the resolution for reasons of: there is a lot time until 2018 to talk about this issue at budget times; fees are the most unpopular and unfair to citizens; this is a responsible way to wean the fee off; the change to LED lighting will help to cover these expenses; if it comes down to a choice between a fee and a property tax increase, the fee always loses; this is the time to finish the job, because the Minnesota Power franchise fee is used to cover the street lighting utility and fees should be viewed as a temporary solution.

David Montgomery, chief administrative officer, reviewed at length: the annual licensing, permit and fee schedule process; the purpose of the franchise fee process; the scope of this fee is more than the signal lighting and the need for discussing how the funding from this fee will be replaced before this change is done.

Resolution 14-0270 was adopted as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

BY COUNCILORS JULSRUD AND GARDNER:

WHEREAS, the city council annually establishes fees to be charged for the street lighting system utility pursuant to Chapter 45 of the Duluth City Code, 1959, as amended; and

WHEREAS, the city council has expressed a desire to reduce and eventually repeal the street lighting system utility fees.

THEREFORE, BE IT RESOLVED, that it is the intent of the Duluth City Council that, on December 31, 2018, the street lighting system utility fees shall be reduced by half the then current amounts.

Resolution 14-0270 was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Julsrud, Russ and Sipress -- 5

Nays: Councilors Filipovich, Hanson, Larson and President Krug -- 4

Adopted June 9, 2014, pursuant to Section 12 of the Duluth City Charter.

- - -

Councilor Julsrud moved to suspend the rules to consider Ordinance 14-037, at this time, which motion was seconded and unanimously carried.

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the second time:

BY COUNCILORS JULSRUD AND GARDNER

14-037 (10298) - AN ORDINANCE REPEALING ARTICLE XII, CHAPTER 45, OF THE DULUTH CITY CODE, 1959, AS AMENDED, REPEALING THE STREET LIGHTING SYSTEM UTILITY EFFECTIVE DECEMBER 31, 2019.

Councilor Fosle moved to remove his amendment to Section 1 of the ordinance to change effective date from "December 31, 2019," to "December 31, 2015," from the table, which motion was seconded and carried unanimously.

Councilor Fosle's amendment failed upon the following vote:

Yeas: Councilor Fosle -- 1

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

Councilors discussed at length the merits of the issues raised.

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

Yeas: Councilors Fosle, Gardner, Julsrud, Russ and Sipress -- 5

Nays: Councilors Filipovich, Hanson, Larson and President Krug -- 4

- - -

Councilor Larson moved to suspend the rules to consider Ordinance 14-036 at this time, which motion was seconded and unanimously carried.

BY PRESIDENT KRUG AND COUNCILORS JULSRUD AND LARSON

14-036 - AN ORDINANCE CREATING A STREET SYSTEM MAINTENANCE UTILITY AND AUTHORIZING CHARGES THEREFORE, ADDING A NEW ARTICLE XIII TO CHAPTER 45 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Gardner moved to amend Section 45-112 of the ordinance by adding the following subparagraph:

"(c) Nothing to the contrary in this Article withstanding, in the event that any work constitutes an improvement the cost of which is assessed against any property pursuant

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

to Chapter IX of the Charter, the amount of said assessment related thereto payable in any year shall be reduced by the amount of any fees paid pursuant to this Section in the most immediate preceding year;"

which motion was seconded and discussed.

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

Glen Jackson, Gerald Schlafer, John Rathe, Pete Langer, Susie Brown, public policy director at Minnesota Council of Non-Profits, Dave Salvesson, Horace Kahlbaugh and Bob Woods spoke in opposition to the ordinance for reasons of: it is a unfair tax on those with a fixed income and the poor; the money needs to be spent fairly in all districts; taxpayers feel that they are not getting enough for their tax dollars; there are other ways to get the needed funds; young families will not stay here with these additional fees; larger, massive streets are not wanted; this fee would affect those who do not drive; the streets should be more appropriately supported through the property tax system; priorities have gotten out of hand; instead of these fees, the city should barricade access to the casino until they pay the back dollars owing; the proposed street fee would be applied by addresses with no consideration for the number of individuals at that location; instead of a fee there should be a dedicated sales tax for the streets and there are a lot of unanswered questions about this fee.

Joe Kleiman spoke in support of the ordinance because not everyone is a taxpayer and thus, many more individuals would be paying into the fund to help spread the expense around.

Councilor Gardner commented that her amendment would keep individuals from being double taxed.

Mr. Montgomery commented on how he felt that clarity needed to be addressed in this amendment.

Wording options for clarity were discussed at length.

Councilor Gardner moved to amend her amendment to delete the phrase "any year" and insert in its place, "payable in the first year of such assessment," which motion was discussed.

Councilor Hanson stated that to further clarify the amendment, it should address the first year only.

For the sake of clarity, Councilor Gardner moved to withdraw all amendments and put forth a new amendment that incorporates all the wishes of the council, which motion was seconded and carried unanimously.

Councilor Gardner moved to amend the ordinance as follows:

"(c) Nothing to the contrary in this Article withstanding, in the event that any work constitutes an improvement the cost of which is assessed against any property pursuant to Chapter IX of the Charter, the amount of said assessment related thereto payable in the first year only of such assessment shall be reduced by the amount of any fees paid pursuant to this Section in the most immediate preceding year;"

which motion was seconded and carried as follows:

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson and Sipress -- 5

Nays: Councilors Julsrud, Larson, Russ and President Krug -- 4

Editor's Note: With the amendment, the ordinance was now considered as having a new first reading.

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Councilor Julsrud moved to suspend the rules to consider Ordinance 14-038 at this time, which motion was seconded and unanimously carried.

- - -

INTRODUCED BY COUNCILOR JULSRUD

14-038 - AN ORDINANCE AMENDING THE BUDGET OF THE CITY OF DULUTH FOR YEAR 2014 BY INCREASING THE BUDGET AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

Councilor Julsrud moved to table the ordinance, which motion was seconded and unanimously carried.

- - -

President Krug moved to consider Resolution 14-0280 at this time, which motion was seconded and carried unanimously.

- - -

MOTIONS AND RESOLUTIONS

Resolution 14-0280, by President Krug, requesting the Charter commission to review and make a recommendation regarding adoption of a new Section 37 and amendments to sections 38 and 39 of the City Charter modifying the voting process for municipal elections, was introduced for discussion.

Councilor Sipress moved to amend the second paragraph of the resolution to delete the language, "vote on the recommendation at its July 9, 2014, meeting in order to facilitate the potential consideration of the new Charter section and Charter section amendments by the voters at the 2014 general election," and insert the language, "review the issue of ranked choice voting thoroughly and forward its recommendations to city council when it has completed its review," which motion was seconded and discussed.

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

Bob Wahlman, Henry Helgen, Mike Griffin, Steve Wick, Garnet Muffat and Jeanne Massey, executive director of FairVote Minnesota, and Scot Bol supported the resolution for reasons that it: has worked well in Minneapolis; the mayor recently had a task force recommending that ranked choice voting would be good for Duluth; has many advantages; has been found to be constitutional by the Minnesota Supreme Court; is easily understood by voters; is supported by multiple political parties; shows a better turn out with a general election with greater representation of all minorities; has cost savings of not having to have primary elections; insures that the winner will have support from of the voters if there are multiple candidates running for an office and fosters more civil campaigns.

Kathryn Lenz Peckman, member of the University of Minnesota-Duluth's (UMD) mathematics and statistics department voting methods group, noted that: the city needs to understand what the algorithm used for this voting method can and cannot deliver for the city's goals and that her department would like to work with the group that supports this and to not rush into this without fully understanding it.

Betty Holmen Greene, John Greene, UMD mathematics department, and John Rathe expressed concerns that: there are hidden complexities; many of the claims made are not accurate; there is a need to understand why cities that had used it have moved away from it; it locks in the two party system; there are other alternatives to a ranked choice voting system

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

that should be investigated first and this will do more damage than voter identification would ever do.

The amendment carried as follows:

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

Nays: Councilors Fosle and Hanson -- 2

Councilors Julsrud, Fosle, Filipovich, Russ and Hanson opposed the resolution for reasons of: primaries turn out a more educated electorate; that with ranked choice voting for the city, there would be confusion because on the same ballot the school district would have plurality voting; we may have to change our at large council positions; other larger funded cities should be allowed to study this; there is no urgency on this at this time; our current system does work and voting should be a simple process and counting the votes could be complex under this process.

Resolution 14-0280 failed upon the following vote (Public Document No. 14-0609-31):

Yeas: Councilors Gardner, Larson, Sipress and President Krug -- 4

Nays: Councilors Filipovich, Fosle, Hanson, Julsrud and Russ -- 5

- - -

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

RESOLVED, that city officials are hereby authorized to increase the annual contract with Northland Constructors of Duluth, LLC, by 6,664 tons of additional fine hot mix at \$48.90 per ton for flood-related repairs at various sites for a total of \$325,869.60, payable from the following funds - Disaster Recovery Fund 225, Finance 125, Roads and Bridges 1803, Street Repair and Maintenance 5403 according to the projects listed below:

\$125,770.80	Project Flood 138	Skyline Parkway
\$120,538.50	Project Flood 443A	52nd Avenue East
\$79,560.30	Project Flood 144A	63rd Avenue West

RESOLVED FURTHER, that this order increases the total annual contract amount in 2014 to \$717,069.60.

Resolution 14-0272 was unanimously adopted.

Approved June 9, 2014

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
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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Irving Community Association	Rustic Bar, 401 North Central Avenue
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Resolution 14-0289 was unanimously adopted.

Approved June 9, 2014

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 Cyclists of the Gitchee Gumees Shores and Arrowhead Builders Association 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 14-0290 was unanimously adopted.

Approved June 9, 2014

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:

Chasers of Duluth, Inc. (Bedrock Bar), 2023 West Superior Street, for June 21, 2014, serving from 6:00 p.m. to 9:00 p.m.

Lemon Reef, Inc. (Reef Bar), 2002 London Road, for June 21, 2014, serving from 8:00 a.m. to 2:00 p.m.

Shotz Bar, Inc. (Shotz Bar), 1321 Commonwealth Avenue, for June 28, 2014, serving from 7:00 p.m. to 1:00 p.m.

Resolution 14-0292 was unanimously adopted.

Approved June 9, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of executive assistant, including a title change to executive assistant - confidential, which were approved by the civil service board on June 3, 2014, and which are filed with the city clerk as Public Document No. 14-0609-10, are approved. This classification shall be subject to the city's collective bargaining agreement with its confidential unit employees; and that pay range for said classification shall be Range 9, \$3,776 to \$4,509 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 14-0284 was unanimously adopted.

Approved June 9, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute an amendment to the license agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0609-11, with the Duluth economic development authority (DEDA), to terminate the grant of the license with respect to DEDA Lot C and to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

reduce the amount payable by the city to DEDA for 2014 to \$57,000, with the 2013 and 2014 license fees to be paid from Fund No. 258-030-5310 (tourism fund, finance department, contract services) and to allocate \$119,000 from tourism tax fund balance for these contract payments.

Resolution 14-0268 was unanimously adopted.

Approved June 9, 2014

DON NESS, Mayor

- - -

RESOLVED, that the city council of the city of Duluth does hereby approve the land sale agreement on file in the office of the city clerk as Public Document No. 14-0609-12, between the Duluth economic development authority (DEDA) and Wisconsin Central Ltd. ("CN"), related to the CN Steelton Hill project in an amount not to exceed \$111,500.

Resolution 14-0287 was unanimously adopted.

Approved June 9, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute an agreement for reconstruction of the 108th Avenue West overpass, substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0609-13, with Wisconsin Central Ltd. ("CN"), related to its Steelton Hill project.

Resolution 14-0293 was unanimously adopted.

Approved June 9, 2014

DON NESS, Mayor

- - -

WHEREAS, the city administration issued an emergency notification to the council on October 4, 2013, and notice to proceed to A.G. O'Brien Plumbing and Heating Co., based on its low bid for a construction contract to replace the steam line at First Street Alley and Seventh Avenue East; and

WHEREAS, this project was necessitated by damage caused by the 2012 flood and is approved for FEMA funds; and

WHEREAS, the city's steam manager, Ever-Green Energy, LLC, has requested additional funds for increased project costs due to unforeseen obstructions and delays, which are detailed in change orders submitted May 20, 2014.

RESOLVED, that the proper city officials are hereby authorized to execute two change orders for contract C22060 with A.G. O'Brien Plumbing & Heating Co. in the amount of \$80,235.86, a new contract total of \$240,975.86, payable from Steam Fund 540, Steam Department 920, Steam Non-Operating 1499, Improvements Other than Buildings 5530.

Resolution 14-0273 was unanimously adopted.

Approved June 9, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Shelton Excavating, Inc., for construction of a sanitary sewer extension in 43rd Avenue West in the amount of \$99,102.90, with \$93,632.90 payable from Sanitary Sewer Fund 530,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Department 500 (public works and utilities), Division 1905 (capital), Object 5536 (utility infrastructure replacement). Of these costs \$76,650 will be assessed to benefitting properties. The remaining \$5,470 will be payable from Water Fund 510, Department 500, Division 1905, Object 5535 (non-capital improvement); City Project No. 1331.

Resolution 14-0274 was unanimously adopted.

Approved June 9, 2014

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 reconstruction of Tenth Avenue East from Superior Street to Fifth Street in the amount of \$3,540,363.15, payable out of Permanent Improvement Fund 411, Department 035 (capital projects accounts), Object 5530 (improvements other than buildings), City Project No. 0753TR.

Resolution 14-0276 was unanimously adopted.

Approved June 9, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a Mn/DOT partnership agreement with the state of Minnesota department of transportation to provide for payment by the city to the state for state-provided right-of-way acquisition services including direct purchase and relocation assistance. The costs of these services for property acquisition shall not exceed \$490,050.20 without written amendment to the agreement and will be payable from Permanent Improvement Fund 411, Department/Agency 035 (capital projects accounts), Object 5530 (improvements other than buildings), and would be reimbursed from the city's municipal state aid construction account, Project No. 1251.

Resolution 14-0277 was unanimously adopted.

Approved June 9, 2014

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 2012 flood repairs - concrete and stone masonry wall repairs and rehabilitation of Bridge L6115 on Skyline Parkway at Chester Creek in the amount of \$1,448,644.74, payable out of Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1177, S.P. 118-179-004.

Resolution 14-0282 was unanimously adopted.

Approved June 9, 2014

DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth ("city") act as the legal sponsor for the scenic byway transportation alternative program grant for improvements to North Shore Scenic Drive as contained in the grant program application to be submitted, and that the mayor and clerk are hereby authorized to apply to the Minnesota department of transportation for a grant in the amount of \$2,572,000 for funding of this project.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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

FURTHER RESOLVED, that the city hereby commits to provide no less than \$643,000 (or 20 percent of the \$3,215,000 project cost), in a qualified match contribution to be provided by the city of Duluth.

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

FURTHER RESOLVED, that upon approval of its application by the state, the mayor and clerk may enter into a grant agreement with the state of Minnesota for the above referenced project and receive said grant payable into Permanent Improvement Fund 411, Department 035 (capital project accounts), Object 4210-01 (pass-through federal grants - capital), and that the city certifies that it will comply with all applicable laws and regulations.

FURTHER RESOLVED, the mayor and clerk are hereby authorized to execute such documents as are necessary to implement the project on behalf of the city.

Resolution 14-0283 was unanimously adopted.

Approved June 9, 2014

DON NESS, Mayor

- - -

RESOLVED, that proper city officials are hereby authorized to enter into an agreement with ISD No. 709 to provide law enforcement officers in the public schools, said agreement to be substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0609-14; payments from the school district to be deposited in Fund No. 110-160-1610-4261 (general, police, administration and investigation).

Resolution 14-0275 was unanimously adopted.

Approved June 9, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into an agreement with the Minnesota department of public safety - fire marshal division, a copy of which is on file in the office of the city clerk as Public Document No. 14-0609-15, pursuant to which the city's fire department would conduct inspections of school facilities located within the city for compliance with Minnesota State Fire Code and the Minnesota State Fire Code interpretations of the state fire marshal.

Resolution 14-0288 was unanimously adopted.

Approved June 9, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a Minnesota cross country trail assistance program grant with the Minnesota department of natural resources for the maintenance of the Duluth cross country trails for the 2014-2015 season in the amount of \$11,000; said funds to be deposited in the General Fund 110, Public Administration 121, Maintenance Operations 1217, Park Maintenance 2145, Ski Trail Reimbursement 4225.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Resolution 14-0271 was unanimously adopted.
Approved June 9, 2014
DON NESS, Mayor

- - -

WHEREAS, the ordinances of the city allow a limited and controlled archery deer harvest in the city and the standards and rules for each hunt are determined by resolutions of the council; and

WHEREAS, the city council by Resolution 08-0317 set forth the areas within which, subject to the laws and ordinances that apply, seasonal hunting can take place within the city; and

WHEREAS, the Arrowhead Bow Hunters Alliance acting as the city's managing agent for the seasonal hunt has recommended amending the designated hunting areas as depicted on the maps attached hereto.

THEREFORE, BE IT RESOLVED, that Resolution 08-0317 is hereby amended by substituting Public Document No. 08-0527-19 with Public Document No. 14-0609-16, on file in the office of the city clerk, amending and establishing the designated hunting areas for the seasonal deer hunt in accordance with Section 6-77 of the Duluth City Code, 1959, as amended.

Resolution 14-0279 was unanimously adopted.
Approved June 9, 2014
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized and directed to execute an agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 14-0609-17, between the city of Duluth and the Minnesota land trust for professional services related to the assessment of and marketing for the city's trails and other outdoor adventure experiences, in an amount not to exceed \$310,000. The Minnesota land trust will contribute an additional \$80,000 of in-kind support over the life of this agreement. Funds shall be paid from Fund No. 258-030-5436-11 (tourism tax fund, finance department, tourism tax allocation, other promotional programs), for a three year term commencing in June 2014 and terminating in the middle of 2017.

Resolution 14-0295 was unanimously adopted.
Approved June 9, 2014
DON NESS, Mayor

- - -

The following resolutions were also considered:

RESOLVED, that the city, acting through the city treasurer, shall make available to the Spirit Mountain recreation area authority a revolving line of credit not to exceed \$1,200,000, to be drawn as needed to assist in the management of its cash flow within the annual operating budget as approved by the city council. The revolving line of credit expires on December 31, 2015, unless extended by further council action. Interest at a rate of 2.5 percent per annum shall be charged on drawn funds.

Resolution 14-0281 was unanimously adopted.
Approved June 9, 2014

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

DON NESS, Mayor

- - -

Resolution 14-0285, approving proposed specifications for the new civil service classification of executive assistant and specifying contract benefits for same, was introduced by Councilor Gardner.

Councilor Fosle opposed this and the following similar resolutions because at this time the city should be trying to find funding for roads, not creating new jobs.

Resolution 14-0285 was adopted as follows:

RESOLVED, that the proposed specifications for the new civil service classification of executive assistant, which were approved by the civil service board on June 3, 2014, and which are filed with the city clerk as Public Document No. 14-0609-18, 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 131, \$3,753 to \$4,397 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 14-0285 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Absent: Councilor Larson -- 1

Approved June 9, 2014

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. 14-0609-19, are approved; that said classification shall be subject to the city's collective bargaining agreement with its confidential unit employees; and that pay range for said classification shall be Range 7, \$3,319 to \$3,978 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 14-0286 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved June 9, 2014

DON NESS, Mayor

- - -

WHEREAS, the city wishes to hire one or more public employees to prosecute criminal matters on behalf of the city; and

WHEREAS, the city desires to create one or more temporary, two-year criminal prosecutor positions in the city attorney's office; and

WHEREAS, the city desires to establish salary and employment conditions for the assistant city prosecutor positions.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute employment documents related to and substantially the same as the employment contract on file in the office of the city clerk as Public Document No. 14-0609-20 necessary to compensate assistant city prosecutors with base monthly salary of between \$3,750 and \$4,000, inclusive, including additional benefits further-described in Sections 5, 6 and 7 of said employment contract.

RESOLVED FURTHER, that said salary and employment conditions shall remain in effect until further modified by a superseding or successor agreement duly approved by council resolution.

Resolution 14-0294 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved June 9, 2014

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, substantially the same as that on file in the office of the city clerk as Public Document No. 14-0609-21, 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	Program Name	Rec Amt
Cyclists of Gitchee Gummee Shores	trail signage	\$5,000
Cyclists of Gitchee Gummee Shores	Duluth traverse trail construction	\$2,500
Duluth community garden program	Let's Grow Edible Duluth	\$3,350
Duluth Sister Cities International	summer celebration	\$5,000
Goodwill Industries	MOFAS summer youth employment program	\$5,000
Lake Superior Zoological Society	volunteer docent program	\$5,000
Neighbors of Lower Chester Park	lower Chester Park basketball hoops and trash/recycling bins	\$1,800
One Roof Community Housing	Central Hillside Park revitalization	\$5,000
The Salvation Army - Duluth	The RBA Dunkin' in Duluth 3 on 3 basketball tournament	\$4,000
Wheels on Trails Organization	experiencing Duluth outside: initial park and trail events for non-traditional users	\$4,000
Woodland Hills	Summer Explorers Club	\$5,000
	Total	\$45,650

Resolution 14-0278 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved June 9, 2014

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into an agreement with Toltz, King, Duvall, Anderson & Associates dba TKDA, for the design and construction supervision of improvements to Wade Stadium in an amount not to exceed \$386,000, payable from Fund 450-030-5319 Project CP450-Wade (capital improvements fund, finance department, other professional services).

Resolution 14-0298 was unanimously adopted.

Approved June 9, 2014

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR RUSS

14-040 - AN ORDINANCE AUTHORIZING AGREEMENT WITH PIER B HOLDING, LLC, THE CONVEYANCE OF RIGHTS IN SLIP NO. 2 AND OTHER IMPROVEMENTS AND OPERATIONS RELATED TO THE PIER B DEVELOPMENT.

- - -

INTRODUCED BY COUNCILOR FILIPOVICH

14-039 - AN ORDINANCE PERMANENT EASEMENT CONVEYANCE AGREEMENT WITH WLSSD OVER CITY PROPERTY NEAR I-35 AND HIGHWAY 2.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR HANSON

14-018 (10301) - AN ORDINANCE AMENDING SECTIONS 27-5, 27-6, 27-7 AND 27-8 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO PEDDLERS AND CANVASSERS.

Councilor Hanson moved passage of the ordinance and the same was adopted upon a unanimously vote.

- - -

INTRODUCED BY COUNCILOR RUSS

14-027 (10299) - AN ORDINANCE DESIGNATING THE CLAYTON JACKSON MCGHIE MEMORIAL, AT 31 NORTH SECOND AVENUE EAST, AS A DULUTH HERITAGE PRESERVATION LANDMARK.

The rules were suspended upon a unanimous vote to hear from the following speakers on the ordinance: Scot Bol, Bob Grytdahl, Portia Johnson, Jodi Broadwell, Rogier Gregoire, David Woodward and Kathleen Spencer spoke in support of the ordinance.

Councilors spoke in support of the ordinance, noting its significance.

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

- - -

At this time, 10:55 p.m., Councilor Gardner moved to suspend the rules to continue the meeting until 11:30 p.m., if necessary, which motion was seconded and unanimously carried.

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

INTRODUCED BY COUNCILOR RUSS

14-028 (10302) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO MU-C FOR THE PROPERTY LOCATED AT THE NORTHWEST CORNER OF SOUTH ARLINGTON AVENUE AND WEST PALM STREET (KWIK TRIP INC).

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

- - -

INTRODUCED BY COUNCILOR RUSS

14-029 (10303) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING SUBDIVISION STANDARDS.

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

- - -

INTRODUCED BY COUNCILOR RUSS

14-030 (10304) - AN ORDINANCE GRANTING TO ST. LUKE'S HOSPITAL A CONCURRENT USE PERMIT FOR A NEW SKYWALK LOCATED IN THE TENTH AVENUE EAST RIGHT-OF-WAY.

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

- - -

INTRODUCED BY COUNCILOR RUSS

14-031 (10305) - AN ORDINANCE GRANTING TO ST. LUKE'S HOSPITAL A CONCURRENT USE PERMIT FOR SNOW MELT SYSTEMS AND UNDERGROUND DUCT BANK IN THE RIGHT-OF-WAY OF TENTH AVENUE EAST, SECOND STREET, FIRST STREET AND THE FIRST STREET ALLEY.

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

- - -

INTRODUCED BY COUNCILOR RUSS

14-032 (10306) - AN ORDINANCE GRANTING TO DULUTH REAL ESTATE, LLC, A CONCURRENT USE PERMIT FOR TIE-BACK ANCHORS UNDER THE RIGHT-OF-WAY OF WEST FIRST STREET ALLEY BETWEEN NORTH FOURTH AND NORTH FIFTH AVENUES WEST.

President Krug announced that she would be abstaining from voting on this ordinance and the following two because she has a private transaction with Mr. Goldfarb.

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

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

Nays: None -- 0

Abstention: President Krug -- 1

- - -

INTRODUCED BY COUNCILOR RUSS

14-033 (10307) - AN ORDINANCE GRANTING TO DULUTH REAL ESTATE, LLC, A CONCURRENT USE PERMIT FOR SHOTCRETE WALLS AND SOIL NAIL ANCHORS

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

UNDER THE RIGHT-OF-WAY OF FOURTH AVENUE WEST AND FIFTH AVENUE WEST BETWEEN WEST SUPERIOR STREET AND WEST FIRST STREET ALLEY.

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

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

Nays: None -- 0

Abstention: President Krug -- 1

- - -

INTRODUCED BY COUNCILOR RUSS

14-034 (10308) - AN ORDINANCE GRANTING TO DULUTH REAL ESTATE, LLC, A CONCURRENT USE PERMIT FOR SKYWALK AND BUILDING FOUNDATION IN THE RIGHT-OF-WAY AT THE NORTHWEST CORNER OF WEST SUPERIOR STREET AND FOURTH AVENUE WEST.

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

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

Nays: None -- 0

Abstention: President Krug -- 1

- - -

BY COUNCILOR JULSRUD

14-035 (10300) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-P FOR THE PROPERTY LOCATED AT THE ROCKRIDGE SCHOOL SITE (ISD #709).

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

Mark Irving expressed support for this ordinance which meets the needs of all of the interested parties and requested that when a developer submits the regulating plan for rezoning of the R-P site, the planning staff will present the regulated plan to the adjacent property owners within 350 feet of that site at a public information meeting to hear comments and concerns prior to any approvals being granted.

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

- - -

COUNCILOR QUESTIONS AND COMMENTS

Councilor Fosle commented about the number and time length that one could speak and for how long according to *Robert's Rules of Order*.

President Krug acknowledged that the council does not strictly follow *Robert's Rules of Order*.

- - -

The meeting was adjourned at 11:20 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10298

BY COUNCILORS JULSRUD AND GARDNER:

AN ORDINANCE REPEALING ARTICLE XII, CHAPTER 45, OF THE DULUTH CITY CODE, 1959, AS AMENDED, REPEALING THE STREET LIGHTING SYSTEM UTILITY EFFECTIVE DECEMBER 31, 2019.

The city of Duluth does ordain:

Section 1. That Chapter 45 of the Duluth City Code, 1959, as amended, is hereby amended by repealing Article XII, entitled Street Lighting System Utility, in its entirety effective December 31, 2019.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 12, 2014)

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

Yeas: Councilors Fosle, Gardner, Julsrud, Russ and Sipress -- 5

Nays: Councilors Filipovich, Hanson, Larson and President Krug -- 4

Passed June 9, 2014

Adopted June 9, 2014, pursuant to Section 12 of the Duluth City Charter.

- - -

ORDINANCE NO. 10299

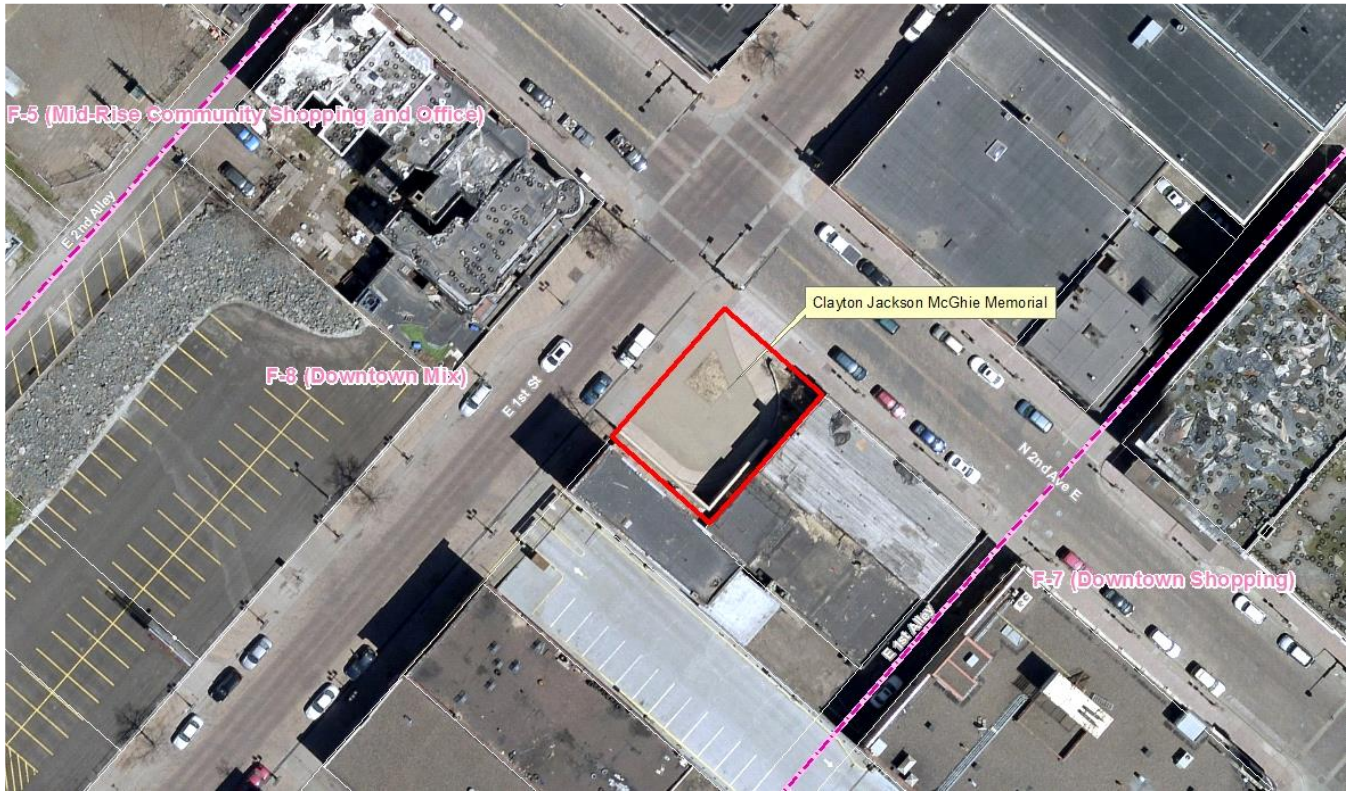
AN ORDINANCE DESIGNATING THE CLAYTON JACKSON MCGHIE MEMORIAL, AT 31 NORTH SECOND AVENUE EAST, AS A DULUTH HERITAGE PRESERVATION LANDMARK.

The city of Duluth does ordain:

Section 1. That the city of Duluth does designate, pursuant to Chapter 50 of the Duluth City Code, 1959, as amended, the Clayton Jackson McGhie Memorial, 31 North Second Avenue East, as a Duluth heritage preservation landmark; said landmark is more particularly described as follows:

N 54 FT OF E 20 FT OF LOT 30 AND N 54 FT OF LOT 32, DULUTH PROPER 1ST DIVISION EAST 1ST STREET.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014



Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 16, 2014)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 9, 2014
Approved June 9, 2014
DON NESS, Mayor

- - -

ORDINANCE NO. 10300

BY COUNCILOR JULSRUD:

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-P FOR THE PROPERTY LOCATED AT THE ROCKRIDGE SCHOOL SITE (ISD #709).

The city of Duluth does ordain:

Section 1. That the approximately ten acres of the subject property and as more particularly described in Exhibit A and by the following:

Lots 5, 6, 7, 8 Block 1, LAKESIDE GARDENS ADDITION TO DULUTH, including the Northerly 33 feet of vacated Norwood Street abutting thereon and attaching thereto upon the vacation of said Norwood Street on November 9, 1964.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

AND

Lots 1, 2, 3, 4 Block 1, LAKESIDE GARDENS.

TOGETHER WITH

All that part of vacated 48 1/2 Avenue East lying between the center line of Norwood Street in said plat of LAKESIDE GARDENS as extended across said 48 1/2 Avenue East, and the North line of Block 119, CROSLEY PARK ADDITION TO DULUTH, as extended across said Avenue. Subject, to the retention by the City of Duluth of utility easements in the Easterly 25 feet of said vacated avenue; and of the Northerly 33 feet of the vacated Norwood Street abutting the Southerly line of Lot 4, Block 1, LAKESIDE GARDENS.

AND

Lot 1, Block 5, LAKESIDE GARDENS, including the Southerly 33 feet of Norwood Street abutting thereon and lying within the extension of the side lines of said Lot 1, which attached thereto upon the vacation of said Norwood Street on November 9, 1964. Subject to the retention by the City of Duluth of utility easements, including also all that part of 48 1/2 Avenue East abutting thereon and extending to the center line of Norwood Street in said plat of Lakewood Gardens, as extended across said 48 1/2 Avenue East, which attached thereto upon the vacation of said 48 1/2 Avenue East on November 9, 1964, Subject to the retention by the City of Duluth of utility easements in the easterly 25 feet of said 48 1/2 Avenue East.

AND

Lots 2, 3, 4 & 5, Block 5, LAKESIDE GARDENS, including the Southerly 33 feet of Norwood Street abutting thereon, which attached thereto upon the vacation of said Norwood Street on November 9, 1964, subject to the retention by the City of Duluth of utility easements. Lots 1, 2, 3, 4 & 5, Block 5, LAKESIDE GARDENS, are subject to easement in favor of the City of Duluth for use of the public for street purposes over and across a strip of land 66 feet in width described as follows:

Commencing at a point on the southerly line of Norwood Street and distant 33 feet easterly of the common line between Lots 5 and 6, Block 5, in said LAKESIDE GARDENS, thence southeasterly along a line parallel with and distance 33 feet from the easterly form said common line between said Lots 5 and 6 for a distance of 250 feet to a point, thence to the left along a line parallel with and distant 33 feet from the center line of Block 5, LAKESIDE GARDENS, and extending across the rear of said lots 5, 4, 3 and 2, Block 5 LAKESIDE GARDENS, to the westerly line of 48 1/2 Avenue East, and there terminating.

AND

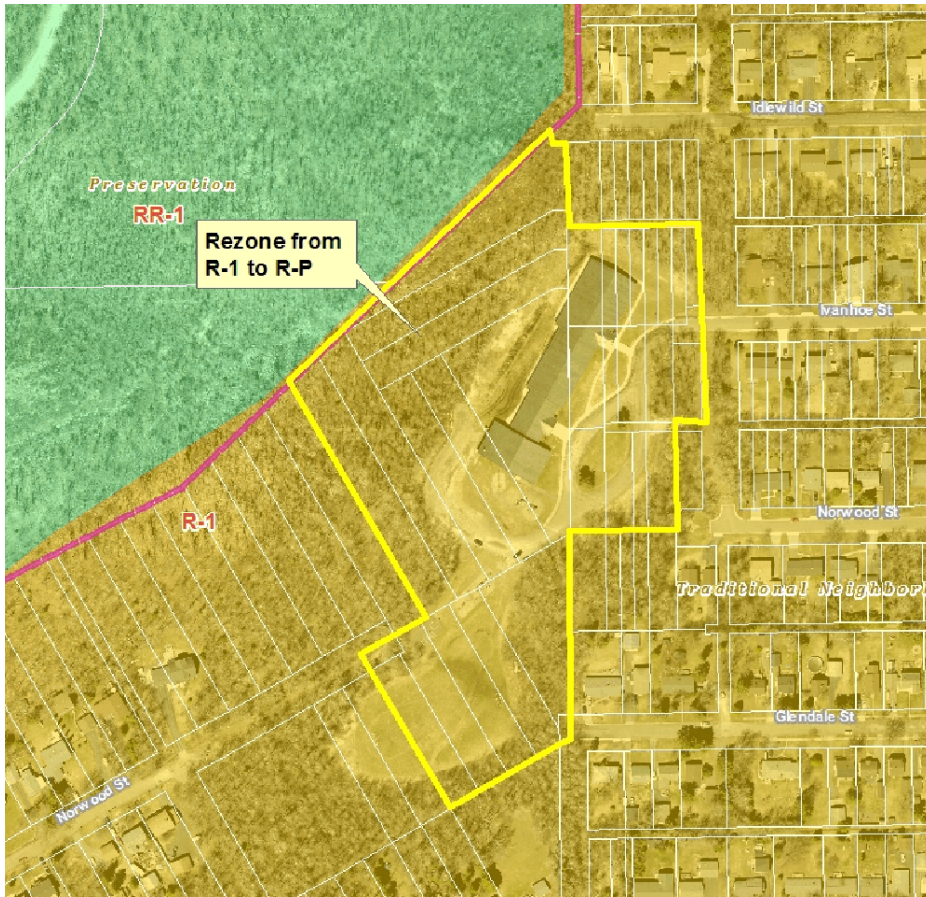
Lots 1458, 1459, 1460, 1461, 1462, and 1463, all in Block 106; lots 1464, 1465, 1466, 1467, 1468, 1469, 1470, and 1471, all in Block 107; and lots 1638, 1639, 1640, 1641, 1642, 1643, 1644 and 1645, all in Block 118, all in CROSLEY PARK ADDITION TO DULUTH.

TOGETHER WITH

Those portions of vacated Norwood Street, Ivanhoe Alley and Ivanhoe Street pursuant to City of Council Resolution 91-0503 Adopted July 1, 1991 and recorded as Document Number 0525872 in the office of the county recorder, St. Louis County, Minnesota; be reclassified from R-1 to R-P.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Section 2. 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. 14-046)

Section 3. That the concept plan for the site, shown as Exhibit B, will govern uses, density and height for this zone district.

Section 4. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 16, 2014)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 9, 2014
Approved June 9, 2014
DON NESS, Mayor

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ORDINANCE NO. 10301

AN ORDINANCE AMENDING SECTIONS 27-5, 27-6, 27-7 AND 27-8 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO PEDDLERS AND CANVASSERS.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

The city of Duluth does ordain:

Section 1. That Section 27-5 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 27-5. Definitions; exceptions to definitions.

(a) For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Solicitor. A person who goes about from house-to-house, business-to-business, street-to-street, or any other type of place-to-place movement within the city for the purpose of obtaining, or attempting to obtain orders for the retail sale of services or personal property of any nature whatsoever, for future performance or delivery. For the purposes of this ordinance, the term solicitor shall have the same meaning as the term canvasser.

Peddler. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, for the purpose of offering for sale, displaying or exposing the sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, or other personal property that the person is carrying or otherwise transporting.

Person. Any natural individual, group, organization, corporation, partnership, or similar association.

Non-commercial door-to-door advocate. One who goes door-to-door for the primary purpose of disseminating religious, political, social, or other ideological beliefs. For purposes of this ordinance, the term door-to-door advocate shall include door-to-door canvassing and pamphleteering intended for non-commercial purposes.

Transient merchant. A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, or other portable shelter, or empty store front, building, hotel or motel for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering goods, wares, products, merchandise, or other personal property and who does not remain in any one location for more than 14 days;

(b) Exceptions to definitions.

For purposes of this Article, the terms solicitor, peddler and transient merchant shall not apply to:

(1) Non-commercial door-to-door advocates. Nothing within this ordinance shall be interpreted to prohibit or restrict non-commercial door-to-door advocates. Persons engaging in non-commercial door-to-door advocacy shall not be required to register as a solicitor under Section 27-6(g);

(2) Any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retail seller of the items being sold by the wholesaler;

(3) Any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products, such as baked goods or milk;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(4) Any person making deliveries of perishable food and dairy products to the customers on his or her established delivery route;

(5) Any person making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large;

(6) Any person conducting the type of sale commonly known as garage sales, rummage sales or estate sales;

(7) Any officer of the court conducting a court-ordered sale.

Exemption from these definitions shall not, for the scope of this Article, excuse any person from complying with any other applicable statutory provision or ordinance.

Section 2. That Section 27-6 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 27-6. License--required; exemptions; application; procedure.

(a) County license required. No person shall conduct business as a peddler, solicitor, or transient merchant within the city limits without first having obtained the appropriate license from the county as may be required by Minnesota Statutes Chapter 329 as it may be amended from time to time, if the county issues a license for the activity;

(b) City license required. Except as otherwise provided for by this ordinance, no person within the city shall engage in or carry on the business of a peddler or transient merchant without first obtaining a city license to carry on such business. Said license is not required for operations occurring entirely within a permitted community event pursuant to Section 45-49. Solicitors need not be licensed, but are required to register with the city pursuant to Section 27-6(g);

(c) Application. An application for a license required by this Article shall be made at least 14 regular business days before the applicant desires to begin conducting business within the city. The application for a license shall be made on a form approved by and available from the office of the city clerk. All applications shall be signed by the applicant. All applications shall include the following information:

(1) The applicant's full legal name;

(2) Any and all other names under which the applicant has or does conduct business, or to which the applicant will officially answer to;

(3) A physical description of the applicant (hair color, eye color, height, weight, any distinguishing marks or features, and the like);

(4) Full address of applicant's permanent residence;

(5) Telephone number of applicant's permanent residence;

(6) Full legal name of any and all business operations owned, managed, or operated by applicant, or for which the applicant is an employee or an agent;

(7) Full address of applicant's regular place of business, if any exists;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(8) Any and all business-related telephone numbers of the applicant, including cellular phones and facsimile (fax) machines;

(9) A general description of the items to be sold;

(10) A statement as to whether or not the applicant has been convicted within the last ten years of any felony, gross misdemeanor, misdemeanor or ordinance violation for violating any state or federal statute or local ordinance, other than minor traffic offenses;

(11) A list of the three most recent locations where the applicant has conducted business as a peddler;

(12) The applicant's driver's license number or other acceptable form of photo identification;

(13) The license plate number, registration information, vehicle identification number and physical description for any vehicle to be used in conjunction with the licensed business operation;

(14) Any and all additional information as may be deemed necessary by the chief administrative officer or his/her designee;

(d) Fee. All applications for a license under this Article shall be accompanied by the fee established under Section 27-8;

(e) Procedure. Upon receipt of a complete application and payment of the license fee, the city will conduct an investigation, including background checks, necessary to verify the information provided with the application. Within 12 regular business days of receiving a complete application the city must issue the license unless grounds exist for denying the license application under Section 27-7, in which case the city must deny the request for a city license. If the city denies the license application, the applicant must be notified in writing of the decision, the reason for the denial and the applicant's right to appeal the denial under Section 27-7;

(f) License exemptions.

(1) No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm;

(2) No license shall be required for any person going from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement for the primary purpose of exercising that person's state or federal constitutional rights such as the freedom of speech, freedom of the press, freedom of religion, and the like. This exemption will not apply if the person's exercise of constitutional rights is merely incidental to what would properly be considered a commercial activity;

(g) Registration.

(1) All solicitors and any person exempt from the licensing requirements of this ordinance shall be required to register with the city prior to engaging in those activities. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the city clerk shall issue to the registrant a certificate of registration as proof of registration. Certificate of registration shall be non-transferrable;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(2) Individuals that will be engaging in non-commercial door-to-door advocacy shall not be required to register.

Section 3. That Section 27-7 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 27-7. Same--Investigation; denial, revocation and suspension.

(a) The application for a license required by this Article shall be thoroughly investigated by the Duluth police department, including background checks, who thereafter shall make a recommendation to the chief administrative officer for the approval or disapproval of such license. Licenses may be denied, suspended, or revoked by the chief administrative officer or his/her designee for the following reasons:

(1) The failure of an applicant to truthfully provide any information requested by the city as part of the application process; or

(2) The failure of an applicant to sign the license application; or

(3) The failure of the applicant to pay the required fee at the time of application; or

(4) A conviction by the applicant or licensee within the past ten years of the date of application for any violation of any federal or state statute or regulation, or of any local ordinance which adversely reflects upon the person's ability to conduct the business for which the license is being sought in a professional, honest and legal manner. Such violations shall include, but are not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person; or

(5) The revocation within the past five years of any license issued to an applicant for the purpose of conducting business as a peddler, solicitor or transient merchant; or

(6) When an applicant has a bad business reputation. Evidence of a bad business reputation shall include, but is not limited to, the existence of more than three complaints against an applicant with the Better Business Bureau, the office of the Minnesota attorney general or other state attorney general's office, or similar business or consumer rights office or agency, within the preceding 12 months, or three complaints filed with the city against an applicant within the preceding five years; or

(7) The failure of an applicant to obtain and demonstrate proof of having obtain any required county license;

(b) Any person aggrieved by a denial, suspension or revocation of a city license may appeal such decision to the city council. Notice of such appeal to the city council must be made in writing to the city clerk within ten calendar days after such written decision is mailed to the applicant. The city council shall hear such appeal within 15 business days of the date the appeal is filed with the city clerk. The decision of the city council can be appealed by petitioning the Minnesota court of appeals for writ of certiorari.

Section 4. That Section 27-8 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 27-8. Same--Fees.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Annual fees for licenses required by this Article shall be set in accordance with Section 31-6(a) of this Code. All licenses issued under this Article shall expire on the 31st day of December each year. Licenses are non-transferrable. Licenses approved in 2014 will not expire until the end of the day on December 31, 2015.

Section 5. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 12, 2014)

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

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

Nays: None -- 0

Passed June 9, 2014
Approved June 9, 2014
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 10302

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO MU-C FOR THE PROPERTY LOCATED AT THE NORTHWEST CORNER OF SOUTH ARLINGTON AVENUE AND WEST PALM STREET (KWIK TRIP INC).

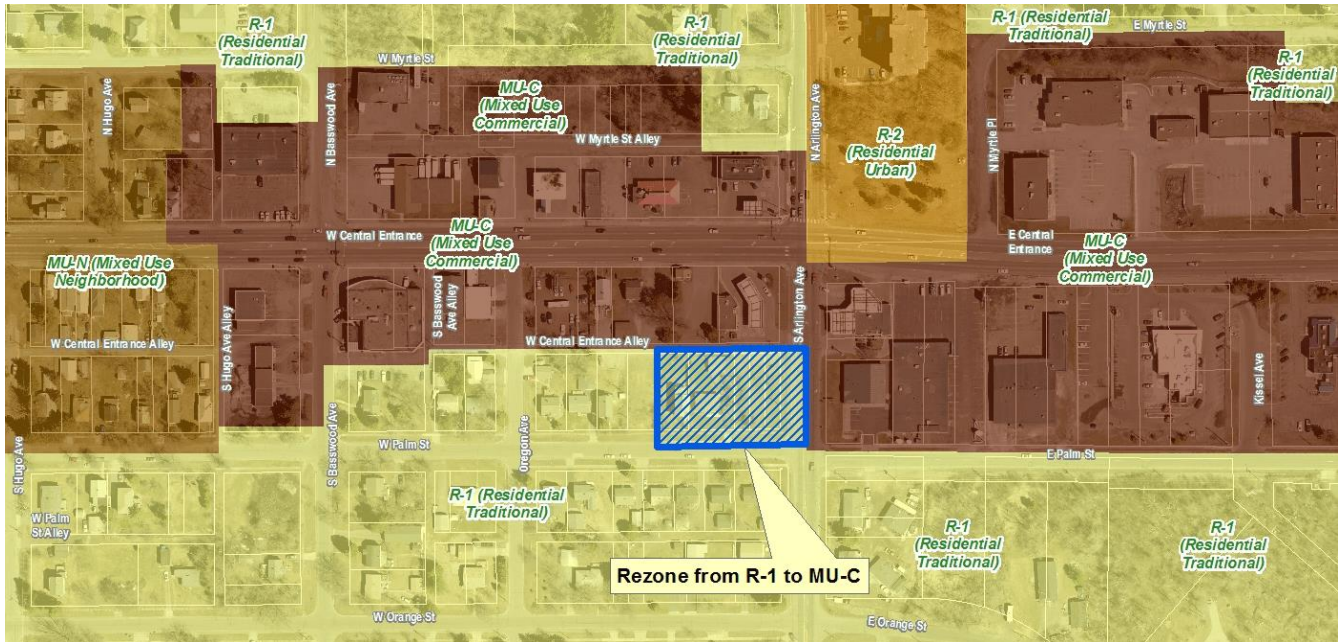
The city of Duluth does ordain:

Section 1. That the approximately .75 acres of the subject property and as more particularly described in Exhibit A and by the following:

Lots 17 - 24, Block 1, Duluth Heights, Fifth Division, City of Duluth, Minnesota; be reclassified from R-1 (Residential-Traditional) to MU-C (Mixed Use-Commercial).

Section 2. 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:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014



(Ref. File No. 14-038)

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 12, 2014)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 9, 2014
Approved June 9, 2014
DON NESS, Mayor

ORDINANCE NO. 10303

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING SUBDIVISION STANDARDS.

The city of Duluth does ordain:

Section 1. That Section 50-35 of Chapter 50 be amended as follows:

50-35 Summary table.

Table 50-35-1: Procedures Summary Table

Type of Application		Review, Decision, & Appeal Authority
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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

	Public Notice Required	Pre-Application Required	Staff	Land Use Supervisor	Heritage Preservation Commission	Planning Commission	Council	Final Action
R = Review								
D = Decision								
A = Appeal								
<> = Hearing								
N = Newspaper Notice								
S = Sign Notice								
M = Mail Notice								
RES = Resolution								
ORD = Ordinance								
AL= Action Letter								
COA = Certificate of Appropriateness								
Comprehensive Land Use Plan	N			R		<R>	D	RES
UDC Text or Zoning Map Amendment								
Text Amendment	N			R		<R>	D	ORD
Map Amendment	N, S, M*	✓		R		<R>	D	ORD
District Plan Adoption/Amendment	S	✓		R		<D>	<A>	
Subdivision Plat Approval								
Concept Plan		✓		R				**
Preliminary Plat	S			R		<D>		AL
Final Plat				R		<D>		AL***
Minor Subdivision/Registered Land Survey	S			R		<D>		AL***
Vacation of Street	S, M	✓		R		<R>	- - -	RES
Concurrent Use of Streets Permit	S	✓		R		<R>	D	ORD
Historic Resource Designation	M				<R>	R	D	ORD
Variance	S, M		R			<D>	<A>	AL
Special Use Permit	S, M	✓		R		<D>	<A>	AL
Interim Use Permit	S, M	✓		R		<R>	D	RES
Planning Review								
General Planning Review				D		<A>		AL
Planning Commission Review When required in MU-C, MU-W, MU-I Zoning Districts and HE-O Overlay District	S, M	✓		R		<D>	<A>	AL
Temporary and Sidewalk Use Permit				D		<A>		AL
Zoning Permit****			D			<A>		AL
Historic Construction/Demolition	S				<D>		<A>	COA
Wetland/WCA Permits			D			<A>		AL

*Mailed notice is required to affected property owners within 350 ft. when the amendment involves changes in district boundaries affecting an area of 5 acres or less.

** Planning staff will provide applicant with a preapplication verification.

*** Applicant must provide documentation that the plat or RLS has been recorded with the county.

**** This category includes shoreland permit, erosion and sediment control permit, sign permit, fence permit and airport environs permits. Appeals of airport environs permits related to Duluth International Airport are heard by the airport board of adjustment.

Section 2. That Section 50-37.1 of Chapter 50 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:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 are no more than one foot smaller than the minimum setbacks required by this Chapter;
2. The height of a new or modified structure is no more than two feet taller than the maximum required by this Chapter;
3. 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 contains one less parking space than is required, or one more parking space than the maximum allowed in Section 50-24.4;
4. Handicap accessibility structures can encroach into the yard setbacks;
5. 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;
6. 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;
7. 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- (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;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- (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 3. That Section 50-37.5 of Chapter 50 be repealed and replaced as follows:

50-37.5 Subdivision plat approval or amendment.

A. Applicability.

This Section applies to all applications to subdivide unplatted land, or to replat previously platted land, or to adjust the boundary lines between existing property lines. This Section is intended to comply with all applicable provisions of state law, including without limitation Laws of Minnesota 1933, Chapter 93 and Laws of Minnesota 1974, Chapter 236 and any provisions of MSA 462.358 and Chapter 505 and 508, as amended, still applicable to the city, and shall be interpreted to comply with those provisions wherever possible. All applications to subdivide land shall follow the standard subdivision process in subsections G and H below unless provided for in subsections C, D, E or I below.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

In addition to city approval, all subdivision plats, registered land surveys, and condominium plats will need to be approved by the St. Louis County surveyor prior to recording at the St. Louis County recorder's office.

1. General exemptions.

The following subdivisions of land are exempted from the provisions of this Section:

- a) Platted cemeteries done in accordance with the requirements of applicable state statutes and ordinances;
- b) Transfers of interest in land pursuant to court order; or
- c) Registered land surveys prepared for the purpose of clarifying existing land descriptions.

2. Conveyance by metes and bounds.

The following conveyances by metes and bounds shall be exempt from the provisions of this Section and shall not constitute a subdivision if the subject of the conveyance meets any of the following:

- a) Was a separate parcel of record on the date of adoption of subdivision regulations, or was the subject of a written agreement to convey entered into prior to such time; or
- b) Was a separate parcel of not less than 2-1/2 acres in area and 150 feet in width on January 1, 1966; or
- c) Was a separate parcel of not less than five acres in area and 300 feet in width on July 1, 1980, or;
- d) Is a single parcel of commercial or industrial land of not less than five acres and having a width of not less than 300 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than five acres in area or 300 feet in width; or
- e) Is a single parcel of residential or agricultural land of not less than 20 acres and having a width of not less than 500 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than 20 acres in area or 500 feet in width.

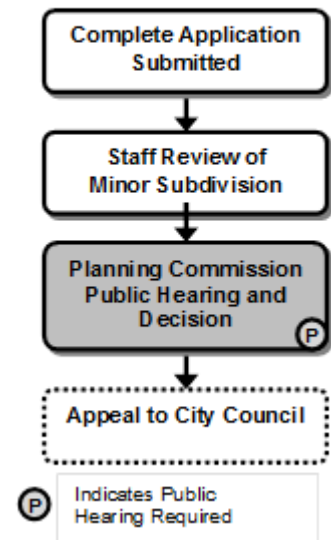
In any case in which compliance with the foregoing restrictions will create an unnecessary hardship and failure to comply does not interfere with the purpose of the subdivision regulations, the planning commission may waive such compliance by adoption of a resolution to that effect and the conveyance may then be filed or recorded;

B Property transfers.

Pursuant to Minnesota Statute 272.162, no land shall be transferred or divided in official records until the transfer has been approved by the land use supervisor to determine if the transfer is appropriate and conforms with existing city ordinances and regulations if the platted lot or parcel conveyed is:

1. Less than a whole parcel of land as charged in the tax lists; and

Minor Subdivision



2. Is part of or constitutes a Subdivision as defined in Minnesota Statute 462.352, subdivision 12.

The land use supervisor shall certify that the transfer has complied with subsection C through I below, as applicable;

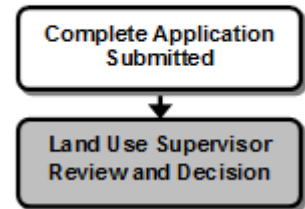
C Boundary line adjustment.

A boundary line adjustment provides for the alteration of existing property lines, where no additional lots and parcels are created.

1. The land use supervisor shall approve the application if it is determined that:

- (a) The application will not result in the creation of any new lots or parcels;
- (b) If each of the existing lots and parcels, and the structures on those lots parcels, complies with the requirements of this Chapter, then after the adjustment each of the resulting lots or parcels, and the structures on those lots or parcels, will still comply with the requirements of this Chapter;
- (c) If one or more of the existing lots or parcels, or a structure on one or more of those lots or parcels, does not comply with the requirements of this Chapter, the proposed relocation will not create any new nonconformity or increase any existing nonconformity between the requirements of this Chapter;

Boundary Line Adjustment



2. After the application is approved, the applicant must submit a legal description and survey or similar recordable exhibit, prepared by a licensed land surveyor, reflecting the relocated boundaries; obtain the land use supervisor’s signature on that survey or exhibit; and record the survey or exhibit in the appropriate office at St. Louis County. If the survey or exhibit is not recorded within 180 days after the boundary line adjustment is approved, that approval will lapse;

D Minor subdivision.

A minor subdivision allows for the subdivision of a maximum of four lots, or the combination of any number of previously platted lots into a smaller number of platted lots. A minor subdivision is an approval process for simple land divisions; it does not provide for the subdivision of unplatted land, unless that land is described by a governmental subdivision legal description.

1. The planning commission shall approve the application if it is determined that:
 - (a) The lot or lots to be subdivided or combined have frontage on an improved public street;
 - (b) Each proposed lot meets the minimum zoning requirements of the district that it is in. If a proposed lot is described by a governmental subdivision legal description, the proposed lot must be at least five acres in size and have 250 feet of frontage regardless of the zoning requirements of the district that it is in;

- (c) If an existing structure on a lot complies with the requirements of this Chapter, then after the minor subdivision structures on each of the resulting lots will still comply with the requirements of this Chapter; and
 - (d) If one or more of the existing lots, or a structure on one or more of those lots, does not comply with the requirements of this Chapter, the proposed relocation will not create any new nonconformity or increase any existing nonconformity between the requirements of this Chapter.
2. After the application is approved, the applicant must submit a legal description and survey or similar recordable exhibit prepared by a licensed land surveyor, reflecting the relocated boundaries; obtain the land use supervisor’s signature on that survey or exhibit; and record the survey or exhibit in the appropriate office at St. Louis County. The approval will lapse if the survey or exhibit is not recorded within 180 days after the minor subdivision is approved;

E Combination of parcels.

Any person with a legal or equitable interest in two or more contiguous lots or parcels of land may combine those parcels into a fewer number of lots or parcels by plat or registered land survey by complying with all the applicable subdivision procedures in subsections D, H or I;

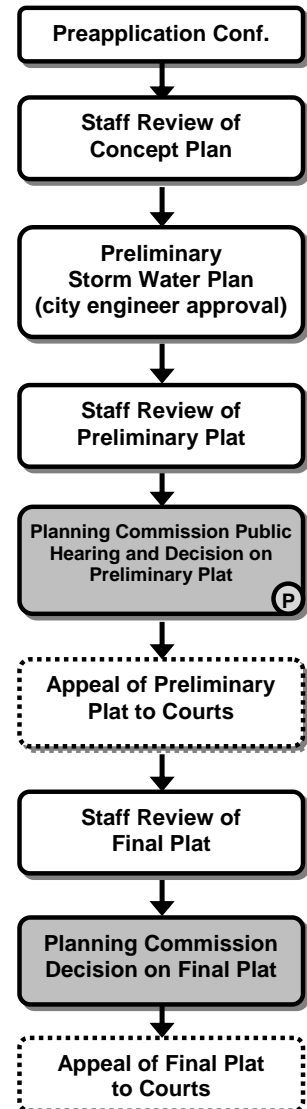
F Amending an approved subdivision plat.

An application to adopt or amend a subdivision preliminary plat or a subdivision final plat shall be filed pursuant to Section 50-37.5.G. An application to amend the street names of a subdivision final plat shall be filed pursuant to Section 50-37.5.H;

G Subdivision plat, preliminary procedure.

1. Consolidated preliminary and final review.
For subdivisions that result in no more than four lots that are no less than five acres each, and where each lot will have a minimum frontage of 250 feet on an improved public road, preliminary and final review may be consolidated if the land use supervisor determines that the proposed subdivision is of small size and minor importance. Subdivisions so designated as being of small size and minor importance may submit a final plat application after staff review of a concept plan;
2. Concept plan.
No application for a preliminary plat shall be accepted until the applicant has submitted a concept plan for the proposed subdivision. Concept plans shall reflect the general location of proposed lots, tracts, and streets, shall reflect all areas of the property where

Subdivision Plat Approval or Amendment



(P) Indicates Public Hearing Required

development is restricted pursuant to the NR-O overlay district in Section 50-18.1. The intent of the concept plan is to review general concepts for development of the site before applicants have incurred costs for engineering, soil, or storm water studies. The concept plans shall be reviewed in an informal discussion with planning staff;

3. Preliminary stormwater plan.

A preliminary stormwater plan shall be submitted and approved by the city engineer prior to submittal of the application for a preliminary plat;

4. Preliminary plat decision.

The planning commission shall conduct a public hearing pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H, and shall make a decision to approve, adopt with modifications or deny the application based on the criteria in subsection 50-37.5.J.3 below;

5. Preliminary plat criteria.

The planning commission shall approve the application, or approve it with modifications if it determines that the application:

- (a) Is consistent with the comprehensive land use plan;
- (b) Is consistent with all applicable requirements of MSA 462.358 and Chapter 505;
- (c) Is consistent with all applicable provisions of this Chapter;
- (d) Is consistent with any approved district plan covering all or part of the area of the preliminary plat;
- (e) Is located in an area where adequate police, fire and emergency facilities are available to serve the projected population of the subdivision within the city's established response times, or the applicant has committed to constructing or financing public facilities that will allow police, fire or emergency service providers to meet those response times;
- (f) Will not create material adverse impacts on nearby properties, or if material adverse impacts may be created they will be mitigated to the extent reasonably possible;

H Subdivision plat, final procedure.

1. Final plat decision.

After the approval of the preliminary plat, the applicant shall submit one or more final plats covering part or all of the land covered by the preliminary plat, together with evidence that the requirements of the approved plat have been met for the portion(s) of the land covered by the final plat. The planning commission shall approve, adopt with modifications or deny the final plat based on the criteria in subsection 3 below. The planning commission may refer the final plat to any city, county or other public or quasi-public agency deemed necessary to confirm whether the criteria in subsection 3 below have been met;

2. Final plat review and referral.

The final plat, together with the surveyor's mathematical calculations, shall be reviewed by the city engineer for accuracy of the surveys, the adequacy of the monuments, the proposed street improvements and other features of concern. The final plat may be submitted to the county engineer if the plat involves

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

features of concern to the county highway department, and to such other divisions of government or public utility corporations as the city deems necessary or desirable. The city engineer shall check the plat boundary survey to determine the coinciding of the plat boundary lines with the boundary lines of adjoining plats, tracts or other subdivision lines or markers;

3. Final plat criteria.

The planning commission shall approve the application, or approve it with modifications, if the application meets the following criteria:

- (a) Is consistent with all applicable provisions of MSA 462.358 and Chapter 505;
- (b) Is consistent with the terms and provisions of the preliminary plat approval for the property;
- (c) Demonstrates that all required improvements have been installed or that (a) the applicant has signed a development agreement committing to construct those improvements within 2 year after approval of the final plat and (b) adequate security for the construction of the required improvements has been posted with the city pursuant to Section 50-37.1.P;

4. Final plat recording.

Once approved, plats shall be signed by the president and secretary of the planning commission. After the final plat is approved, it must be recorded in the office of the county recorder as provided in MSA 505.04. The approval will lapse if the plat is not recorded within two years after the plat is approved. After the final plat has been recorded, lots may be sold and building permits for structures on the platted lots may be issued; any sales of lots shown on the final plat before recording of the final plat shall be a violation of this Chapter;

I Registered land survey.

Registered land surveys that subdivide land shall be approved in the manner required for the approval of minor subdivision plats in subsection D above if the registered land survey create four or less parcels or tracts of land. Registered land surveys that create five or more parcels or tracts of land must follow the process listed below.

1. Concept plan.

No registered land survey shall be accepted until the applicant has submitted a concept plan for the proposed subdivision. Concept plans shall reflect the general location of proposed parcels and tracts, and shall reflect all areas of the property where development is restricted pursuant to the NR-O overlay district in Section 50-18.1. The intent of the concept plan is to review general concepts for development of the site before applicants have incurred costs for engineering, soil, or storm water studies. The concept plans shall be reviewed in an informal discussion with planning staff;

2. Stormwater plan and wetland delineation.

A stormwater plan shall be submitted and approved by the city engineer, and all wetlands must be delineated, prior to submittal of the application for a registered land survey;

3. Review and referral.

The registered land survey, together with the surveyor's mathematical calculations, shall be reviewed by the city engineer. The registered land survey may be submitted to the county engineer if the registered land survey involves features of concern to the county highway department, and to such other divisions of government or public utility corporations as the city deems necessary or desirable;

4. Registered land survey decision.

The planning commission shall conduct a public hearing pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H, and shall make a decision to approve, adopt with modifications or deny the application based on the criteria in subsection 50-37.5.I.5 below;

5. Registered land survey criteria.

The planning commission shall approve the application, or approve it with modifications if it determines that the application:

- (a) Is consistent with the comprehensive land use plan;
- (b) Is consistent with all requirements of MSA 462.358 and Chapter 508;
- (c) Is consistent with all applicable provisions of this Chapter;
- (d) Is consistent with any approved district plan covering all or part of the area of the registered land survey;
- (e) Is located in an area where adequate police, fire and emergency facilities are available to serve the projected population of the subdivision within the city's established response times, or the applicant has committed to constructing or financing public facilities that will allow police, fire or emergency service providers to meet those response times;
- (f) Will not create material adverse impacts on nearby properties, or if material adverse impacts may be created they will be mitigated to the extent reasonably possible;

6. Registered land survey recording.

After the registered land survey is approved, it must be recorded in the office of the county recorder as provided in MSA 508. The approval will lapse if the registered land survey is not recorded within 180 days after the registered land survey is approved. After the registered land survey has been recorded, parcels and tracts may be sold and building permits for structures on the parcels and tracts may be issued; any sales of parcels and tracts shown on the registered land survey before recording of the registered land survey shall be a violation of this Chapter.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Section 4. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 16, 2014)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 9, 2014
Approved June 9, 2014
DON NESS, Mayor

- - -

ORDINANCE NO. 10304

AN ORDINANCE GRANTING TO ST. LUKE'S HOSPITAL A CONCURRENT USE PERMIT FOR A NEW SKYWALK LOCATED IN THE TENTH AVENUE EAST 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 St. Luke's Hospital, and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) A new skywalk approximately 15 feet wide by 80 feet long over 10th Avenue E, connecting the existing hospital to the 4th floor of Building A. Skywalk will be approximately 30 feet above the road surface, as shown in Public Document No. 14-0609-22.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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. 14-0609-22; and

(b) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as to in no way interfere with or damage any portion of any public improvement, or other public utilities now or 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(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 16, 2014)

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

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

Nays: None -- 0

Passed June 9, 2014
Approved June 9, 2014
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10305

AN ORDINANCE GRANTING TO ST. LUKE'S HOSPITAL, A CONCURRENT USE PERMIT FOR SNOW MELT SYSTEMS AND UNDERGROUND DUCT BANK IN THE RIGHT-OF-WAY OF TENTH AVENUE EAST, SECOND STREET, FIRST STREET AND THE FIRST STREET ALLEY.

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 St. Luke's Hospital, and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) A snow melt system under the driveway of "Building A" where it abuts Tenth Avenue East; a snow-melt system under the sidewalk along the west side of Tenth Avenue East, stretching 66 feet from the First Street sidewalk; and an underground duct bank for St. Luke's generator power that will cross under Second Street, Tenth Avenue East, First Street, and the First Street Alley, as shown in Public Document No. 14-0609-23.

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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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. 14-0609-23; 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 30 days after its passage and publication. (Effective date: July 16, 2014)

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

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

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed June 9, 2014
Approved June 9, 2014
DON NESS, Mayor

- - -

ORDINANCE NO. 10306

AN ORDINANCE GRANTING TO DULUTH REAL ESTATE LLC A CONCURRENT USE PERMIT FOR TIE-BACK ANCHORS UNDER THE RIGHT OF WAY OF WEST FIRST STREET ALLEY BETWEEN NORTH FOURTH AND NORTH FIFTH AVENUE WEST.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is granted to Duluth Real Estate LLC, and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) Tie-back anchors, as shown in Public Document No. 14-0609-24.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(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 120 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 shall only place obstructions in the public easement as approved by the city. The 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. 14-0609-24; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(b) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as to in no way interfere with or damage any portion of any public improvement, or other public utilities now or hereinafter located in any part of said public easement; and

(c) Permittee shall provide the city a record drawing of all obstructions placed in the 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 60 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 16, 2014)

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

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

Nays: None -- 0

Abstention: President Krug -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 9, 2014
Approved June 9, 2014
DON NESS, Mayor

- - -

ORDINANCE NO. 10307

AN ORDINANCE GRANTING TO DULUTH REAL ESTATE LLC A CONCURRENT USE PERMIT FOR SHOTCRETE WALLS AND SOIL NAIL ANCHORS UNDER THE RIGHT-OF-WAY OF FOURTH AVENUE WEST AND FIFTH AVENUE WEST BETWEEN WEST SUPERIOR STREET AND WEST FIRST STREET ALLEY.

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 Duluth Real Estate LLC, and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) Shotcrete walls and soil nail anchors, as shown in Public Document No. 14-0609-25.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(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 120 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 shall only place obstructions in the public easement as approved by the city. The 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. 14-0609-25; and

(b) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as to in no way interfere with or damage any portion of any public improvement, or other public utilities now or hereinafter located in any part of said public easement; and

(c) Permittee shall provide the city a record drawing of all obstructions placed in the 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 60 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 16, 2014)

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

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

Nays: None -- 0

Abstention: President Krug -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 9, 2014
Approved June 9, 2014
DON NESS, Mayor

- - -

ORDINANCE NO. 10308

AN ORDINANCE GRANTING TO DULUTH REAL ESTATE LLC A CONCURRENT USE PERMIT FOR SKYWALK AND BUILDING FOUNDATION IN THE RIGHT-OF-WAY AT THE NORTHWEST CORNER OF WEST SUPERIOR STREET AND FOURTH AVENUE WEST.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is granted to Duluth Real Estate LLC, and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) Skywalk and building foundation, as shown in Public Document No. 14-0609-26.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 120 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 shall only place obstructions in the public easement as approved by the city. The 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. 14-0609-26; and

(b) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as to in no way interfere with or damage any portion of any public improvement, or other public utilities now or hereinafter located in any part of said public easement; and

(c) Permittee shall provide the city a record drawing of all obstructions placed in the 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 60 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 16, 2014)

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

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

Nays: None -- 0

Abstention: President Krug -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 9, 2014
Approved June 9, 2014
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, June 23, 2014, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

14-0623-02 Greater Downtown Council, et al. (76 signatures), petition to extend the term of the Downtown Waterfront Special Service District. -- Assessor

14-0623-03 Minnesota state auditor audit report of the Duluth airport authority for the years ended December 31, 2013 and 2012. -- Received

14-0623-01 Greater Downtown Council proposed 2015-2019 operating plan for Duluth's Downtown Waterfront District (14-042-O). -- Received

14-0623-04 The following communications regarding the proposed street system maintenance utility and fees (14-0267R and 14-036-O): (a) Tom Borich; (b) Joseph Kleiman. -- Received

- - -

REPORTS FROM OTHER OFFICERS

14-0623-05 Assessor: (a) Assessment roll of delinquent solid waste collecting expenses during the period of March 1, 2013, to June 1, 2014, for which the licensed collector has not been reimbursed; (b) Letter of sufficiency of petition to extend the term of the Downtown Waterfront Special Service District. -- Received

14-0623-06 Auditor comprehensive annual financial report (CAFR) of the city of Duluth for the fiscal year ended December 31, 2013. -- Received

14-0623-07 Clerk applications for exempt permits to the Minnesota gambling control board from: (a) Duluth East Athletic Association on May 4, 2015 (raffle); (b) St. Margaret Mary Church on September 14, 2014 (raffle); (c) Women's Care Center on: (1) August 18, 2014 (raffle); (2) November 6, 2014 (bingo, raffle). -- Received

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REPORTS OF BOARDS AND COMMISSIONS

14-0623-08 Duluth Seaway Port authority minutes of: (a) February 27; (b) March 24; (c) April 24, 2014, meetings. -- Received

- - -

At this time, 7:03 p.m., the public hearing on the tax increment financing (TIF) plan for TIF District 27 and amendment to Development District 17 (Pier B project) began.

No one appeared who wished to be heard.

At this time, 7:04 p.m., the public hearing ended.

- - -

At this time, 7:04 p.m., the public hearing on amendment to loan agreement and note with Northstar Aerospace began.

No one appeared who wished to be heard.

At this time, 7:05 p.m., the public hearing ended.

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Loren Martell commented on: the action of some city councilors at a prior meeting regarding their position on ranked choice voting and also those pushing the red plan did not allow those opposing it to participate in the discussions.

- - -

Michael Chelseth commented on the plan that he is working on for a tennis court in Lakeside and the need for additional funding.

- - -

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

RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 14-0623-09, which is levied to collect delinquent sewer and water utility fees payable during the period of January 1, 2013, to December 31, 2013, as provided for in Article XI of Chapter 43 of the Duluth City Code, is hereby confirmed.

Resolution 14-0313 was unanimously adopted.

Approved June 23, 2014

DON NESS, Mayor

- - -

RESOLVED, that the assessment roll in the office of the city clerk as Public Document No. 14-0623-10, which is levied to collect delinquent stormwater/street lights utility fees payable during the period of January 1, 2013, to December 31, 2013, as provided for in Article XI of Chapter 43 of the Duluth City Code, is hereby confirmed.

Resolution 14-0314 was unanimously adopted.

Approved June 23, 2014

DON NESS, Mayor

- - -

RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 14-0623-11, which is levied against property to collect delinquent property violation administration penalty citations for the period of April 1, 2013, to April 1, 2014, as authorized in Chapter 12 of the Duluth City Code, 1959, as amended, is hereby confirmed.

Resolution 14-0315 was unanimously adopted.

Approved June 23, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to amend Agreement C21872 with Bench Strength Partners, Inc., substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0623-12, for professional services to support lease

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

negotiations of new cellular tower locations on city property with cellular service providers. The amended agreement will allow for Bench Strength Partners to earn a fee for each lease based on the same terms as the original agreement; said compensation payable from revenues deposited into Water Fund 510, and Payable from Public Works and Utilities 500, Public Works Director's Office 1900, Other Services and Charges 5441.

Resolution 14-0297 was unanimously adopted.

Approved June 23, 2014

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 8-10, 2014, 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 26, 2014, from 3:00 p.m. to 7:00 p.m., with Amanda Buhman, manager.

Ridgeview Country Club, 700 West Redwing Street, for July 24-27, 2014, with Clint Johnson, manager.

Resolution 14-0319 was unanimously adopted.

Approved June 23, 2014

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 2014, subject to departmental approvals and the payment of sales and property taxes:

Just Take Action, Inc. (Endion Station Public House), 200 Lake Place Drive, with Tim Nelson, 50 percent stockholder, Rod Raymond, 50 percent stockholder, and Jerry Peterson, CEO.

Resolution 14-0320 was unanimously adopted.

Approved June 23, 2014

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness to the parks and recreation commission of Amanda Crosby (commission on disabilities representative) for a term expiring on March 31, 2015, replacing Erica Erickson who resigned, is confirmed.

Resolution 14-0330 was unanimously adopted.

Approved June 23, 2014

DON NESS, Mayor

- - -

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(b) The city planning division has prepared and recommends approval of the Gary-New Duluth 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 Gary-New Duluth small area plan is to conduct a more detailed study of the neighborhoods and commercial area along Commonwealth Avenue than is provided for in the comprehensive land use plan through an assessment of current demographics, land use, zoning, transportation, development opportunities, environmental characteristics, and facilitate a park planning process 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 March 11, 2014, at their planning commission meeting, and recommends adoption of the SAP and the HIA.

Resolution 14-0300 was unanimously adopted.

Approved June 23, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a tenth amendment to the MIF loan agreement and a tenth promissory note modification agreement substantially in the form of those on file in the office of the city clerk as Public Document No. 14-0623-13, with Northstar Machine and Tool, Inc., dba Northstar Aerospace ("Northstar"), allowing Northstar to make payments of interest plus an amount equal to one-half of the principal payment provided for under the note from July 1, 2014, through March 31, 2015, and extending the date for repayment of entire unpaid principal and interest to March 31, 2015.

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute a tenth amendment to the grant agreement with the state of Minnesota, such amendment to reflect the tenth amendment to the MIF loan agreement and tenth promissory note modification agreement with Northstar.

Resolution 14-0302 was unanimously adopted.

Approved June 23, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officers are hereby authorized to apply for and accept a grant from the Minnesota historical society (MNHS) in the amount of and not to exceed \$10,000 and to execute a grant contract with MNHS related to a comprehensive Phase I survey of the Enger Park, funds deposited in Fund 265-020-541 (CD and housing administration, planning, other services and charges).

Resolution 14-0303 was unanimously adopted.

Approved June 23, 2014

DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

RESOLVED, that the proper city officers are hereby authorized to apply for and accept a grant from the Minnesota historical society (MNHS) in the amount of and not to exceed \$10,000 and to execute a grant contract with MNHS related to a comprehensive Phase I survey of the John Jacob Astor Park formally known as the Heritage Park in the Fond du Lac neighborhood, funds deposited in Fund 265-020-541 (CD and housing administration, planning, other services and charges).

Resolution 14-0304 was unanimously adopted.

Approved June 23, 2014

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 unimproved right-of-way is useless for all purposes; and

(c) The city planning commission, at its Tuesday, June 10, 2014, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the following described platted road easement described below and as described and depicted on Public Document No. 14-0623-14:

VACATION LEGAL DESCRIPTION:

That portion of Natchez Street (aka Seventh Street) in the plat of Hunter and Markell's Grassy Point Addition to Duluth which lies between the east line of 70th Avenue East and the centerline of 69th Avenue West.

AND

The entire Alley in Block 18, Hunter and Markell's Grassy Point Addition to Duluth;

(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. 14-0623-14 showing the platted easement to be vacated.

Resolution 14-0317 was unanimously adopted.

Approved June 23, 2014

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 unimproved right of way is

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

useless for all purposes, when the proposed replacement alley is dedicated as noted in (e) below and constructed to city standard; and

(c) The city planning commission, at its Tuesday, May 13, 2014, regular meeting, recommended approval of the vacation petition and new alley dedication; and

(d) The city council of the city of Duluth approves the vacation of the following described platted road easement described below and as described and depicted on Public Document No. 14-0623-15:

PROPOSED VACATION:

That part of the 16 foot wide alley as dedicated in Block 1, DULUTH HEIGHTS FIFTH DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota, lying westerly of the east line of Block 1 and easterly of the southerly extension of west line of Lot 10 of said Block 1;

(e) The city council of the city of Duluth approves the dedication of the following-described alley easement and as described and depicted on Public Document No. 14-0623-15:

PROPOSED EASEMENT:

An easement, approximately +/- 25 feet in width for road and utility purposes over, under, and across Lot 24, Block 1, DULUTH HEIGHTS FIFTH DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota;

(f) The alley vacation is conditioned upon the relocation of the alley, with an alley easement granted to the city and the proposed alley constructed to city standards and in a manner approved by the city engineer, unless and until the time such as the city engineer determines there is no longer a public purpose for the replacement alley. In addition, the vacation will not be recorded at St. Louis County until the underground municipal utilities are reconstructed and rededicated, are accepted by the city, and the record drawings are submitted and accepted by the city engineer; and

(g) The alley vacation is also conditioned that any and all Minnesota Power utility relocation or alteration expense associated with the development will be paid for by the petitioner and/or assigns. Minnesota Power's estimated relocation/alteration expense shall be paid in full prior to or before Minnesota Power alters or relocates any of its power line facilities;

(h) 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. 14-0623-15, showing the platted easement to be vacated.

Resolution 14-0318 was unanimously adopted.

Approved June 23, 2014

DON NESS, Mayor

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RESOLVED, that pursuant to the provisions of Resolution Nos. 89-0323 and 10-0229, the city council hereby approves of the Duluth economic development authority entering into a development agreement with Pier B Holding, LLC, for the development of the Pier B project, a copy of which agreement is on file in the office of the city clerk as Public Document No. 14-0623-16.

FURTHER RESOLVED, that, pursuant to the provisions of Minnesota Statutes Section 116J.994 Subd. 3(d), the city council hereby approves of the Duluth economic development authority entering into a business subsidy agreement with Pier B Holding, LLC, pertaining to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

the Pier B project, a copy of which agreement is on file in the office of the city clerk as Public Document No. 14-0623-16.

Resolution 14-0326 was unanimously adopted.

Approved June 23, 2014

DON NESS, Mayor

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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 Duluth economic development authority (the "DEDA") has heretofore established Development District No. 17 and adopted the development program therefor. It has been proposed by the DEDA and the city that the city adopt a modification to the development program for Development District No. 17 (the "development program modification") and establish Tax Increment Financing District No. 27: Pier B Development District (the "district") therein and adopt 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 council's consideration.

1.02. The DEDA and city have investigated the facts relating to the program and plan and have caused the program and plan 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 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 April 23, 2014, 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 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 not modifying the boundaries of Development District No. 17, but is however, 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 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,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 establishment of Tax Increment Financing District No. 27: Pier B Development District.

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 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 tax increment financing 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, on file in the clerk's office as Public Document No. 14-0623-24.

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 and adoption of the program and plan.

5.01. The program and plan, 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.

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 of Duluth 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.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

department of revenue and the office of the state auditor pursuant to Minnesota Statutes 469.175, Subd. 4a.

Resolution 14-0327 was unanimously adopted.

Approved June 23, 2014

DON NESS, Mayor

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RESOLVED, that Resolution 13-0339 to SEH, Inc., for professional engineering services for the reconstruction of Tenth Avenue East from Superior Street to Fifth Street be amended by an amount of \$16,572 for a new total of \$150,899. The increase will be payable from Permanent Improvement Fund 411, Department 035 (capital project accounts), Object 5530 (improvements other than buildings).

Resolution 14-0301 was unanimously adopted.

Approved June 23, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Hovland, Inc., for the 2012 flood repair project on Bridge 92277 H & J in the amount of \$246,840, payable out of Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1235, S.A.P. 118-109-019 and 118-194-007.

Resolution 14-0305 was unanimously adopted.

Approved June 23, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Hovland, Inc., for the 2012 flood repair project on Bridge 92277 A - G, I & K in the amount of \$752,487.50, payable out of Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1304, S.A.P. 118-080-050 and 118-173-010 (Bridge No. 92277F), City Project No. 1304.

Resolution 14-0306 was unanimously adopted.

Approved June 23, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with MSA Professional Services, Inc., for professional engineering services to provide design and construction engineering for repair and restoration of city-owned property along Chester, Amity and Miller Creeks in the estimated amount of \$270,395 payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1807 (parks, recreation and other), Object 5310 (contract services), City Project Nos. 1170, 1290, 1347, 1348, 1349, 1350, 1351, 1352, 1353, 1354, 1355 and 1356, FEMA Site Nos. 579, 580, 582 and 590.

Resolution 14-0325 was unanimously adopted.

Approved June 23, 2014

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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RESOLVED, that pursuant to Section 61 of the City Charter, the city council hereby expresses its intent to cause the construction of a sanitary sewer in Lakeview Avenue beginning 460 feet north of East Fourth Street and extending 200 feet northerly, 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 should be paid by special assessment, the number of installments in which assessments may be paid, and the properties which should include the special assessment:

437 Lakeview Avenue

443 Lakeview Avenue

Resolution 14-0329 was unanimously adopted.

Approved June 23, 2014

DON NESS, Mayor

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RESOLVED, that proper city officials are authorized to enter into a multi-agency law enforcement joint powers agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 14-0623-17, with the state of Minnesota, acting through its commissioner of public safety, bureau of criminal apprehension for participation in the Minnesota financial crimes task force.

Resolution 14-0307 was unanimously adopted.

Approved June 23, 2014

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 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 9, 2014	Superior Street from Lake Avenue to First Avenue West	11:00 a.m. to 8:00 p.m.
July 9, 2014	Superior Street from Third Avenue East to Fifth Avenue West	4:00 p.m. to 8:00 p.m.
July 11, 2014	First Street between Third Avenue West and Fourth Avenue West	6:00 p.m. to midnight
July 12, 2014	Superior Street from First Avenue West to Third 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 14-0328 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Approved June 23, 2014
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute a joint powers agreement, a copy of which is on file in the office of the city clerk as Public Document No. 14-0623-18, with the Minnesota department of natural resources for the design phase of restoration of flood damage at Kingsbury Creek within and near the Lake Superior Zoo in an amount up to \$20,000; said funds to be deposited in the Disaster Recovery Fund 225, Finance Department 125, Disaster Aid & Revenues 1808, State of Minnesota DNR 4220-07.

Resolution 14-0296 was unanimously adopted.

Approved June 23, 2014
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. 14-0623-19, with Community Action Duluth for the use of unmaintained park property for community gardens with rent payments payable to Fund 110-121-1222-4623 (general, public administration, facilities management, rent of land).

Resolution 14-0321 was unanimously adopted.

Approved June 23, 2014
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. 14-0623-20, with Jungle Boy Boxing Gym for the use of the Observation Community Recreation Center for operating a youth boxing and fitness program with rent payments payable to Fund 110-121-1222-4622 (general, public admin, facilities management, rent of buildings).

Resolution 14-0322 was unanimously adopted.

Approved June 23, 2014
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 construction of city wide flood repairs.

FURTHER RESOLVED, that the grant has been approved and that the amount of the grant is \$1,000,752.

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 1803 (roads and bridges), Source 4220-05 (state of Minnesota flood bonds), S.A.P. 118-080-060.

Resolution 14-0324 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Approved June 23, 2014
DON NESS, Mayor

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The following resolutions were also considered:

Resolution 14-0309, providing for the imposition of service charges within the Downtown Waterfront Special Service District; Resolution 14-0310, authorizing a memorandum of understanding with the Greater Downtown Council setting forth the established level of services for the Downtown Waterfront Special Service District; and Resolution 14-0311, authorizing a service contract with the Greater Downtown Council to provide services to implement the Downtown Waterfront Special Service District, were introduced by President Krug.

Councilor Larson moved to table the resolutions for consideration with Ordinance 14-042 at the next council meeting, which motion was seconded and unanimously carried.

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BY COUNCILOR HANSON:

WHEREAS, Duluth City Code Section 8-22 prohibits the consumption of alcoholic beverages in public places; and

WHEREAS, the penalty for violating the Duluth City Code is a fine up to \$1,000; and

WHEREAS, the district court sets a payable fine for various offenses, including public consumption of alcoholic beverages under the Duluth City Code and the payable fine is currently \$100.

THEREFORE, BE IT RESOLVED, that the Duluth City Council requests that the city attorney's office work with the district court to increase the payable amount for public consumption of alcoholic beverages under the Duluth City Code from \$100 to \$200.

Resolution 14-0308 was unanimously adopted.

Approved June 23, 2014
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:

Up North Taps, LLC (7 West Taphouse), 7 West Superior Street, for July 9, 2014, serving from 11:00 a.m. to 8:00 p.m.;

Rosberg, Inc. (Roscoe's Pioneer Bar), 323 West First Street, for July 11, 2014, serving from 6:00 p.m. to 12:00 a.m.;

Hospitality of Duluth, LLC (Aces on First), 113 West First Street, for July 11, 2014 (Rain Date: July 18, 2014), serving from 8:00 p.m. to 12:00 a.m.

Resolution 14-0316 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: Councilor Fosle -- 1

Approved June 23, 2014
DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Resolution 14-0312, granting an interim use permit for a vacation dwelling unit at 1026 North Tenth Avenue East, was introduced by Councilor Russ.

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

Eve Graves, applicant, requested support for the resolution, noting the uniqueness of the property location and that she would carefully screen individuals renting this location.

Resolution 14-0312 was adopted as follows:

RESOLVED, that:

(a) The city council hereby grants Eve Stein an interim use permit to operate a vacation dwelling unit located at 1026 North Tenth Avenue East and as described by the following: PID 010-2790-01720; 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 14-055); the commission gave due notice of public hearing and considered the application during a public hearing occurring on June 10, 2014; and

(f) The city planning commission, at their regular meeting on June 10, 2014, 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;

(b) The interim use permit shall not be effective until the applicant has received all required licenses and permits for operation;

(c) The applicant shall adhere to the terms and conditions listed in the interim use permit document;

(d) 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 14-0312 was unanimously adopted.

Approved June 23, 2014

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 27-29, 2014, to coincide with the Far West Fest

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 14-0291 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: Councilor Fosle -- 1

Approved June 23, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with ConsultEcon, Inc., substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0623-21, for professional services to assist the city of Duluth and Lake Superior Zoological Society in the development of a long-range facility plan for the zoo and Fairmount Park in an amount not to exceed \$59,000, in accordance with the consultant's proposal, dated June 17, 2014, payable from Tourism Taxes Fund 258, Finance Department 030, Tourism Tax Allocation Other Promotional Programs 5436 11.

Resolution 14-0323 was unanimously adopted.

Approved June 23, 2014

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 RUSS

14-043 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM MU-B AND R-2 TO MU-P FOR THE PROPERTY LOCATED AT 800 EAST CENTRAL ENTRANCE, THE FORMER CENTRAL HIGH SCHOOL (ISD #709).

- - -

INTRODUCED BY COUNCILOR RUSS

14-044 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM F-3 AND F-4 TO MU-C FOR THE PROPERTY LOCATED AT THE 215 NORTH CENTRAL AVENUE (CHADCO OF DULUTH, LLC).

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INTRODUCED BY COUNCILOR RUSS

14-045 - AN ORDINANCE GRANTING TO LINCOLN SCHOOL LIMITED PARTNERSHIP AND SHERMAN ASSOCIATES INC A CONCURRENT USE PERMIT FOR STRUCTURE FOOTINGS UNDER THE RIGHT-OF-WAY OF WEST FOURTH STREET BETWEEN 24TH AND 25TH AVENUES WEST.

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

INTRODUCED BY PRESIDENT KRUG

14-042 - AN ORDINANCE EXTENDING THE TERM OF THE DOWNTOWN WATERFRONT SPECIAL SERVICE DISTRICT.

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The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR RUSS

14-040 (10309) - AN ORDINANCE AUTHORIZING AGREEMENT WITH PIER B HOLDING, LLC THE CONVEYANCE OF RIGHTS IN SLIP NO. 2 AND OTHER IMPROVEMENTS AND OPERATIONS RELATED TO THE PIER B DEVELOPMENT.

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

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BY PRESIDENT KRUG AND COUNCILORS JULSRUD AND LARSON

14-036 (10311) - AN ORDINANCE CREATING A STREET SYSTEM MAINTENANCE UTILITY AND AUTHORIZING CHARGES THEREFORE, ADDING A NEW ARTICLE XIII TO CHAPTER 45 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

Jim Booth, Gerald Schlafer, David Ross, executive director of the Duluth Area Chamber of Commerce, Sue Connor, Bob Woods, Horace Kahlbaugh and John Rathe opposed the ordinance for reasons of: questioned if this was even legal under the City Charter; consideration should first be given to necessities, not niceties; with increased fees, families and businesses will be driven from town; the chamber of commerce represents 16,800 businesses that will be disproportionately charged with this fee; in the terms in the ordinance, the words of "includes without limitation administrative expenses and labor," leaves the city open for increased labor costs; what will happen to the existing funds that are currently going to these expenses; more people are moving out of the city limits because of additional fees; given that currently the stormwater utility is taxing for culverts, will this also be taxing for the same thing; a small sales taxes should be dedicated for the street improvements; the casino should have some of their service cut-off until they pay for their past bill; the city should look in other areas as to what could be eliminated and put towards streets and this fee will hurt families that struggle to make ends meet.

Councilor Filipovich, Fosle and Hanson opposed the ordinance for reasons of: this decision should be made during the annual budget process; this is a cover up for the administration to hide behind that the council passed it, based on the task force recommendation; a bigger solution, such as a city gas tax, are needed for this problem; there is not a strong connection between a fee on your utility bill and street construction work; the city should get the authority from the state to operate a for profit casino at the Duluth Entertainment Convention Center (DECC) and this is a start to setting up a potential to easily increase it a little each year.

Other councilors felt that: the streets desperately need attention now; this needs to start at this time as the city works on other long term solutions and this fee will have to be set each year or it reverts back to zero.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Yeas: Councilors Gardner, Julsrud, Larson, Russ, Sipress and President Krug -- 6
Nays: Councilors Filipovich, Fosle and Hanson -- 3

- - -

RESOLUTION TABLED

At this time, Councilor Julsrud moved to remove Resolution 14-0267, amending Resolution 13-0593, adopting license, permit, fine, penalty and other charges for 2014, by adding street system maintenance utility fees, from the table, which motion was seconded and carried unanimously.

Resolution 14-0267 was adopted as follows:

BY PRESIDENT KRUG AND COUNCILORS JULSRUD AND LARSON:

RESOLVED, that Resolution 13-0593 adopting license, permit, fine, penalty and other charges for 2014 be amended by adopting the following monthly fees related to the street system maintenance utility for each of the categories described therein and established pursuant to Section 45-112 of the Duluth City Code, 1959, as amended; said new adopted fees shall be effective upon the effective date of Ordinance No. 14-036.

Public Works and Utilities	
Fee Name	New 2014 Fee
Street utility fee (per month)	\$5.00
Nonresidential street utility fee (per month) - 6 to 19.99 equivalent residential units (per stormwater ERU calculation)	\$30.00
Nonresidential street utility fee (per month) - 20 to 99.99 equivalent residential units (per stormwater ERU calculation)	\$90.00
Nonresidential street utility fee (per month) - 100+ equivalent residential units (per stormwater ERU calculation)	\$240.00

Resolution 14-0267 was adopted upon the following vote:

Yeas: Councilors Gardner, Julsrud, Larson, Russ, Sipress and President Krug -- 6

Nays: Councilors Filipovich, Fosle and Hanson -- 3

Approved June 23, 2014

DON NESS, Mayor

- - -

ORDINANCE TABLED

INTRODUCED BY COUNCILOR JULSRUD

14-038 (10312) - AN ORDINANCE AMENDING THE BUDGET OF THE CITY OF DULUTH FOR YEAR 2014 BY INCREASING THE BUDGET AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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

Yeas: Councilors Gardner, Julsrud, Larson, Russ, Sipress and President Krug -- 6

Nays: Councilors Filipovich, Fosle and Hanson -- 3

- - -

INTRODUCED BY COUNCILOR FILIPOVICH

14-039 (10310) - AN ORDINANCE PERMANENT EASEMENT CONVEYANCE AGREEMENT WITH WLSSD OVER CITY PROPERTY NEAR I-35 AND HIGHWAY 2.

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

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

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10309

AN ORDINANCE AUTHORIZING AGREEMENT WITH PIER B HOLDING, LLC THE CONVEYANCE OF RIGHTS IN SLIP NO. 2 AND OTHER IMPROVEMENTS AND OPERATIONS RELATED TO THE PIER B DEVELOPMENT.

The city of Duluth does ordain:

Section 1. That pursuant to Section 2-176 of the Duluth City Code, 1959, as amended (the Code), the city council finds that:

(a) The manager of the city's physical planning division has reviewed the proposed conveyance of the city's rights to use Slip No. 2 in BAYFRONT DIVISION (the "property rights") to the Pier B Holding LLC ("Pier B") and found conveyance thereof to be in conformity with the city's comprehensive land use plan;

(b) The St. Louis County assessor, acting as city assessor, has provided an estimate of the market value of the property rights to be de minimus;

(c) The property rights described in Section 2 below is hereby determined to be surplus to the city's future needs and is therefore appropriate for sale;

Section 2. That as provided for in Section 2-177.4 of the Code, the council finds that the conveyance of the property rights to Pier B is critical to the development of a project that will increase the tax base of the city, provide both construction and permanent jobs in the city, provide remediation and repair of contaminated and deteriorated waterfront property and enhance the city's waterfront and its tourism industry base and that conveyance of the property rights to Pier B at no cost is necessary to allow the development to occur.

Section 3. That the proper city officials are hereby 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. 14-0623-22, conveying the property rights in St. Louis County, Minnesota, more particularly described therein to Pier B Holding, LLC. at no cost and setting forth other operating and maintenance provisions as set forth therein, and further to execute all documents necessary with regard to said conveyance.

Section 4. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 24, 2014)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 23, 2014
Approved June 23, 2014
DON NESS, Mayor

- - -

ORDINANCE NO. 10310

**AN ORDINANCE PERMANENT EASEMENT CONVEYANCE
AGREEMENT WITH WLSSD OVER CITY PROPERTY NEAR I-35
AND HIGHWAY 2.**

The city of Duluth does ordain:

Section 1. That pursuant to Section 2-176 of the Duluth City Code, 1959, as amended (the "Code"), the city council finds that:

(a) The manager of the city's physical planning division has reviewed the proposed conveyance of the easement over city property herein described (the "easement") to the Western Lake Superior Sanitary District (the "district") and found conveyance thereof to be in conformity with the city's comprehensive land use plan;

(b) The St. Louis County assessor, acting as city assessor, has provided an estimate of the market value of the easement to be de minimus;

(c) The easement described in Section 2 below is hereby determined to be surplus to the city's future needs and is therefore appropriate for sale;

Section 2. That as provided for in Section 2-177.3 of the Code, the council finds that the needs of the district are greater in importance than the need of the city to retain said easement 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 enter into a permanent easement agreement conveying the easement in St. Louis County, Minnesota, legally described in Public Document No. 14-0623-23, on file in the office of the city clerk, by quit claim deed, to the Western Lake Superior Sanitary District, a political subdivision of the state of Minnesota at no cost, and further to execute all documents necessary with regard to said conveyance.

Section 4. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 24, 2014)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 23, 2014
Approved June 23, 2014
DON NESS, Mayor

- - -

ORDINANCE NO. 10311

BY PRESIDENT KRUG AND COUNCILORS JULSRUD AND LARSON:

AN ORDINANCE CREATING A STREET SYSTEM MAINTENANCE UTILITY AND AUTHORIZING CHARGES THEREFORE, ADDING A NEW ARTICLE XIII TO CHAPTER 45 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Chapter 45 of the Duluth City Code 1959, as amended, is hereby amended by adding a new Article XIII thereto which reads as follows:

Article XIII. Street System Maintenance Utility.

Sec. 45-109. Policy and purpose.

The city council finds that all persons, businesses, institutions and organizations in the city benefit from the use of the street system across the entire city for the development and maintenance of economic, cultural and community vitality as well as for the general health, safety and welfare of the city's residents. The council further finds that the loss of the previous funding sources for street maintenance and reconstruction has had a significant adverse impact on the city's ability to maintain its street system at an acceptable level of repair. Therefore the city council has determined that, in order to provide a safe, well maintained street system which will promote the economic vitality of the city and the general health, safety and welfare of its residents, it is in the best interests of the city and its residents, businesses and institutions that the city create and operate a city-wide street system maintenance utility. The city council further has determined that the operation and maintenance of such a utility benefits each and every property within the city. The city council has therefore determined that it is fair, appropriate and reasonable that the costs of such operation be paid for on a fair and reasonable basis by all of the property in the city so benefitted and that the costs thereof should be charged to and collected from all such benefitted properties.

Sec. 45-110. Definitions.

For the purpose of this Article, the following words and phrases shall have the meanings given them in this Section:

Operating and maintenance costs. The current paid or accrued expenses and debt service payments incurred for the operation, maintenance and repair of the system and costs incurred by the utility for mill-and-overlay, reconstruction of streets, alleys and sidewalks in the city, all as calculated in accordance with sound accounting practices and includes, without limitation, administrative expenses, labor, the cost of materials and supplies used for such work and charges for the accumulation of appropriate reserves for costs not annually incurred but which are such as may be reasonably expected to be incurred in accordance with sound accounting practices.

Maintenance. Maintenance shall include street sweeping, street washing, snow and ice control and removal, crack sealing, pot hole filling, street sealing, temporary or permanent street patching, gravel placement and grading of gravel streets and alleys, brick repair or spot replacement on brick streets, striping and other pavement marking, traffic sign erection and replacement, right-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

of-way maintenance including grass cutting, brush removal, culvert repairs and guard rail or other protective barriers and boulevard maintenance including tree replacement.

Non-residential property. All property other than residential property.

Residential property. Developed property that is classified as land use types 1, 4 and 2a pursuant to Minnesota Statutes Section 273.13.

Street system. The existing system of streets, alleys and sidewalks owned or maintained by the city and all improvements thereto which are the responsibility of the utility, to operate and maintain.

Street system maintenance utility or utility. The utility created by this article to operate, maintain and reconstruct the city's street system.

Utility fee. A fee authorized by this Article which is established to pay for operations, maintenance, significant repair and replacement costs including reconstruction and mill and overlay and debt service.

Sec. 45-111. Street system maintenance utility budget.

Utility fees shall be expended only in accordance with a utility budget approved by the city council. If a utility budget is not approved for the expenditure of funds for any year, no utility fees or charges authorized pursuant to Section 45-112 shall be collected or expended in such year.

(a) Utility budget development.

Annually, in conjunction with the approval of the overall city budget city administration shall cause a budget to be prepared for the coming year for the utility. Said budget shall describe the nature of the work to be performed and the estimated amount to be spent on the items of work.

Sec. 45-112. Utility fees and revenues.

Upon approval of the utility budget as described in Section 45-111 above, the council shall by resolution establish the utility fees to recover from property benefitting from the system the costs of the utility. Subject to the limitations contained in this Section, this Article shall apply to all property in the city of Duluth. The council may establish differing rates for residential and non-residential property based on the reasonable benefits accruing to each such classification of property. The fees established shall defray the anticipated cost of the utility for the budget year to which they related based on the reasonable benefits accruing to each class of property;

(b) As part of approval of the utility budget as described in Section 45-111 above, other revenues necessary and applicable to the operation of the utility shall be identified and applied to the utility as set forth in the overall city budgeting process;

(c) The utility fees charged under this Article shall be charged along with and in the same manner as stormwater utility fees pursuant to Article XI of Chapter 43 of this Code. The utility fees established by this Article are the joint and several responsibility of the owner, lessee and the occupant of each property subject to the fee. The city council may provide for penalties and interest for late payments in the resolution establishing the utility fee rate;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(d) Nothing to the contrary in this Article withstanding, in the event that any work constitutes an improvement the cost of which is assessed against any property pursuant to Chapter IX of the Charter, the amount of said assessment related thereto payable in the first year only of such assessment shall be reduced by the amount of any fees paid pursuant to this Section in the most immediate preceding year;

(e) In the event that any utility fees under this Article are not paid when due, the payment thereof may be enforced in the same manner as any other unpaid utility fee owed to the city including those owed with regard to water, gas or sewer service, which enforcement may include but shall not be limited to the right to discontinue any or all such water, gas or sewer service being provided to the benefitted property.

(f) In addition, delinquent utility fees shall be collected in the same manner as taxes against the property and may also be collected in an action at law against the owner, lessee or the occupant of the parcel. On or before July 1 of each year, the director shall transmit to the city assessor a list of all delinquent utility fees for the preceding calendar year and the parcels which each delinquent fee relates to. Upon receipt of such list, the city assessor shall prepare a delinquent utility fee roll containing, in columns, the name of the owner, if known, of each parcel where utility fees are delinquent, a description of each parcel and the amount of delinquent utility fees from the previous year. On or before August 1 of each year, the city assessor shall certify the delinquent utility fee roll to the city council. The city clerk shall send notice by first class mail to the apparent owner of each parcel and any other party known to have a legal interest in the property stating the amount of the utility fee due, a description of the property, that the utility fees are due and payable before October 1 of that year and that the delinquent utility fee roll is on file in the office of the city clerk. If the city council finds the roll to be proper and correct, it shall by resolution confirm the roll on or before October 1. The confirming resolution shall contain a collection fee added to each amount due to reimburse the city for its administrative costs of collection. On or before the tenth day of October each year, the city treasurer shall file with the county auditor a certified statement of all delinquent utility fees under this Article, describing the land affected and giving the amount of the fee, with a ten percent penalty added, after which the delinquent fee shall be processed in the same manner as an assessment under the provisions of the City Charter.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 24, 2014)

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

Yeas: Councilors Gardner, Julsrud, Larson, Russ, Sipress and President Krug -- 6

Nays: Councilors Filipovich, Fosle and Hanson -- 3

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 23, 2014
Approved June 23, 2014
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

ORDINANCE NO. 10312

AN ORDINANCE AMENDING THE BUDGET OF THE CITY OF DULUTH FOR YEAR 2014 BY INCREASING THE BUDGET AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

The city of Duluth does ordain:

Section 1. That Ordinance 10268 approved December 16, 2013, is hereby amended by appropriating \$1,120,000 to the Street System Maintenance Utility Fund as follows:

Fund 551 - Street System Maintenance Utility....\$1,120,000.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 24, 2014)

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

Yeas: Councilors Gardner, Julsrud, Larson, Russ, Sipress and President Krug -- 6

Nays: Councilors Filipovich, Fosle and Hanson -- 3

Passed June 23, 2014

Approved June 23, 2014

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, July 10, 2014, 5:15 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Filipovich, Gardner, Hanson, Julsrud, Larson, Russ, Sipress and President Krug -- 8

Absent: Councilor Fosle -- 1

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MOTIONS AND RESOLUTIONS

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 2014 street preservation project, 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 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 which should be included in the special assessment:

Second Avenue West from Second Street Alley to Fourth Street;

21st Avenue West from Lower Michigan Street to Third Street.

Resolution 14-0343 was unanimously adopted.

Approved July 10, 2014

DON NESS, Mayor

- - -

The meeting was adjourned at 5:17 p.m.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, July 14, 2014, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Filipovich, Gardner, Hanson, Larson, Russ, Sipress and President Krug -- 7

Absent: Councilors Fosle and Julsrud -- 2

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The minutes of the council meetings held on December 5, 9, and 16, 2013, and January 13, 2014, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

14-0714-01 Minnesota state auditor management and compliance report of the city of Duluth for the year ended December 31, 2013. -- Received

14-0714-02 The following communications regarding the proposal of a for-profit casino at the Duluth Entertainment Convention Center (14-0365R): (a) Dennis P. And Rosemarie Mitchell; (b) Katherine Nelson. -- Received

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REPORTS FROM OTHER OFFICERS

14-0714-03 Clerk application for exempt permit to the Minnesota gambling control board from Circle of Hope on October 19, 2014 (raffle). -- Received

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REPORTS OF BOARDS AND COMMISSIONS

14-0714-26 Alcohol, gambling and tobacco commission minutes of May 7, 2014, meeting. -- Received

14-0714-04 Civil service board minutes of May 6, 2014, meeting. -- Received

14-0714-05 Commission on disabilities minutes of: (a) March 5; (b) April 2; (c) May 7, 2014, meetings. -- Received

14-0714-06 Duluth airport authority minutes of May 15, 2014, meeting. -- Received

14-0714-07 Duluth transit authority: (a) Minutes of: (1) April 23; (2) April 30; (3) May 14, 2014, meetings; (b) April 2014 financial statement. -- Received

14-0714-08 Entertainment and convention center authority minutes of: (a) January 28; (b) February 25; (c) March 25, 2014, meetings. -- Received

14-0714-09 Housing and redevelopment authority of Duluth minutes of: (a) April 29; (b) May 17; (c) May 27, 2014, meetings. -- Received

14-0714-10 Library board minutes of May 27, 2014, meeting. -- Received

14-0714-11 Parks and recreation commission minutes of: (a) February 12; (b) March 12; (c) April 2; (d) April 30; (e) May 14; (f) May 28, 2014, meetings. -- Received

14-0714-12 Spirit Mountain recreation area authority minutes of May 15, 2014, meeting. -- Received

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At this time, 7:02 p. m., the council meeting was adjourned and the public hearing on the proposed term extension of the Downtown Waterfront Special Service District was declared open.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Barbara Perrella, representing Labovitz Enterprizes, manager of the Holiday Center, commented on their support for the continuation of this special service district.

Craig Guzzo, an owner of Duluth Plumbing Supply, spoke against the tax because: he opposed any additional line items on the tax statement; the location of their business does not have the same operating plan of a Superior Street business and there is likely to be duplication of services from various entities.

Kristie Stokes, executive director of the Greater Downtown Council, noted that: the services that are provided are intended to be above and beyond those that are paid for with property taxes; the clean and safe teams are highly noted by tourists and residents and these taxes are voluntary, where individual resources are pooled together for a better Downtown.

At this time, 7:13 p.m., the hearing was declared closed and the regular order of business resumed.

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Paul Austin, Conservation Minnesota, commented that Duluth is being awarded as a legacy destination because it has been a recipient of many legacy funds for various conservation and arts programs.

- - -

Phil Fournier, union steward for AFSCME, Council 96, noted that employees are unhappy with the amount of grievances that are pending and the associated cost if it has to go to arbitration.

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Loren Martell commented on issues of the Duluth School District associated with the attempt to remove School Board Member Johnston.

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RESOLUTIONS TABLED

Councilor Gardner moved to remove Resolution 14-0309, providing for the imposition of service charges within the Downtown Waterfront Special Service District, from the table, which motion was seconded and unanimously carried.

Resolution 14-0309 was adopted as follows:

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota (the "city"), as follows:

Section 1. PURPOSE AND AUTHORIZATION.

1.01. A. Under and pursuant to the provisions of Minn. Stat. §§ 428A.01 - 428A.101 (the "act"), the city is authorized to establish a special service district.

B. The city council has, by Ordinance No. 9688 adopted on September 13, 2004, adopted an ordinance establishing the Duluth Downtown Waterfront Special Service District (the "district").

C. The city council has, by Ordinance File No. 14-042 adopted on July 14, 2014, extended the term of the district to include the period of time beginning January 1, 2015 and ending on December 31, 2019.

1.02. The act provides that service charges may be imposed by the city, within the special service district, at a rate or amount sufficient to produce the revenues required to provide the special services in the district.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

1.03. Property owners in the Downtown Waterfront who want to improve the safety, cleanliness and economic vitality of the Downtown Waterfront area by establishing the district pursuant to the act have petitioned the city to establish the Downtown Waterfront Special Service District and to establish service charges, all as more particularly set forth in an operating plan for Duluth's Downtown Waterfront District dated May 2014, (the "operating plan") developed by a steering committee composed of a broad range of people representing property owners, business leaders, the city and others with a direct stake in enhanced business and economic development conditions in the Downtown Waterfront. The operating plan, which has been incorporated into the ordinance establishing the district by reference, sets forth the special services to be provided, the particular area of the city to be included within the district's boundaries, the amount and manner of imposing service charges and the manner in which special services will be implemented. A copy of the operating plan is available for public inspection in the city clerk's office, 411 West First Street, Duluth, Minnesota.

Section 2. SERVICE CHARGE IMPOSED.

2.01. A service charge is hereby imposed upon all property that is classified under Minn. Stat. § 273.13 and used for commercial, industrial, or public utility purposes, or is vacant land zoned or designated on a land use plan for commercial or industrial use and located within the boundaries of the district. The service charge is imposed on the basis of net tax capacity. As used in this ordinance, the term "net tax capacity" has the meaning set forth in the act. Service charges not paid on or before the applicable due date for ad valorem taxes shall be subject to the same penalty and interest as in the case of ad valorem tax amounts not paid by the respective due date. The due date for service charges payable in the same manner as ad valorem taxes is the due date given in law for the real or personal property tax for the property on which the service charge is imposed. Service charges will be collected in the same manner as ad valorem real estate taxes. The assessment for service charges will be based on a total assessment of \$350,000 for the year 2015. The total assessment will increase three percent each year. In addition, the total assessment will increase each year to include additions to net tax capacity resulting from new development or redevelopment of a property involving construction resulting in an increase in assessor's estimated market value for the property of 50% or more. The maximum service charge that will be imposed on any single property will be capped at \$9,200 in 2015. The cap will increase to \$9,476 in 2016, \$9,760.28 in 2017, \$10,053.09 in 2018, and \$10,354.68 in 2019. For purposes of applying these caps, a single property is a single principal building or a physically integrated set of principal buildings which commonly functions as one property, together with accessory improvements and parcels serving the principal building or buildings. Accessory improvements or parcels may include, without limitation, skywalk bridges, parking ramps, parking lots, vacant lots, open spaces, and plazas. Examples of single properties which could be subject to a cap include the Tech Village, Lake Superior Place, the Minnesota Power Building, the Sellwood Building and Annex, and the Radisson Hotel. An otherwise qualifying property with multiple owners remains a "single property." An otherwise qualifying property that has been divided into separate ownership parcels through the use of a subdivision plat, condominium or similar regime and in which the parcels are separately taxed is not a "single property." The proposed special services include certain physical enhancements. The maximum service charge to be imposed in any year for physical enhancements is \$55,000. This figure includes both the cost of the physical enhancements and the estimated cost of operating and maintaining the physical enhancements. No improvements are being financed.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Section 3. ANNUAL CERTIFICATION.

3.01. Service charges imposed on net tax capacity which are to become payable in the following year, must be certified to the county auditor by the date provided in Section 429.061, subd. 3, for the annual certification of special assessment installments. The city assessor is directed to provide this certification annually and on a timely basis.

Resolution 14-0309 was unanimously adopted.

Approved July 14, 2014

DON NESS, Mayor

- - -

Councilor Gardner moved to remove Resolution 14-0310, authorizing a memorandum of understanding with the Greater Downtown Council setting forth the established level of services for the Downtown Waterfront Special Service District, from the table, which motion was seconded and unanimously carried.

Resolution 14-0310 was adopted as follows:

BE IT RESOLVED, that by the city council of the city of Duluth, Minnesota (the "city") as follows:

Section 1. PURPOSE AND AUTHORIZATION.

1.01. Under and pursuant to the provisions of Minn. Stat. §§ 428A.01 - 428A.101 (the "act"), the city is authorized to adopt an ordinance establishing a special service district and a resolution establishing service charges within the district. The council has, by Ordinance No. 9688, established the Downtown Waterfront Special Service District and by Resolution No. 04-0595, has imposed service charges to fund special services to be rendered within the district.

1.02. By Ordinance File No. 14-042 ("2014 ordinance"), the council has extended the term of the district to December 31, 2019 and by Resolution No. 14-0309 ("2014 resolution") the council has imposed additional service charges.

1.03. The 2014 ordinance and 2014 resolution incorporate, by reference, an operating plan for Duluth's Downtown Waterfront District dated May 2014, ("operating plan") developed by a steering committee composed of a broad range of people representing property owners, business leaders, the city and others with a direct stake in enhanced business and economic development conditions in the downtown waterfront. The operating plan sets forth the special services to be provided, the particular area of the city to be included within the district's boundaries, the amount and manner of imposing service charges and the manner in which the special services will be implemented.

Resolution 14-0310 was unanimously adopted.

Approved July 14, 2014

DON NESS, Mayor

- - -

Councilor Gardner moved to remove Resolution 14-0311, authorizing a service contract with the Greater Downtown Council to provide services to implement the Downtown Waterfront Special Service District, from the table, which motion was seconded and unanimously carried.

Resolution 14-0311 was adopted as follows:

BE IT RESOLVED, that by the city council of the city of Duluth, Minnesota (the "city") as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Section 1. PURPOSE AND AUTHORIZATION.

1.01. Under and pursuant to the provisions of Minn. Stat. §§ 428A.01 - 428A.101 (the "act"), the city is authorized to adopt an ordinance establishing a special service district and a resolution establishing service charges within the district. The council has, by Ordinance No. 9688, established the Downtown Waterfront Special Service District and by Resolution No. 04-0595, has imposed service charges to fund special services to be rendered within the district.

1.02. The council has also, by Ordinance File No. 14-042, adopted on July 14, 2014 (the "2014 ordinance") extended the term of the district to December 31, 2019 and also has, by Resolution No. 14-0309, adopted on July 14, 2014 (the "2014 resolution") assessed new service charges.

1.03. The 2014 ordinance and 2014 resolution incorporate, by reference, an operating plan for Duluth's Downtown Waterfront District dated May 2014, ("operating plan") developed by a steering committee composed of a broad range of people representing property owners, business leaders, the city and others with a direct stake in enhanced business and economic development conditions in the downtown waterfront. The operating plan sets forth the special services to be provided, the particular area of the city to be included within the district's boundaries, the amount and manner of imposing service charges and the manner in which the special services will be implemented. The operating plan specifically anticipates that the special services will be implemented pursuant to a service contract between the city and the Greater Downtown Council ("GDC"). A service contract has been prepared for this purpose.

Resolution 14-0311 was unanimously adopted.

Approved July 14, 2014

DON NESS, Mayor

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Councilor Gardner moved to suspend the rules to consider Ordinance 14-042, 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 PRESIDENT KRUG

14-042 (10313) - AN ORDINANCE EXTENDING THE TERM OF THE DOWNTOWN WATERFRONT SPECIAL SERVICE DISTRICT.

President Krug moved passage of the ordinance and the same was adopted upon a unanimous vote.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On May 7, 2014, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Tappa Keg, Inc. (Tappa Keg Inn), 7036 Grand Avenue, and has submitted its report to the city council of the city of Duluth as Public Document No. 14-0714-13;

(b) Pursuant to Duluth City Code Chapter 8, Section 9(a), on July 14, 2014, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 14-0714-13 regarding any suspension, revocation and/or civil penalty relating to the on sale intoxicating liquor license of Tappa Keg, Inc. (Tappa Keg Inn), 7036 Grand Avenue, are adopted.

FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: the Duluth City Council hereby imposes the presumptive civil penalty for a first offense as set forth in Duluth City Code Section 8-9©) in the amount of \$500 due and payable within 30 days of final council action.

Resolution 14-0348 was unanimously adopted.

Approved July 14, 2014

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On May 7, 2014, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Player's Grandstand, Inc. (Players Sports Bar), 4024 Grand Avenue, and has submitted its report to the city council of the city of Duluth as Public Document No. 14-0714-14;

(b) Pursuant to Duluth City Code Chapter 8, Section 9(a), on July 14, 2014, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 14-0714-14 regarding any suspension, revocation and/or civil penalty relating to the on sale intoxicating liquor license of Player's Grandstand, Inc. (Players Sports Bar), 4024 Grand Avenue, are adopted.

FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: the Duluth City Council finds that a violation of the Duluth City Code by the licensee did not occur and therefore no penalty is imposed.

Resolution 14-0349 was unanimously adopted.

Approved July 14, 2014

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On May 7, 2014, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Joel's, LLC (Mexico Lindo), 600 East Superior Street, and has submitted its report to the city council of the city of Duluth as Public Document No. 14-0714-15;

(b) Pursuant to Duluth City Code Chapter 8, Section 9(a), on July 14, 2014, the city council considered the records and evidence submitted;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(c) The finding of facts as set forth in Public Document No. 14-0714-15 regarding any suspension, revocation and/or civil penalty relating to the on-sale intoxicating liquor license of Joel's, LLC (Mexico Lindo), 600 East Superior Street, are adopted.

FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: the Duluth City Council hereby imposes the presumptive civil penalty for a first offense as set forth in Duluth City Code Section 8-9©) in the amount of \$500 due and payable within 30 days of final council action.

Resolution 14-0350 was unanimously adopted.

Approved July 14, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a construction contract with Max Gray Construction, Inc., for the exterior renovation of the southeast corner of Duluth Fire Station One, located at 602 West Second Street, in accordance with approved plans and specifications prepared by TKDA, the city's consultant, dated May 21, 2014, and the contractor's total low bid of \$295,200, payable from Capital Improvements Fund 450, Finance 030, Buildings and Structures 5520, CP 2013-1305B.

Resolution 14-0351 was unanimously adopted.

Approved July 14, 2014

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:

Lake Superior Brewing Company, LLC (Twin Ports Bridge Festival), Bayfront Park, for September 5-6, 2014, serving from 12:00 p.m. to 11:00 p.m., with Don Hoag, manager.

Resolution 14-0358 was unanimously adopted.

Approved July 14, 2014

DON NESS, Mayor

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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 III, LLC (Sir Benedicts Tavern on the Lake), 805 East Superior Street, for July 26, 2014, serving from 9:00 a.m. to 5:00 p.m.;

The Duke Partners, LLC (Spurs on 1st), 220 West Superior Street, for August 22, 2014 (rain date: September 19, 2014), serving from 8:00 p.m. to 12:00 a.m.;

Rustic Bar, Inc. (The Rustic Bar), 401 North Central Avenue, for July 30-August 1, 2014, serving from 6:00 p.m. to 1:00 a.m.;

JMMP ENT. LLC (KOM-ON-INN), 332 North 57th Avenue West, for July 30-August 1, 2014, 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 July 30-August 1, 2014, serving from 6:00 p.m. to 1:00 a.m.

Resolution 14-0359 was unanimously adopted.

Approved July 14, 2014

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

DON NESS, Mayor

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BE IT RESOLVED, that the city council of the city of Duluth hereby approves the permanent expansion of the designated serving area of the following on sale intoxicating liquor license for the period ending August 31, 2014, and subject to departmental approvals:

Red Herring, LLC (The Red Herring Lounge), 208 East First Street, to include a front outside seating area of approximately three tables facing First Street.

Resolution 14-0360 was unanimously adopted.

Approved July 14, 2014

DON NESS, Mayor

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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, 2014, subject to departmental approvals, and the payment of sales and property taxes:

Red Lobster Hospitality, LLC. (Red Lobster), 301 South Lake Avenue, transferred from GMRI, Inc. (Red Lobster), same address.

Resolution 14-0361 was unanimously adopted.

Approved July 14, 2014

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 Northern Lights 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 14-0363 was unanimously adopted.

Approved July 14, 2014

DON NESS, Mayor

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RESOLVED, that the reappointment by Mayor Ness to the Duluth transit authority of Donald Simons (District 5) for a term expiring on June 30, 2017, is confirmed.

FURTHER RESOLVED, that the appointment by Mayor Ness to the Duluth transit authority of Debby A. Putney (District 4) for a term expiring on June 30, 2017, replacing Anna Marie Friesen, is confirmed.

Resolution 14-0335 was unanimously adopted.

Approved July 14, 2014

DON NESS, Mayor

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RESOLVED, that pursuant to Section 2-68 of the Duluth City Code, 1959, as amended, the appointments by Mayor Ness to city boards and commissions for terms expiring on March 31 of various years, as listed on Public Document No. 14-0714-16, are confirmed.

Resolution 14-0345 was unanimously adopted.

Approved July 14, 2014

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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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 unimproved right-of-way is useless for all purposes; and

(c) The city planning commission, at its Tuesday, May 13, 2014, regular meeting recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the following described platted road easement described below and as described and depicted on Public Document No. 14-0714-17:

VACATION LEGAL DESCRIPTION:

All those parts of Alley and Platted Street, NORTON'S STEEL PLANT DIVISION OF DULUTH, City of Duluth, St. Louis County, Minnesota appurtenant to part of Lot Seventeen (17) and all of Lots Eighteen (18), Nineteen (19), Twenty (20), Twenty-One (21), Twenty-Two (22), Twenty-Three (23) and Twenty-Four (24), Block Three (3), lying north of the northerly right-of-way line of Becks Road and west of the westerly right-of-way line of Commonwealth Avenue (a.k.a. Minnesota Trunk Highway No. 23); and

(e) The alley and street vacation is conditioned upon petitioner's implementation of a plan which resolves the conflict between the city's existing water main and petitioner's proposed construction in the area of the proposed vacation in a manner approved by the director of the city's department of public works and utilities in the exercise of his or her unfettered discretion and the dedication of any easements necessary thereto as determined by the city's attorney; and

(f) If the line is relocated it is to be construction to city standards and in a manner approved by the city engineer. In addition, the vacation will not be recorded until the 20 inch water line is reconstructed, accepted by the city, and the record drawings are submitted and accepted by the city engineer; and

(g) The alley and street vacation is also conditioned that any and all utility relocation or alteration expenses associated with the water line will be paid for by the petitioner and/or assigns; and

(h) The petitioner and/or assigns accepts full responsibility for any cost or liability negligently caused solely by the petitioner with the water line unless said work is reviewed and approved by the director of public works and utilities and determined that said work will have no effect on the water line; and

(i) 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. 14-0714-17 showing the platted easement to be vacated, upon notification by the city engineer that the conditions of paragraphs (e) through (g) above are satisfied.

Resolution 14-0339 was unanimously adopted.

Approved July 14, 2014

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 unimproved right of way is useless for all purposes; and

(c) The city planning commission, at its Tuesday, May 13, 2014, regular meeting recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the following described platted road easement described below and as described and depicted on Public Document No. 14-0714-18:

VACATION LEGAL DESCRIPTION:

All that part of Roosevelt Avenue, in the plat of PITTSBURGH ADDITION TO DULUTH, City of Duluth, St. Louis County, Minnesota lying south of a line 120.00 feet south of and parallel with the north line of Block Twelve (12), said PITTSBURGH ADDITION TO DULUTH.

Said vacation being subject to the sanitary sewer board of the Western Lake Superior Sanitary District, a public corporation and political subdivision of the state of Minnesota, its grantees, successors and assigns as originally constructed per agreement with the city of Duluth dated September 13, 1974, for water pollution control facility, Division D, interceptor sewer, Larson Road to Knowlton Creek, force main, Gary - New Duluth to Grand Avenue WLSSD Project 74-4. Said constructed interceptor sewer being confined to a right-of-way 20 feet in perpendicular width and lying between two lines parallel with and situated ten feet on each either side of the interceptor sewer as constructed.

Said vacation being subject to a 100 foot wide right-of-way of the American Transmission Company (formerly Allete, Inc). Said right-of-way being more specifically depicted in Document No. 1009536 as recorded in the office of the county recorder, St. Louis County, Minnesota, on Exhibit B-7 thereof; 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. 14-0714-18 showing the platted easement to be vacated.

Resolution 14-0340 was unanimously adopted.

Approved July 14, 2014

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

public hearing and the city planning commission found that the unimproved right-of-way is useless for all purposes; and

(c) The city planning commission, at its Tuesday, May 13, 2014, regular meeting recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the following described platted road easement described below and as described and depicted on Public Document No. 14-0714-19:

VACATION LEGAL DESCRIPTION:

All those parts of Curtis Street and 119th Avenue West, BALKAN DIVISION OF DULUTH, City of Duluth, St. Louis County, Minnesota appurtenant to Lots Nineteen (19) and Twenty (20), Block Two (2), lying northeasterly of the following described line:

Commencing at the Northwest Corner of said Lot Twenty (20) , Block Two (2), BALKAN DIVISION OF DULUTH; thence easterly along the northerly line thereof, a distance of 114.50 feet to the Point of Beginning of the line to be described; thence southeasterly to a point 17.50 feet northerly of the southeast corner of Lot 19 of said Block 2 as measured along the east line of said Lot 19 and said line there terminating.

Said vacation being subject to the sanitary sewer board of the Western Lake Superior Sanitary District, a public corporation and political subdivision of the state of Minnesota, its grantees, successors and assigns as originally constructed per agreement with the city of Duluth dated September 13, 1974, for water pollution control facility, Division D, interceptor sewer, Larson Road to Knowlton Creek, force main, Gary - New Duluth to Grand Avenue WLSSD Project 74-4. Said constructed interceptor sewer being confined to a right-of-way 20 feet in perpendicular width and lying between two lines parallel with and situated ten feet on each either side of the interceptor sewer as constructed; 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. 14-0714-19 showing the platted easement to be vacated.

Resolution 14-0341 was unanimously adopted.

Approved July 14, 2014

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 unimproved right-of-way is useless for all purposes; and

(c) The city planning commission, at its Tuesday, June 10, 2014, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the following described platted road easement described below and as described and depicted on Public Document No. 14-0714-20:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

VACATION LEGAL DESCRIPTION:

That part of Lynn Avenue, Rice's Point, according to the recorded plat thereof, filed in the St. Louis County recorder's office in Duluth, Minnesota, described as follows:

That part of Lynn Avenue, Rice's Point, according to the recorded plat thereof, filed in the St. Louis County recorder's office in Duluth, Minnesota, described as follows:

All of said Lynn Avenue lying northeasterly of a line drawn from the most southerly corner of Block 46, Rice's Point, to the most westerly corner of Block 47, Rice's Point, and lying southwesterly of the United States Government Harbor Line, being 75 feet wide and 2398.3 feet in length.

EXCEPT 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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.

THAT portion of Helberg Drive crossing Lynn Avenue to be vacated being 80.00-foot wide.

RETAINING a public utility easement over that part of the northwesterly half of said portion of Lynn Avenue lying between the above described road easement and a line drawn from the most southerly corner of Block 46, Rice's Point, to the most westerly corner of Block 47, Rice's Point; 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. 14-0714-20 showing the platted easement to be vacated.

Resolution 14-0362 was unanimously adopted.

Approved July 14, 2014

DON NESS, Mayor

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RESOLVED, that pursuant to Minnesota Statutes 204B.21, the following persons are hereby appointed as election judges in the respective precincts for the August 12, 2014, state primary election and the November 4, 2014, state general election, as listed in Public Document No. 14-0714-21.

RESOLVED FURTHER, that pursuant to Minnesota Statute, 204B.31(d), election judges shall be compensated at the rate of \$8 per hour and chairperson election judges shall be also compensated \$15 for election day hours. In addition, election judges carrying supplementary returns shall be compensated for mileage at the rate of \$.56 per mile; payable from General Fund 110, Department 121 (public administration), Organization 1211, (city clerk), Object 5441 (other services and charges).

RESOLVED FURTHER, if any person who is named on the list as a judge is unable to serve, the clerk is empowered to substitute the name of a qualified legal voter for the one who is unable to serve.

Resolution 14-0347 was unanimously adopted.

Approved July 14, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with LHB, Inc., for professional engineering services to provide design engineering for the Lowell to Lakewalk Trail Phase I in the amount of \$122,267, payable from Capital Improvement Fund 450, Department 030 (finance), Object 5530 (improvements other than buildings), City Project No. 1327.

Resolution 14-0331 was unanimously adopted.

Approved July 14, 2014

DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

RESOLVED, that the proper city officials are authorized to enter into an easement agreement, a copy of which is on file in the office of the city clerk as Public Document No. 14-0714-22, with Judith G. Larson for the acquisition of a utility easement on property adjacent to MacFarlane Road as described in said agreement in the amount of \$500, payable from the Fund 535-500-1905-5535 (stormwater, public works and utilities, capital, non-capital improvements).

Resolution 14-0332 was unanimously adopted.
Approved July 14, 2014
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Northland Constructors of Duluth, LLC, for the 2014 street preservation project - reconditioning of Superior Street/First Street and 40th Avenue West in the amount of \$562,562.08, payable out of Permanent Improvement Fund 411, Department/Agency 035 (capital project accounts), Object 5530 (improvements other than buildings), City Project No. 0846TR, S.A.P. 118-110-008 and 118-117-003.

Resolution 14-0344 was unanimously adopted.
Approved July 14, 2014
DON NESS, Mayor

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RESOLVED, that plans for project S.A.P. 69-654-005 showing proposed repairs of manholes and catch basins of County State Aid Highway No. 54 (Piedmont Avenue) within the limits of the city as a state aid project have been prepared and presented to the city, and that said plans be in all things approved.

Resolution 14-0352 was unanimously adopted.
Approved July 14, 2014
DON NESS, Mayor

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RESOLVED, that Contract C21679 with LHB, Inc., for professional engineering services for Seven Bridges Road realignment and slope repairs be amended for performing additional tasks, including the investigation into the use of and prepare plan sheet for the Lester River hockey site, an archaeological survey, scarp boring investigation, bores to probe for rock, and additional materials testing, to increase the amount by \$12,660.06 for a new total of \$73,384.06, payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges), Object 5503 (engineering services), City Project No. 0568TR, City Project No. 1113, Flood Site Nos. 24 and 378.

Resolution 14-0354 was unanimously adopted.
Approved July 14, 2014
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Sunram Construction, Inc., for debris removal and stream bank stabilization at Miller Creek in the amount of \$213,613, 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. 1274 and 1285, Flood Site No. 590.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Resolution 14-0355 was unanimously adopted.
Approved July 14, 2014
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 2012 flood repairs - reconstruct stone retaining wall and rehabilitation of Bridge 88552 in the amount of \$128,360, payable out of Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1178, S.P. 118-126-021.

Resolution 14-0357 was unanimously adopted.
Approved July 14, 2014
DON NESS, Mayor

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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 police activities league which will provide youth programming to the Valley Youth Center, and to execute a grant agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 14-0714-23, funds to be deposited in Fund No. 215-200-2255-4270 (Duluth police grants programs, police , miscellaneous police grants, other grants) and expenses to be paid from Fund No. 215-200-2255-5441 (Duluth police grant programs, police, miscellaneous police grants, other services and charges).

Resolution 14-0334 was unanimously adopted.
Approved July 14, 2014
DON NESS, Mayor

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RESOLVED, that the proper city officials accept a gift of a thermo-vision infrared camera from the Northeast Law Enforcement Administrator's Council (NLEAC) for use by the Duluth police department and Lake Superior drug and violent crime task force to assist in the investigation of illegal drug sales, manufacture, and use.

Resolution 14-0342 was unanimously adopted.
Approved July 14, 2014
DON NESS, Mayor

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The following resolutions were also considered:

Resolution 14-0365, by Councilor Hanson, requesting the state legislature amend state gambling laws to provide for the operation of a for-profit casino at the Duluth entertainment convention center, was introduced.

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

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Resolution 14-0336, confirming the reappointments of Elaine Hansen, David Kohlhaas, Dan O'Neill and Cory Salmela to the Spirit Mountain recreation area authority, was introduced by Councilor Gardner.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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Resolution 14-0337, accepting conveyance of an easement from Jerold M. and Linda S. Forsberg for an existing golf cart and pedestrian trail, was introduced by Councilor Russ.

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

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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 308, Article 3, sections 21 and 22.

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 14-0366 was unanimously adopted.

Approved July 14, 2014

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 stone masonry and concrete retaining walls and rehabilitation of Bridge L6115 on Skyline Parkway over Chester Creek.

FURTHER RESOLVED, that the grant has been approved and that the amount of the grant is \$691,353.75.

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 1803 (roads and bridges), Source 4220-05 (state of Minnesota flood bonds), S.P. 118-179-004, City Project No. 1177, Flood Site No. 539.

Resolution 14-0346 was unanimously adopted.

Approved July 14, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to apply for and accept a grant from the McKnight Foundation in the amount of \$50,000, on behalf of Duluth Steam, for the purpose of the planning and designing of an energy infrastructure that is highly-efficient and that facilitates utilization of renewable energy resources in conjunction with a major Duluth infrastructure project, for a one-year period beginning on the date of execution of the grant agreement, funds to be deposited in Fund No. 540-920-1496-4270 (steam fund, steam department, utility revenues, other grants) and authorizing said officials to execute all documents necessary thereto.

Resolution 14-0370 was unanimously adopted.

Approved July 14, 2014

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- - -

Resolution 14-0333, by Councilor Fosle, establishing fees for emergency wrecker service for motor vehicles and traffic, was introduced.

Council Hanson moved to table the resolution so as to be considered with Ordinance 14-050, which motion was seconded and unanimously carried.

- - -

Resolution 14-0356, changing driving lanes on College Street, was introduced by Councilor Sipress.

Councilor Sipress moved to amend the resolution by deleting the sentence "College Street will have 'bike boxes' painted and signed at the intersections of College Street and Kenwood Avenue, and College Street and 19th Avenue East," which motion was seconded and unanimously carried.

Resolution 14-0356, as amended, was adopted as follows:

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 College Street, between Kenwood Avenue and 19th Avenue East, the road shall be striped with one driving lane in each direction, with two painted and independent bike lanes, and with an on street parallel parking lane on the south side starting at a point 400 feet east of Kenwood Avenue and ending at Brainerd Avenue.

Resolution 14-0356, as amended, was unanimously adopted.

Approved July 14, 2014

DON NESS, Mayor

- - -

WHEREAS, the recent state bonding committee passed by the Minnesota Senate includes funding for renovations of Duluth's historic Wade Stadium complex; and

WHEREAS, the city's two phase renovation plan for Wade Stadium complex includes more efficient ticketing areas and gates, revamped concession areas, improved stadium building and grandstand, a larger press box, field improvements and repairs to the exterior walls of the structure that will enhance the baseball experience for both the players and attendees; and

WHEREAS, the property to be acquired from BNSF Railway Company ("BNSF") is a critical acquisition for the implementation of the renovation project for the Wade Stadium complex as outlined in the supporting materials presented to the state bonding committee along with providing land for a connecting trail corridor between Wade Stadium complex and the city's Lincoln Park and western neighborhoods.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute and implement a real estate purchase and sale agreement with BNSF, substantially in the form of that on file in the office of the clerk as Public Document No. 14-0714-24, pursuant to which the city will acquire by quitclaim deed certain property legally described therein (the "property") for the amount of \$109,800 (\$107,800 for the property and \$2,000 administration fee) payable from Fund 450-030-5510-CP2013-0595TR (capital improvement fund, finance department, land, cross city trail).

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

Resolution 14-0176 was unanimously adopted.

Approved July 14, 2014

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 \$2,500 for the Gary New Duluth recreation area transformation and revitalization project, funds to be deposited in 205-130-1219-4270 (parks fund, community resources, parks operating, miscellaneous grants), and to execute any documents required to accept such a grant.

Resolution 14-0299 was unanimously adopted.

Approved July 14, 2014

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR JULSRUD

14-048 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OR NOTE OF THE CITY OF DULUTH IN THE MAXIMUM AGGREGATE AMOUNT OF \$1,000,000 FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

- - -

INTRODUCED BY COUNCILOR JULSRUD

14-049 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION BONDS IN THE MAXIMUM AMOUNT OF \$4,600,000 OF THE CITY OF DULUTH TO FINANCE IMPROVEMENTS TO WADE STADIUM AND SPIRIT MOUNTAIN RECREATION AREA UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

- - -

BY COUNCILORS HANSON AND FOSLE

14-053 - AN ORDINANCE AMENDING CHAPTER 29A, SECTION 32, OF THE DULUTH CITY CODE, 1959, AS AMENDED, EXCLUDING OWNER-OCCUPIED RENTAL UNITS FROM POSTED NOTICE REQUIREMENTS.

- - -

INTRODUCED BY COUNCILOR RUSS

14-047 - AN ORDINANCE AUTHORIZING THE DIRECT SALE OF CERTAIN PROPERTY IN THE PIEDMONT HEIGHTS NEIGHBORHOOD TO JEROLD M. AND LINDA S. FORSBERG FOR \$4,600 SUBJECT TO RETENTION OF AN EASEMENT.

- - -

INTRODUCED BY COUNCILOR SIPRESS

14-052 - AN ORDINANCE ANNEXING PARCEL I IN MIDWAY TOWNSHIP INTO THE CITY OF DULUTH.

- - -

INTRODUCED BY COUNCILOR SIPRESS

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

14-054 - AN ORDINANCE ALLOCATING 1/2 OF 1% OF FOOD AND BEVERAGE TAX AND 1/2 OF 1% OF HOTEL-MOTEL TAX PROCEEDS TO \$18 MILLION RECREATION AND TOURISM BOND ISSUE FOR WEST DULUTH, AMENDING SECTION 42A-44 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILOR FOSLE

14-050 - AN ORDINANCE AMENDING SECTION 33-259 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING EMERGENCY WRECKER SERVICE FOR MOTOR VEHICLES AND TRAFFIC.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR RUSS

14-043 (10314) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM MU-B AND R-2 TO MU-P FOR THE PROPERTY LOCATED AT 800 EAST CENTRAL ENTRANCE, THE FORMER CENTRAL HIGH SCHOOL (ISD #709).

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

- - -

INTRODUCED BY COUNCILOR RUSS

14-044 (10315) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM F-3 AND F-4 TO MU-C FOR THE PROPERTY LOCATED AT THE 215 NORTH CENTRAL AVENUE (CHADCO OF DULUTH, LLC).

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

- - -

INTRODUCED BY COUNCILOR RUSS

14-045 (10316) - AN ORDINANCE GRANTING TO LINCOLN SCHOOL LIMITED PARTNERSHIP AND SHERMAN ASSOCIATES, INC., A CONCURRENT USE PERMIT FOR STRUCTURE FOOTINGS UNDER THE RIGHT-OF-WAY OF WEST FOURTH STREET BETWEEN 24TH AND 25TH AVENUE WEST.

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

- - -

The meeting was adjourned at 8:05 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10313

AN ORDINANCE EXTENDING THE TERM OF THE DOWNTOWN WATERFRONT SPECIAL SERVICE DISTRICT.

The city of Duluth does ordain:

Section 1. PURPOSE AND AUTHORIZATION.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

1.01. The city has received a petition (the "petition") from property owners in the Downtown Waterfront who want to improve the safety, cleanliness and economic vitality of the Downtown Waterfront area by extending the Downtown Waterfront Special Service District ("district") pursuant to Minn. Stat. §§ 428A.01-428A.101 (the "act"). The petition has been signed by owners of more than 50% of the net tax capacity of property that will be subject to service charges and by owners of more than 25% of the land area of property that will be subject to service charges.

1.02. Under the provisions of the act, the city council may adopt an ordinance establishing a special service district. Only property that is classified under Section 273.13 and used for commercial, industrial, or public utility purposes, or is vacant land zoned or designated on a land use plan for commercial or industrial use and located in the special service district, may be subject to the charges imposed by the city on the special service district. The ordinance must describe, with particularity, the area within the city to be included within the district and the special services to be furnished in the district. Special services may not include a service that is ordinarily provided throughout the city from general fund revenues of the city unless an increased level of the service is provided in the special service district.

1.03. The council originally established the district on September 13, 2004, pursuant to Ordinance 9688. An operating plan for Duluth's Downtown Waterfront District dated May 2014, ("operating plan") has been developed by a steering committee composed of a broad range of people representing property owners, business leaders, the city and others with a direct stake in enhanced business and economic development conditions in the Downtown Waterfront. Under the operating plan the term of the district will be extended to December 31, 2019. A copy of the operating plan is available for public inspection in the city clerk's office, 411 West First Street, Duluth, Minnesota. The operating plan sets forth the special services to be provided within the district, the particular area of the city to be included within the district's boundaries, the amount and manner of imposing service charges, and the manner in which the special services will be implemented. The operating plan is hereby incorporated into this ordinance (Public Document No. 14-0623-01).

1.04. Pursuant to the authority herein recited, and as requested in the petition, the city council hereby extends the term of the district to provide the special services as provided below.

Section 2. DESCRIPTION OF THE AREA WITHIN THE CITY TO BE INCLUDED IN THE SPECIAL SERVICE DISTRICT.

2.01. The area within the city of Duluth to be included within the district is bounded by the following:

Beginning at the intersection of the East Line of Mesaba Avenue and the centerline of Third Street Alley (the "Point of Beginning"); thence Northeast along said centerline and the continuation of said centerline to the Northeast line of Tenth Avenue East; thence Southeast along the Northeast line of Tenth Avenue East to the Southeast line of Superior Street (the District includes those properties that abut upon the Northeast side of Tenth Avenue East); thence Southwest along the Southeast line of Superior Street to the Southwest line of Eighth Avenue East; thence deflect left at an angle of 45 degrees to the shoreline of Lake Superior; thence continue South and West along the shore of Lake Superior to the Northwest line of the Duluth Shipping Canal; thence South and West along said canal to Superior Bay; thence along the Duluth Superior Harbor line to the Southwest line of Bay Front Park; thence North and West along the Southwest line of Bay Front Park and its extension to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

the Southeast right-of-way of U.S. Interstate Highway 35; thence South and West along said right-of-way line to the Northeast line of Eighth Avenue West; thence Northwest along said Northeast line to the East Line of Mesaba Avenue; thence North and East along the East Line of Mesaba Avenue to the Point of Beginning.

All as more particularly depicted in Appendix B to the operating plan.

Section 3. DESCRIPTION OF SPECIAL SERVICES.

3.01. The special services to be furnished in the district are described with particularity in the operating plan and will include, without limitation, services relating to (i) clean and safe programs, (ii) marketing/promotion/ special events and (iii) physical enhancements.

Section 4. TERM OF THE SPECIAL SERVICE DISTRICT.

4.01. The extended term of the district will begin on January 1, 2015, and will end on December 31, 2019.

Section 5. SERVICE CHARGES.

5.01. Service charges to be imposed within the district will be established by a separate resolution. The resolution must meet the requirements of Minn. Stat. § 428A.03 and may, in addition, meet the requirements of Minn. Stat. § 428A.10.

Section 6. NOTICE TO COMMISSIONER OF REVENUE.

6.01. The city clerk is directed to send a copy of this ordinance to the commissioner of revenue within 30 days after its adoption.

Section 7. NOTICE OF VETO POWER.

7.01. The city clerk is directed, within five days after adoption of this ordinance, to mail a summary of this ordinance to the owner of each parcel included in the special service district and any individual or business organization subject to a service charge. The notice must meet the requirements of Minn. Stat. § 428A.09.

Section 8. EFFECTIVE DATE.

8.01. This ordinance shall take affect and be in force 45 days from and after the date upon which it is adopted. (Effective date: August 31, 2014)

President Krug moved passage of the ordinance and the same was adopted upon the following vote:

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

Nays: None -- 0

Absent: Councilors Fosle and Julsrud -- 2

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 14, 2014
Approved July 14, 2014
DON NESS, Mayor

- - -

ORDINANCE NO. 10314

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM MU-B AND R-2 TO MU-P FOR THE PROPERTY LOCATED AT 800 EAST CENTRAL ENTRANCE, THE FORMER CENTRAL HIGH SCHOOL (ISD #709).

The city of Duluth does ordain:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Section 1. That the approximately 73 acres of the subject property and as more particularly described in Exhibit A and by the following:

Block Two, CLEARVIEW PARK, according to the recorded plat thereof on file and of record in the office of the register of deeds, St. Louis County, Minnesota, together with those portions of streets and alleys appurtenant thereto.

AND

Lots One and 17 and the East One-half of Lots Two and 16, Block Three, CLEARVIEW PARK, according to the recorded plat thereof on file and of record in the office of the register of deeds, St. Louis County, Minnesota, together with those portions of streets and alleys appurtenant thereto.

AND

GREAT VIEW ADDITION TO DULUTH, according to the recorded plat thereof on file and of record in the office of the register of deeds, St. Louis County, Minnesota, together with those portions of streets and alleys appurtenant thereto.

AND

The East One-half (E1/2) of the Southeast One-quarter (SE1/4) of Section 21, Township 50 North, Range 14 West of the 4th Principal Meridian, EXCEPT those parts described as follows:

Registered Land Survey No. 82 (R.L.S. 82), as recorded in the registrar of titles office, St. Louis County, Minnesota;

That part of the E1/2 of the SE1/4 of Section 21, Township 50 North, Range 14 West of the Fourth Principal Meridian lying northerly of the Central Entrance, a public highway, as the same is laid out and constructed over and across said SE1/4;

That portion of the above described premises bounded by the following described lines:

On the northwest by the Southeasterly Line of 14th Street, produced southwesterly in the same straight line until it intersects the Northeasterly Line of First Avenue East produced northwesterly in the same straight line;

On the southwest by the Northeasterly Line of First Avenue East produced northwesterly in the same straight line until it intersects the Southeasterly Line of 14th Street produced southwesterly in the same straight line;

On the east by the westerly line of Block 193, DULUTH PROPER, THIRD DIVISION according to the recorded plat thereof on file and of record in the office of the register of deeds, St. Louis County, Minnesota;

That portion of the above described premises bounded by the following described lines:

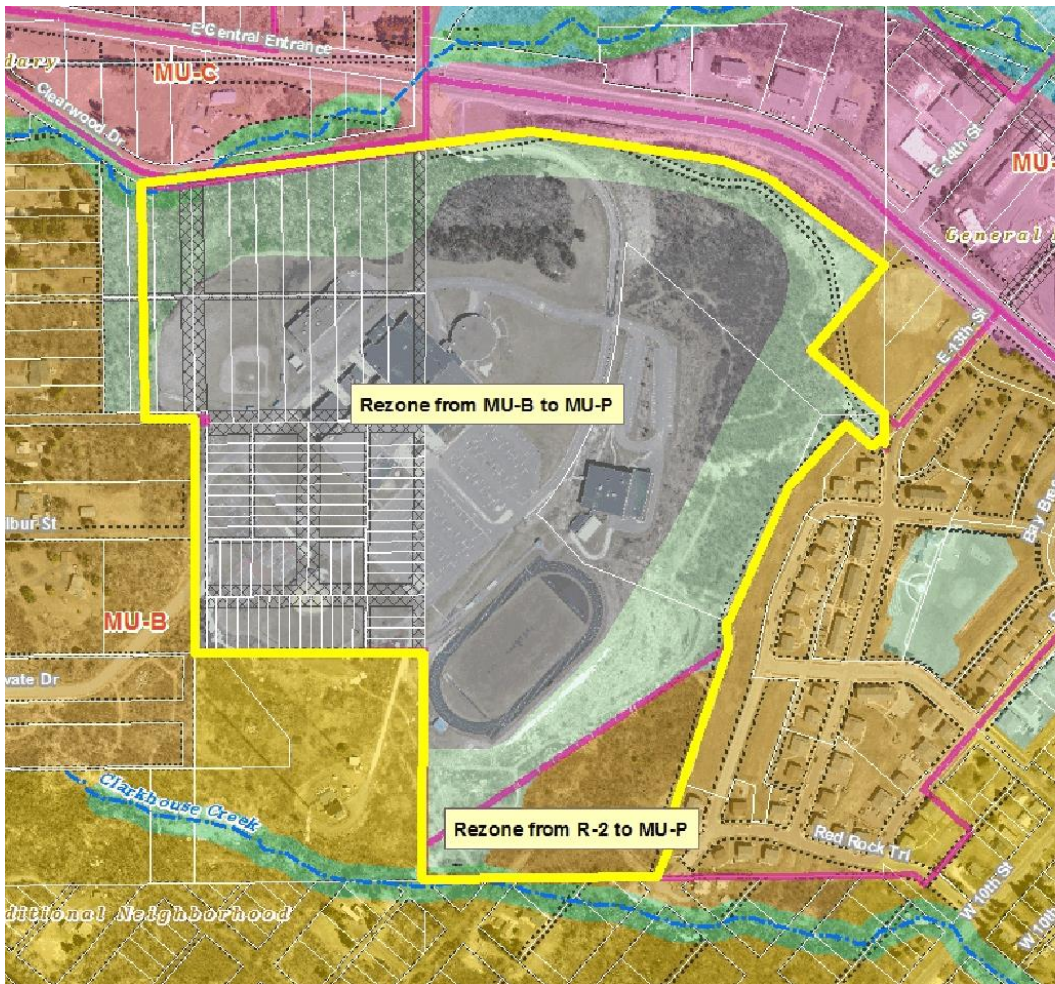
The Westerly Line of the E1/2 of the SE1/4 of Section 21 Township 50 North, Range 14 West of the Fourth Principal Meridian;

The southerly line of Swan Lake Road (also known as Sundby Road) and the centerline of Highway 194;

be reclassified from MU-B and R-2 to MU-P.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Section 2. 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. 14-063)

Section 3. That the concept plan for the site, shown as Exhibit B, will govern uses, density, and height for this zone district. The concept plan includes the following: concept map, parcel allocation, permitted uses in mixed use parcels, site acreage, and narrative of public benefits.

Section 4. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: August 16, 2014)

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

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

Nays: None -- 0

Absent: Councilors Fosle and Julsrud -- 2

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 14, 2014
Approved July 14, 2014
DON NESS, Mayor

- - -

ORDINANCE NO. 10315

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM F-3 AND F-4 TO MU-C FOR THE PROPERTY LOCATED AT THE 215 NORTH CENTRAL AVENUE (CHADCO OF DULUTH, LLC).

The city of Duluth does ordain:

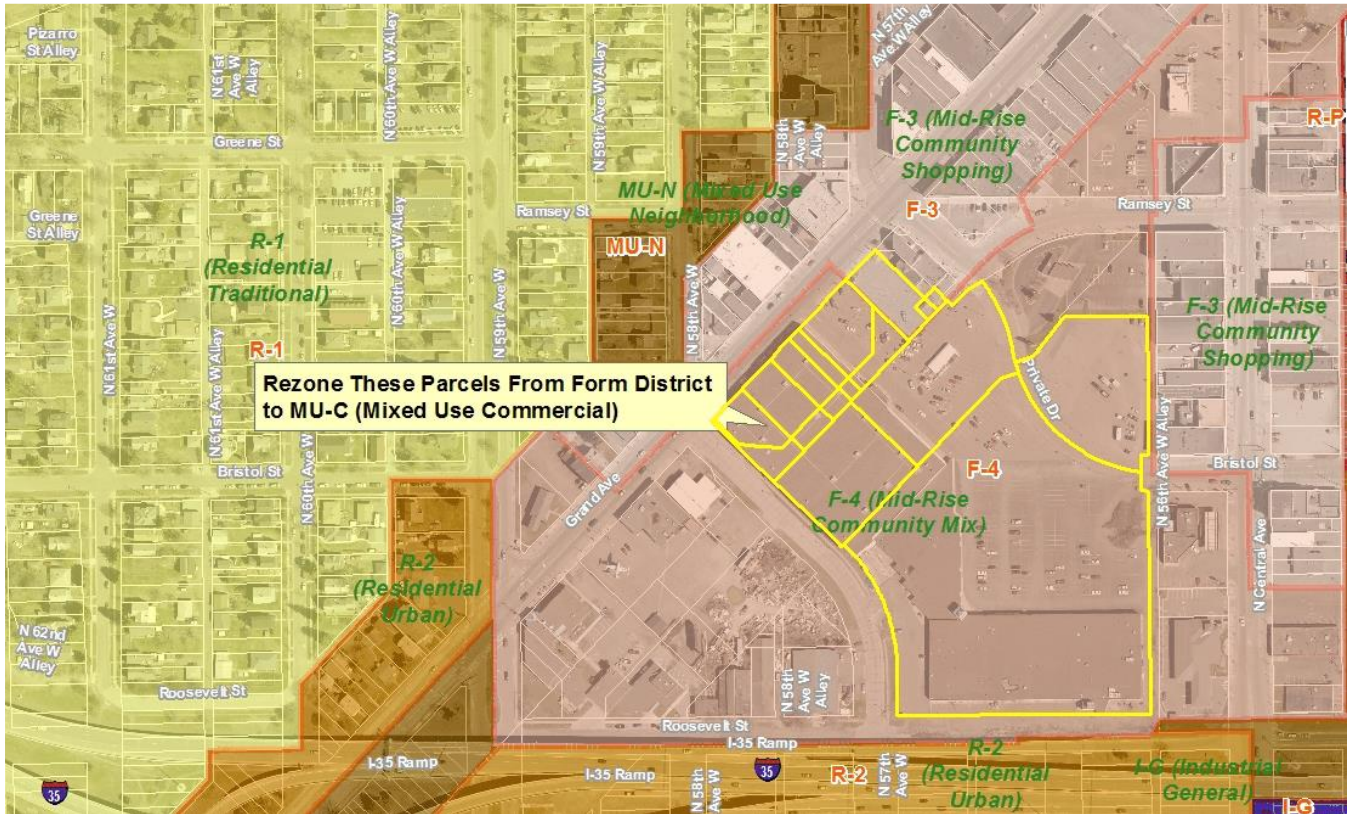
Section 1. That the approximately ten acres of the subject property and as more particularly described in Exhibit A and by the following:

010-4097-00070	010-4097-00160
010-4097-00080	010-4097-00170
010-4097-00090	010-4470-01182
010-4097-00110	010-4510-02510
010-4097-00111	010-4510-02540
010-4097-00120	010-4510-02560
010-4097-00130	010-4510-02570
010-4097-00140	010-4510-02600
010-4097-00150	

be reclassified from Form District 3 (Mid-Rise Community Shopping) and Form District 4 (Mid-Rise Community Mix) to Mu-c (Mixed Use-Commercial).

Section 2. 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:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014



(Ref. File No. 14-029)

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: August 16, 2014)

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

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

Nays: None -- 0

Absent: Councilors Fosle and Julsrud -- 2

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 14, 2014
Approved July 14, 2014
DON NESS, Mayor

- - -

ORDINANCE NO. 10316

AN ORDINANCE GRANTING TO LINCOLN SCHOOL LIMITED PARTNERSHIP AND SHERMAN ASSOCIATES INC A CONCURRENT USE PERMIT FOR STRUCTURE FOOTINGS UNDER THE RIGHT OF WAY OF WEST FOURTH STREET BETWEEN 24TH AND 25TH AVENUE WEST.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

hereinafter set forth, permission is granted to Lincoln Park School Limited and Sherman Associates, Inc., and their successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) Structure footings, as shown in Public Document No. 14-0714-25.

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 120 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 shall only place obstructions in the public easement as approved by the City. The 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. 14-0714-25; 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 60 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: August 16, 2014)

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

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

Nays: None -- 0

Absent: Councilors Fosle and Julsrud -- 2

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 14, 2014
Approved July 14, 2014
DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, July 21, 2014, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

14-0721-15 Richard Paulson communication regarding the proposed allocation of tourism taxes to a recreation and tourism bond issue for West Duluth (14-054-O). -- Received

14-0721-16 The following communications regarding the implementation of the Hartley master plan (14-0390R): (a) Gender Matters; (b) WJ McCabe Chapter, Izaak Walton League of America. -- Received

- - -

REPORTS FROM OTHER OFFICERS

14-0721-01 Clerk application for exempt permit to the Minnesota gambling control board from St. Michael's Church on October 26, 2014 (bingo and raffle). -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

14-0721-17 Community development committee minutes of: (a) April 22; (b) May 27, 2014, meetings. -- Received

14-0721-18 Indigenous commission minutes of: (a) March 17; (b) May 19, 2014, meetings. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Loren Martell commented that it has been confirmed that allegations regarding school board member Johnston making racially toned remarks are not correct.

- - -

Jerry Schlafer commented: that there is no "rich guy" to fund street maintenance and repair and if there was a federal gas tax for streets, we would not get back more than we paid in.

- - -

RESOLUTIONS TABLED

Councilor Gardner moved to remove Resolution 14-0336, confirming the reappointments of Elaine Hansen, David Kohlhaas, Dan O'Neill and Cory Salmela to the Spirit Mountain recreation area authority, from the table, which motion was seconded and unanimously carried.

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

Jane Gilbert-Howard, chairperson of the authority's board, noted that these reappointments are excellent board members and requested their reappointments.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Resolution 14-0336 was adopted as follows:

RESOLVED, that the reappointments to the Spirit Mountain recreation area authority by Mayor Ness of Elaine Hansen, David Kohlhaas, Dan O'Neill and Cory Salmela for terms expiring on June 30, 2017, are confirmed.

Resolution 14-0336 was unanimously adopted.

Approved July 21, 2014

DON NESS, Mayor

- - -

Councilor Russ moved to remove Resolution 14-0337, accepting conveyance of an easement from Jerold M. and Linda S. Forsberg for an existing golf cart and pedestrian trail, from the table, which motion was seconded and unanimously carried.

Resolution 14-0337 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to accept the conveyance of an easement for public park recreational purposes, substantially in the form of that on file with the city clerk as Public Document No. 14-0721-02 from Jerold M. and Linda S. Forsberg for the existing golf cart and pedestrian access trail to Enger Park at no cost to city.

Resolution 14-0337 was unanimously adopted.

Approved July 21, 2014

DON NESS, Mayor

- - -

Councilor Russ moved to suspend the rules to consider Ordinance 14-047 at this time, which motion was seconded and unanimously carried.

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCE

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR RUSS

14-047 (10320) - AN ORDINANCE AUTHORIZING THE DIRECT SALE OF CERTAIN PROPERTY IN THE PIEDMONT HEIGHTS NEIGHBORHOOD TO JEROLD M. AND LINDA S. FORSBERG FOR \$4,600 SUBJECT TO RETENTION OF AN EASEMENT.

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

- - -

RESOLUTION TABLED

Councilor Fosle moved to remove Resolution 14-0333, establishing fees for emergency wrecker service for motor vehicles and traffic, from the table, which motion was seconded and unanimously carried.

Resolution 14-0333 was adopted as follows:

BY COUNCILOR FOSLE:

RESOLVED, that pursuant to Section 33-259 of the Duluth City Code, 1959, as amended, the following maximum fees related to the emergency wrecker service for motor vehicles and traffic when summoned by the chief of police are hereby established as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Police Department	
Fee Name	New 2014 Fee
Towing of disabled vehicles from one location in the city to another, or to a lot maintained outside the city by the service; when the vehicle requires dollying or a flat bed wrecker or when a flat bed wrecker is required by the police	\$120
Towing a vehicle which requires heavy duty wrecker equipment from one location in the city to another, or to the service's lot maintained outside of the city, with a \$500 maximum fee	\$200 per hour
Storage of towed vehicles, up to a maximum of 25 days	\$25 per each 24 hours
Operation of the wrecker's winch if the vehicle to be towed is off of the roadway and requires more than 20 feet of winching	\$25 for each 15 minutes
Performance of a service by an emergency wrecker service for a fee	\$0

Resolution 14-0333 was unanimously adopted.
 Approved July 21, 2014
 DON NESS, Mayor

- - -

Councilor Fosle moved to suspend the rules to consider Ordinance 14-050 at this time, which motion was seconded and unanimously carried.

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCE

The following entitled ordinance was read for the second time:

BY COUNCILOR FOSLE

14-050 (10323) - AN ORDINANCE AMENDING SECTION 33-259 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING EMERGENCY WRECKER SERVICE FOR MOTOR VEHICLES AND TRAFFIC.

Councilor Fosle 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.)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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

WHEREAS, the city receives lease payments from various wireless data communication carriers and is in the process of re-negotiating lease agreements with these carriers that will result in increased lease payments to the city; and

WHEREAS, the city desires to establish a dedicated fund within the special projects fund to pay for telecommunications infrastructure costs from the increased wireless data communication carrier lease payments; and

WHEREAS, the Governmental Accounting Standards Board Statement No. 54 requires the city council to take action to commit resources for a designated purpose.

THEREFORE, BE IT RESOLVED, that a telecommunications infrastructure fund be created within the city's special projects special revenue fund (Fund 210-030-3152) to pay for costs associated with telecommunications including equipment, software, professional services and maintenance including an annual transfer to the public works and utilities department in an amount equal to existing wireless carrier lease revenue not to exceed \$135,000.

BE IT FURTHER RESOLVED, that revenues from lease agreements on communication towers, monopoles, water towers, facility infrastructure and land leases for cellular, radio, microwave or other forms of wireless data communication from vendor carrier leaseholders be committed as the funding source for the newly created telecommunications infrastructure fund.

Resolution 14-0384 was unanimously adopted.

Approved July 21, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with AstroTurf, LLC, for the purchase and installation of artificial turf at Wade Stadium, located at 101 North 35th Avenue West, Duluth, Minnesota, in accordance with city-approved plans and specifications, and the vendor's successful bid of \$554,398, terms net 30, and payable from the Capital Improvements Fund 450, Finance 030, Improvements Other than Buildings 5530, Project CP450-Wade, Requisition 14-0458.

Resolution 14-0379 was unanimously adopted.

Approved July 21, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into Amendment No. 1 to the lease agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0721-03, with Northern PCS Services, LLC, in an amount of \$906,754 over a ten year period commencing on October 10, 2015, for the purpose of providing space for cellular communications equipment on the tower and communications building at the Orphanage/Woodland water tower site. Revenues will be received into Fund No. 210-030-3152-4620 (special projects fund, finance, telecommunication infrastructure, telecommunication rental fees).

Resolution 14-0391 was unanimously adopted.

Approved July 21, 2014

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

RESOLVED, that the proper city officials are authorized to enter into a license agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0721-04, with Sprint Spectrum L.P., in an amount of \$552,558.98 over a ten year period, for the purpose of providing cellular communications equipment space at the Chester Bowl site. Revenues will be received into Fund No. 210-030-3152-4620 (special projects fund, finance, telecommunication infrastructure, telecommunication rental fees).

Resolution 14-0392 was unanimously adopted.

Approved July 21, 2014

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:

Northland Country Club, 3901 East Superior Street, for July 30, 2014, with Joe O'Connor, manager.

Resolution 14-0395 was unanimously adopted.

Approved July 21, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of assistant manager, parks and recreation, which were approved by the civil service board on July 1, 2014, and which are filed with the city clerk as Public Document No. 14-0721-05, are approved; that said classification shall be subject to the city's collective bargaining agreement with its supervisory unit employees; and that pay range for said classification shall be Range 1070-1080, \$4,733 to \$6,112 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 14-0386 was unanimously adopted.

Approved July 21, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of property services supervisor, which were approved by the civil service board on July 1, 2014, and which are filed with the city clerk as Public Document No. 14-0721-06, are approved; that said classification shall be subject to the city's collective bargaining agreement with its supervisory unit employees; and that pay range for said classification shall be Range 1055-1070, \$4,260 to \$5,774 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 14-0387 was unanimously adopted.

Approved July 21, 2014

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

RESOLVED, that the proposed specifications for the new civil service classification of property services specialist, which were approved by the civil service board on July 1, 2014, and which are filed with the city clerk as Public Document No. 14-0721-07, 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 133, \$4,062 to \$4,787 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 14-0388 was unanimously adopted.

Approved July 21, 2014

DON NESS, Mayor

- - -

RESOLVED, that the city council hereby amends the 2013 annual action plan to add \$50,827 in CDBG funds for the project 85th Avenue West utility assessment assistance, which will assist homeowners in paying utility assessments for the installation of utilities along 85th Avenue West.

2010 CDBG Program

Fund 262, Agency 020, Object 5434, Project CD10CD

Project	Activity	Original Budget	New Grant	Difference
ADMC-AD09	Center for Soc. Justice	10,000	6,393	(3,607)
ECDV-2412	SOAR Dul at Work	160,000	158,000	(2,000)
ECDV-2805	NYS Dul at Work	40,000	32,000	(8,000)

2013 CDBG Program

Fund 262, Agency 020, Object 5434, Project CD13CD

Project	Activity	Original Budget	New Grant	Difference
13-PF-06	85th Ave W Util Assess	0	50,827	50,827

2014 CDBG Program

Fund 262, Agency 020, Object 5434, Project CD14CD

Project	Activity	Original Budget	New Grant	Difference
Def Rev 2020		34,545	0	(34,545)

2014 CDBG Program

Fund 261, Agency 020, Object 5434, Project CD14CD

Project	Activity	Original Budget	New Grant	Difference
Def Rev 2020		2,675	0	(2,675)

Resolution 14-0353 was unanimously adopted.

Approved July 21, 2014

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

public hearing and the city planning commission found that the unimproved right-of-way is useless for all purposes; and

(c) The city planning commission, at its Tuesday, July 8, 2014, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the following described platted road easement described below and as described and depicted on Public Document No. 14-0721-08:

VACATION LEGAL DESCRIPTION:

South Eighth Avenue West lying adjacent to Blocks 8 and 9, BAY FRONT DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota and lying Southerly of the Southerly Right-of-way line of Railroad Street as platted in said BAY FRONT DIVISION OF DULUTH. Said parcel contains 61,128 sq. ft. or 1.40 acres more or less.

PUBLIC UTILITY EASEMENT RETENTION

That part of South Eighth Avenue West lying adjacent to Blocks 8 and 9, BAY FRONT DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota and lying Southerly of the Southerly Right-of-way line of Railroad Street as platted in said BAY FRONT DIVISION OF DULUTH and lying Northerly of the Easterly extension of the Southerly line of Lot 17, said Block 9 and lying Northerly of the Westerly extension of the Southerly line of Lot 18, said Block 8; 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. 14-0721-08 showing the platted easement to be vacated.

Resolution 14-0371 was unanimously adopted.

Approved July 21, 2014

DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council hereby grants Greg Kunst an interim use permit for mining, extraction, and storage at 3339 Oak Street; 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 ten years following the effective date of this resolution; and

(e) The council determines that the applicant agrees to sign a development agreement with the city confirming that:

(1) Approval of the permit will not result in increased costs to the city if the property is later acquired by the city through eminent domain;

(2) The use will be terminated at the applicant's expense on the date(s) stated in the permit;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(3) The termination of the interim use as stated in the permit will create no rights to a nonconforming use and no rights to compensation for termination of the use or for the value of any structures or improvements related to the use; and

(4) The applicant agrees to all conditions imposed by the city; and

(f) Pursuant to 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 14-078); the commission gave due notice of public hearing and considered the application during a public hearing occurring on July 8, 2014; and

(g) The city planning commission, at their regular meeting on July 8, 2014, considered the application's consistency with the criteria for granting interim use permits and voted to recommend approval of an interim use permit for mining, extraction, and storage, 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) Operating hours be limited to 7:00 a.m. - 8:00 p.m., Monday through Saturday, with no operations allowed on Sunday or federal government holidays;

(b) Parkview Road must be maintained in a condition equal to or better than conditions of a typical moderately traveled township road in Lakewood Township. Vehicle speeds must be limited to 20 m.p.h., and road must be controlled so that no dust is emitted from the road by passing trucks;

(c) No vehicles that are inoperative for more than 30 days shall be stored in the open within the boundary of the gravel pit;

(d) Noise levels shall not exceed 60 decibels at the property line;

(e) Screener discharge chute will be lined with rubber to mitigate noise;

(f) After the ceasing of gravel pit operations, the reclamation plan shall be completed within 18 months;

(g) Access to the pit be secured with gates and any necessary fencing to prevent trespass by vehicles and ATVs;

(h) Applicant agrees to sign an agreement related to the interim use permit conditions listed in the UDC;

(i) Applicant shall abide by all applicable laws and regulations;

(j) 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 approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Resolution 14-0375 was unanimously adopted.

Approved July 21, 2014

DON NESS, Mayor

- - -

WHEREAS, Ikonics Corporation ("Ikonics") is proposing to construct a new 30,000 square foot expansion facility in the Atlas Industrial Park in the western part of Duluth (the "project"); and

WHEREAS, the city of Duluth has been informed that Ikonics intends to submit an application to the Minnesota department of employment and economic development ("DEED") for an award and/or rebate from the job creation fund program; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

WHEREAS, the city of Duluth, Minnesota, desires to express its support of Ikonics' project.

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth does hereby declare its support and approval of the project proposed by Ikonics and its application for an award and/or rebate from DEED's job creation fund program.

Resolution 14-0394 was unanimously adopted.

Approved July 21, 2014

DON NESS, Mayor

- - -

RESOLVED, that proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file with the office of the city clerk as Public Document No. 14-0721-09, 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, 2014 through June 30, 2015. Monies received shall be deposited into Senior Programs Fund 270, Grants Division Agency 031, SCSEP SSAI Federal Organization 6330.

Resolution 14-0364 was unanimously adopted.

Approved July 21, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into a joint powers agreement, a copy of which is on file in the office of the city clerk as Public Document No. 14-0721-10, with the township of Midway pursuant to which the city would undertake to maintain Skyline Parkway from the city limits to Becks Road.

Resolution 14-0368 was unanimously adopted.

Approved July 21, 2014

DON NESS, Mayor

- - -

RESOLVED, that Contract C20096 with LHB, Inc., for professional engineering services for West Duluth reservoir roof reconstruction be amended for performing additional tasks, including surge tank foundation design and construction services, additional on-site observation, AET interior condition survey, and additional materials testing, in the estimated amount of \$155,936 for a new total of \$314,950, payable from Water Fund 510, Department 500 (public works and utilities), Division 1905 (capital), Object 5536 (utility infrastructure repair), City Project No. 0514WA.

Resolution 14-0367 was unanimously adopted.

Approved July 21, 2014

DON NESS, Mayor

- - -

RESOLVED, that it is deemed necessary for public convenience and safety and it is hereby ordered that the following streets (City Project No. 1334) be improved:

Second Avenue West from Second Street Alley to Fourth Street;

21st Avenue West from Lower Michigan Street to Third Street.

FURTHER RESOLVED, that said work be done by contract and that the estimated cost of said project as estimated by the city engineer is \$296,820.40, payable from Street Improvement Fund 440, Department/Agency 038 (special assessment contracts), Object 5530

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(improvements other than buildings). Of these project costs, \$70,302.96 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 at municipal bond index fund rate plus 1.5 percent interest.

Resolution 14-0369 was unanimously adopted.

Approved July 21, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to acquire a utility easement from St. Louis County over that tax forfeited property in St. Louis County, Minnesota legally described below for the consideration of \$1,946, payable from Fund 535-500-1905-5535 (stormwater, public works and utilities, capital, non-capital improvements):

Lot 1, Block 31, BAYVIEW ADDITION TO DULUTH NO. 1.

Resolution 14-0377 was unanimously adopted.

Approved July 21, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with A Plus Landscaping, LLC for Riverside - Gogebic Creek storm sewer and slope repairs in the amount of \$215,734.44, payable out of Stormwater Fund 535, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5533 (capital improvements - revenue), City Project 1359.

Resolution 14-0378 was unanimously adopted.

Approved July 21, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with KGM Contractors, Inc., for 2014 city wide storm sewer improvements, sites 1, 2 and 4, in the amount of \$330,823.95, payable out of Stormwater Fund 535, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5533 (capital improvements - revenue), City Project 1242.

Resolution 14-0380 was unanimously adopted.

Approved July 21, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with KTM Paving, Inc., for 2014 city wide storm sewer improvements, sites 3 and 5, in the amount of \$213,120.91, payable out of Stormwater Fund 535, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5533 (capital improvements - revenue), City Project 1242.

Resolution 14-0381 was unanimously adopted.

Approved July 21, 2014

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

RESOLVED, that the proper city officials are authorized to enter into an agreement with the Minnesota department of transportation granting the city a limited use permit for the construction, operation and maintenance of Phase I of the Cross City Trail in the state's right-of-way for Trunk Highway 35 (I-35) from Lake Avenue to the West Superior/Carlton Street intersection.

Resolution 14-0389 was unanimously adopted.
Approved July 21, 2014
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 100 block of West First Street on August 22, 2014, to coincide with the Twelve Holy Apostles 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 14-0373 was unanimously adopted.
Approved July 21, 2014
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 portions of Ramsey Street and 57th Avenue West between Grand Avenue and Central Avenue from July 30-31 and August 1, 2014, 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.

Resolution 14-0374 was unanimously adopted.
Approved July 21, 2014
DON NESS, Mayor

- - -

RESOLVED, that proper city officials are hereby authorized to accept a grant from the Duluth legacy endowment fund and execute said grant agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 14-0721-11, in the amount of \$2,500, said funds to be deposited in Fund No. 240-300-SG80-4270 (library, special gifts, library, miscellaneous), for the purpose of supporting the library teen space program at the Duluth public library.

Resolution 14-0376 was unanimously adopted.
Approved July 21, 2014
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Resolution 14-0382, in the matter of the on sale intoxicating liquor license of Wessman Estate, LLC (Twins Bar), 501 East Fourth Street, was introduced by Councilor Hanson.

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

Carl Green commented at length on: requesting a continuance of this issue for him to have legal representation; that the charges are bogus; that he has federal rights that need to be addressed and that if the license is revoked he will sue the city.

Resolution 14-0382 was adopted as follows:

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On June 4, 2014, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Wessman Estate, LLC (Twins Bar), 501 East Fourth Street, and has submitted its report to the city council of the city of Duluth as Public Document No. 14-0721-13;

(b) Pursuant to Duluth City Code Chapter 8, Section 9(a), on July 21, 2014, all records and evidence submitted related to this matter were considered by the city council;

(c) The finding of facts as set forth in Public Document No. 14-0721-13 regarding any suspension, revocation and/or civil penalty relating to the on sale intoxicating liquor license of Wessman Estate, LLC (Twins Bar), 501 East Fourth Street, are adopted.

FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: the Duluth City Council hereby revokes the on sale intoxicating liquor license of Wessman Estate, LLC (Twins Bar), 501 East Fourth Street.

Resolution 14-0382 was unanimously adopted.

Approved July 21, 2014

DON NESS, Mayor

- - -

Resolution 14-0385, approving the sale of certain tax forfeit lands on Park Point (Minnesota Point) by St. Louis County, was introduced by Councilor Russ for discussion.

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

Glenn Anderson and David Wade requested that the resolution be tabled to allow the neighborhood to have input on this issue and where small parcels of land could be purchased.

Mark Weber, St. Louis County land commissioner, reviewed the process that was previously used and the legal requirements for selling larger lots and that non-conforming lots can be sold to adjoining property owners.

Councilors discussed this issue and the options at length.

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

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

Nays: Councilor Russ -- 1

- - -

Resolution 14-0372, ordering the construction of approximately 970 feet of watermain in 85th Avenue West beginning at Vinland Street and extending northerly, at an estimated cost of \$151,029.30, and to assess the costs thereof, was introduced by Councilor Filipovich for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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

Rick Tuomi, Dean Peterson, Randalls Jenkins and Travis Jackson expressed concerns of: there have been continuous water breaks in this area; that a grant was going to lower the costs for all the property owners, but that got changed and an unfairness was created with the formula proposed and the fairest solution is for the cost to be based on front footage versus the per unit basis.

Page Koosmann and Matt Paquette felt that: the cost based on front footage will make living on that street unaffordable; this new water line does not add any value to properties and these costs should be split equally as it has been in the past with breaks.

Councilor Fosle moved to amend the resolution as follows:

- (a) In the third paragraph, insert the phrase "which shall be calculated by the frontage foot, after the phrase "preliminary assessment roll";
 - (b) In the fourth paragraph, insert the word "will" after the phrase "that the council";
 - (c) In the fourth paragraph, delete the phrase "and that said improvement be hereby ordered" and replace it with the phrase "after the public hearing process is completed";
- which motion was seconded and discussed.

Chief Administrative Officer David Montgomery reviewed at great length the current assessment process and the unique aspects of this particular issue.

Councilors Julsrud and Russ expressed concerns that this kind of issue should not divide neighbors with someone being unhappy with either option and supported the resolution without the amendment because it will extend the painful process that already has gone on.

Councilor Fosle's amendment carried as follows:

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

Nays: Councilors Julsrud and Russ -- 2

Resolution 14-0372, as amended, was adopted as follows:

RESOLVED, that by Resolution of Intent 14-0245 the council did request the administration to prepare plans and specifications for the construction of approximately 970 feet of watermain in 85th Avenue West beginning at Vinland Street and extending northerly.

FURTHER RESOLVED, that said work be done by contract and that the estimated total cost of said improvement as estimated by the city engineer is \$151,029.30, payable from Water Fund 510, Department 500 (public works and utilities), Division 1905 (capital), Object 5535 (non-capital improvements), and of these costs \$145,029.30 will be assessed to benefitting properties.

FURTHER RESOLVED, that assessments shall be levied upon lands benefitting per the preliminary assessment roll, which shall be calculated by the frontage foot, and may be paid in 15 annual installments at the municipal bond index fund rate plus one and one-half percent.

FURTHER RESOLVED, that the council will order in subject project in accordance with the provisions of Section 61 of the City Charter after the public hearing process is completed.

Resolution 14-0372, as amended, was adopted upon the following vote:

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

Nays: Councilor Julsrud -- 1

Approved July 21, 2014

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Meyer, Scherer & Rockcastle, Ltd., substantially in the form of Public Document No. 14-0721-12 on file in the office of the city clerk, for professional architect services in conducting and completing a comprehensive library facility alternatives study for an amount not to exceed \$52,396, as revised from the consultant's proposal, dated June 25, 2014, and payable from the Orlich Estate Library Trust Fund 242, Library 300, and Other Professional Services 5319, Requisition 14-0475.

Resolution 14-0383 was unanimously adopted.

Approved July 21, 2014

DON NESS, Mayor

- - -

Resolution 14-0390, granting approval and implementation of the Hartley master plan, was introduced by Councilor Larson for discussion.

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

Daniel Mundt stated that the resolution should be tabled until the impact on wildlife could be determined, specifically how it would diminish the quality of wildlife habitat.

Waylon Munch, board member of the Cyclists of the Gitchee Gumees Shores (CGGS), supported the resolution since there have been extensive interactive feedback meetings, and this is a fair and balanced compromise.

Rich Staffon, president of the local Izaak Walton League unit, stated that the master plan has been revised enough for his organization to support it.

Tom O'Rourke, executive director of the Hartley Nature Center, commented in detail on the scope of their operations and programs, and their support, though with a concern for the wildlife, for the many aspects of the master plan.

Councilors commented at great length on the process used; the merits of the final version of the master plan and the multi-facets of the plan.

Resolution 14-0390 was adopted as follows:

RESOLVED, that the city council hereby approves the Hartley master plan and authorizes implementation of the plan, in partnership with the Hartley Nature Center, as funding becomes available.

Resolution 14-0390 was unanimously adopted.

Approved July 21, 2014

DON NESS, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

INTRODUCED BY COUNCILOR HANSON

14-055 - AN ORDINANCE AMENDING SECTIONS 8-41 AND 8-44 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO ON-SALE INTOXICATING LIQUOR LICENSES.

- - -

The following entitled ordinances were read for the second time:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

INTRODUCED BY COUNCILOR JULSRUD

14-048 (10317) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OR NOTE OF THE CITY OF DULUTH IN THE MAXIMUM AGGREGATE AMOUNT OF \$1,000,000 FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

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

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INTRODUCED BY COUNCILOR JULSRUD

14-049 (10318) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION BONDS IN THE MAXIMUM AMOUNT OF \$4,600,000 OF THE CITY OF DULUTH TO FINANCE IMPROVEMENTS TO WADE STADIUM AND SPIRIT MOUNTAIN RECREATION AREA UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

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

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BY COUNCILORS HANSON AND FOSLE

14-053 (10319) - AN ORDINANCE AMENDING CHAPTER 29A, SECTION 32, OF THE DULUTH CITY CODE, 1959, AS AMENDED, EXCLUDING OWNER-OCCUPIED RENTAL UNITS FROM POSTED NOTICE REQUIREMENTS.

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

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INTRODUCED BY COUNCILOR SIPRESS

14-052 (10321) - AN ORDINANCE ANNEXING PARCEL I IN MIDWAY TOWNSHIP INTO THE CITY OF DULUTH.

Councilor Fosle expressed concerns about the additional costs associated with this annexation ordinance.

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

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

Nays: Councilor Fosle -- 1

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INTRODUCED BY COUNCILOR SIPRESS

14-054 (10322) - AN ORDINANCE ALLOCATING 1/2 OF 1% OF FOOD AND BEVERAGE TAX AND 1/2 OF 1% OF HOTEL-MOTEL TAX PROCEEDS TO \$18 MILLION RECREATION AND TOURISM BOND ISSUE FOR WEST DULUTH, AMENDING SECTION 42A-44 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Noah Hobbs, chair of the River Corridor Coalition, expressed support for the ordinance because it will be used to highlight many amenities in Western Duluth.

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

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The meeting was adjourned at 9:43 p.m.

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 10317

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OR NOTE OF THE CITY OF DULUTH IN THE MAXIMUM AGGREGATE AMOUNT OF \$1,000,000 FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

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, Section 444.075 and Chapter 475 of Minnesota Statutes and other pertinent provisions of said charter and statutes, the city is authorized to issue its general obligation bonds to provide funds for the improvement of the municipal sewer utility plant, which bonds shall be a specific lien upon such plant and are payable primarily from net revenues, as hereinafter defined, to be derived from operation of the municipal sewer utility pledged for their payment. The city has applied for and received commitments from the Minnesota public facilities authority (the "authority") for a loan and grant for the CIPP lining rehabilitation of sanitary sewers for Sewer Basins 23, 19 and a portion of 18 (the "project"), as identified in the city's application to the authority.

1.02 The city council hereby determines that it is in the best interest of the city and it is necessary to improve the municipal sewer utility for the project, and determines that it is necessary to issue general obligation sewer utility revenue bonds or notes, in one or more series, in the maximum aggregate amount of \$1,000,000 for the purpose of paying costs of the project.

1.03 The city has heretofore issued and sold the following: general obligation sewer utility revenue note dated December 12, 2003, now outstanding in the amount of \$453,000; general obligation utilities revenue bonds dated December 19, 2006, the sewer utility portion of such bonds now outstanding in the amount of \$570,000; general obligation sewer utility revenue note dated July 12, 2007, now outstanding in the amount of \$1,348,000; general obligation sewer utility revenue bonds dated December 13, 2007, now outstanding in the amount of \$1,420,000; 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 \$255,000; general obligation utilities revenue bonds dated February 19, 2009, the sewer utility portion of such bonds now outstanding in the amount of \$1,035,000; general obligation sewer utility revenue note dated August 3, 2009, now outstanding in the amount of \$619,000; general obligation sewer utility revenue note dated December 16, 2009, now

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

outstanding in the amount of \$1,932,000; general obligation utilities revenue bonds dated December 17, 2009, the sewer utility portion of such bonds now outstanding in the amount of \$1,019,142; two general obligation sewer utility revenue notes dated September 14, 2010, in the aggregate original principal amount of \$12,840,444, the proceeds of which have not been fully advanced, now outstanding in the amount of \$9,885,839; general obligation utilities revenue bonds dated November 23, 2010, the sewer utility portion of such bonds now outstanding in the amount of \$1,202,128; general obligation sewer utility revenue refunding bonds dated November 29, 2011, now outstanding in the amount of \$1,940,000; two general obligation sewer utility revenue notes dated November 29, 2011, in the aggregate original principal amount of \$632,700, the proceeds of which have not been fully advanced, now outstanding in the amount of \$330,361; general obligation sewer utility revenue note dated December 21, 2011, in the original principal amount of \$282,620, the proceeds of which have not been fully advanced, now outstanding in the amount of \$160,829; general obligation sewer utility revenue note dated September 20, 2012, in the original principal amount of \$600,175, the proceeds of which have not been fully advanced, now outstanding in the amount of \$407,978; and general obligation sewer utility revenue bonds dated November 27, 2012, now outstanding in the amount of \$2,000,000. Under the provisions of the ordinances authorizing said bonds and notes, the city reserved the privilege of issuing additional bonds and notes payable from said net revenues on a parity with the bonds and notes dated December 12, 2003, 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, and November 27, 2012.

1.04 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation sewer utility revenue bonds or notes, in one or more series, of the city of Duluth in the maximum amount of \$1,000,000, and pledges the full faith and credit and taxing powers of the city irrevocably for the payment of the principal and interest when due on such bonds, and also pledges and appropriates irrevocably, to the amounts required for the payment of the principal and interest on the bonds and the maintenance of a reserve, any and all net revenues to be derived from time to time from the operation of the municipal sewer utility. Net revenues are defined as sums from time to time within the sewer utility operating account within the sewer utility fund maintained under Section 54 of the City Charter, in excess of sums required 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 sewer utility and to maintain such reasonable reserves for such expenses as the director of public works and utilities shall determine to be necessary from time to time in accordance with the policies established by the city council.

1.05 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 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 this 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 all facilities of the municipal sewer utility at the times and amounts required to pay the normal, reasonable and current operating expenses and to maintain the municipal sewer utility and also 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 and 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. CERTIFICATE OF PROCEEDINGS.

4.01 The city clerk is directed to file with the county auditor of St. Louis County a certified copy of this ordinance, and such other information as the county 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 action 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: August 23, 2014)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 21, 2014
Approved July 21, 2014
DON NESS, Mayor

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ORDINANCE NO. 10318

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION BONDS IN THE MAXIMUM AMOUNT OF \$4,600,000 OF THE CITY OF DULUTH TO FINANCE IMPROVEMENTS TO WADE STADIUM AND SPIRIT MOUNTAIN RECREATION AREA UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. BOND PURPOSE AND AUTHORIZATION.

1.01 The city council has determined it to be necessary and expedient and in the public interest: (i) that the city construct, furnish and equip improvements to Wade Stadium, including the stadium walls and facade, grandstand, lighting, concession facilities and field, with proper drainage, for a ballpark and public outdoor events facility (the "Wade Stadium project"); and (ii) that the Spirit Mountain recreation area authority acquire easements, licenses and other interests in real property and to engineer, design, permit and construct works and systems to transport water from the St. Louis River estuary for commercial and industrial use (the "Spirit Mountain project") (the Wade Stadium project and the Spirit Mountain project are collectively, the "projects").

1.02 Under the provisions of Minnesota Laws 2014, Chapter 308, Article 3, Sections 21 and 22, the city council may by ordinance 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. The projects are of the nature contemplated by said law. The city has been awarded grants of state funds for each of the projects, including a \$2,300,000 grant for the Wade Stadium project and a \$3,400,000 grant for the Spirit Mountain project. Net proceeds of the general obligation bonds to be issued by the city in an amount of \$2,300,000 are allocated to pay a portion of project costs of the Wade Stadium project, and net proceeds of the general obligation bonds in an amount of \$2,100,000 are allocated to the Spirit Mountain project. The balance of the funds are allocated to costs of issuance and to the debt service account, each as to be set forth in future resolutions of the city council.

1.03 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation bonds of the city in an amount not to exceed \$4,600,000 to finance the projects, costs of issuance of the bonds and discount, as set forth above, and pledges the full faith and credit and taxing powers of the city irrevocably for the payment of the principal and interest when due on such bonds.

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 prescribe the form

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 provisions of Minnesota Statutes, Chapter 475 and of Minnesota Laws 1974, Chapter 130, and of other applicable laws.

Section 3. REVENUES AND ACCOUNTS.

3.01 The city hereby creates and shall maintain the Wade Stadium and Spirit Mountain Recreation Area construction account (with subaccounts for each of the projects) in the capital improvement fund to which there shall be credited all or a portion of the proceeds of the bonds, as set forth above and as provided by council resolution, together with any additional funds which may be available and are appropriated for the projects or which may be advanced to such fund on condition that such amounts be reimbursed from bond proceeds.

3.02 The city council may, by resolution or resolutions, establish such further 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. PLEDGE OF REVENUES; SALES TAX PLEDGE.

4.01 There shall be and is hereby pledged the proceeds of the additional one-half of one percent sales tax revenues, as authorized by Laws of Minnesota 1980, Chapter 511, Section 1, Subdivision 2, and Section 3, as amended, including Laws of Minnesota 2014, Chapter 308, Sections 21 and 22 (the "0.50% tourism taxes"), in amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on such bonds as such principal and interest respectively become due. Until the bonds to be issued hereunder are fully paid or duly called for redemption, the city will also maintain a separate debt service account within the debt service fund created by Section 54 of the City Charter, to be used solely for the payment of the interest and the principal, respectively, as such principal and interest become due and payable, on the bonds issued hereunder. If the balance is ever insufficient to pay all principal and interest then due on the bonds issued hereunder, 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 balance therein is sufficient. An account for the receipts shall be established by council resolution, and such funds shall be paid when collected into such account. It is estimated that the 0.50% tourism taxes receipts herein pledged and appropriated to said 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 0.50% tourism taxes receipts 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. After this ordinance has been published and becomes effective, the city council shall by resolution fix the precise aggregate amount of the 0.50% tourism taxes receipts pledged for payment of principal and interest on such bonds for each of the respective years required to comply with the provisions of this ordinance.

Section 5. CERTIFICATE OF PROCEEDINGS.

5.01 The city clerk is directed to file with the county auditor of St. Louis County a certified copy of this ordinance, and such other information as the county may require, and to obtain from the county auditor a certificate stating that the bonds herein authorized have been duly entered on his register.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

5.02 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 action stated therein to have been taken.

Section 6. EFFECTIVE DATE.

6.01 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: August 23, 2014)

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

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

Nays: None -- 0

Passed July 21, 2014

Approved July 21, 2014

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 10319

BY COUNCILORS HANSON AND FOSLE:

AN ORDINANCE AMENDING CHAPTER 29A, SECTION 32, OF THE DULUTH CITY CODE, 1959, AS AMENDED, EXCLUDING OWNER-OCCUPIED RENTAL UNITS FROM POSTED NOTICE REQUIREMENTS.

The city of Duluth does ordain:

Section 1. That Chapter 29A, Section 32 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 29A-32. License conditions.

All rental units are subject to the following conditions:

(a) No license shall be transferred to another rental unit;

(b) At the principal exterior entrance to a rental unit that is not owner-occupied, an informational notice shall be posted that complies with the following requirements:

(1) The notice shall be displayed in a conspicuous place;

(2) The notice shall indicate the name, e-mail address and telephone number of the owner or managing agent;

(c) If there is a change in ownership of a rental unit, the new owner shall apply for a transfer of the license within 30 days of the change and pay the license transfer fee. If the rental unit is sold pursuant to a contract for deed, the purchaser shall be responsible for applying for the license transfer and providing

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

a recorded copy of said contract for deed from the St. Louis County recorder's office. A new license shall be issued for the remainder of the license period;

(d) If there is a change in managing agent, the new managing agent shall notify the code official in writing within ten days of the change;

(e) If there is a change in type of license, an application for change of license type is required. The application shall be filed with the code official as required by Section 29A-29.

(f) Except as otherwise provided in this section, all rental units licensed on March 13, 2011, and subsequently relicensed as a multi-tenant licensed one-family or two-family dwelling shall provide a minimum of two off-street parking spaces. In addition, for each additional bedroom in excess of three, there shall be provided one additional off-street parking space. Failure to comply with these requirements will result in an additional nonconformance fee per parking space. All one-family or two-family dwellings that were unlicensed on March 14, 2011, and subsequently converted to a multi-tenant licensed rental unit shall provide the off-street parking spaces required in this section, and the licensee shall not be entitled to tender payment of the nonconformance fee in lieu of providing the required off-street parking;

(1) The city council shall establish a parking nonconformance variance application fee pursuant to Section 29A-30;

(g) All off-street parking spaces shall comply with the standards for off-street parking provided for in Chapter 50 of this Code. The number of required off-street parking spaces shall be determined by the code official at the time of licensure. Failure to comply with these requirements will result in an additional nonconformance fee per parking space. The owner shall ensure that all required off street parking spaces are cleared of snow to at least the required dimension of off-street parking spaces within 72 hours after the end of every snowfall;

(1) All one-family or two-family dwellings, licensed on September 1, 2007, may continue to be licensed even though the property does not conform to the off-street parking provisions of this section. The rental unit shall be treated as a lawful nonconforming use; however, the nonconformance parking fees provided for in this section shall apply. If the number of bedrooms, or number of rooms occupied as bedrooms, is increased, the off-street parking requirements of this section shall apply to the entire licensed property. If the license for the nonconforming use is revoked or lapses for any period of time, all nonconforming use rights related to off-street parking requirements shall terminate;

(2) The off-street parking requirements shall not apply to a short-term single-tenant license;

(h) Except as provided in this Section 29A-32(h), the maximum number of bedrooms in a multi-tenant rental unit that can be occupied by any tenant under new rental licenses, short-term licenses, and rental license renewals shall be based on the number of bedrooms on record in the city assessor's office on the date of rental application;

(1) The number of tenants cannot exceed the number of bedrooms applied for and paid for in the license application;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(2) In no case shall a bedroom be allowed that does not comply with all applicable state and city building and housing codes;

(3) If the multi-tenant rental unit is a one-family or two-family dwelling, the maximum number of bedrooms that can be occupied by any tenant shall be based on the lesser of the number of bedrooms on record in the city assessor's office and verified or corrected by the life safety division on the date of the rental application or four bedrooms. The four bedroom limitation shall not apply to multi-tenant one-family or two-family dwellings licensed on July 26, 2012, or those properties that have a valid purchase agreement as of June 9, 2012; instead, the number of bedrooms that may be occupied shall be the greater of the number of bedrooms authorized by the license in effect on July 26, 2012, or four bedrooms, except those properties which are larger than 3,000 square feet as of June 9, 2012, may be allowed up to the maximum of six legal bedrooms.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: August 23, 2014)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 21, 2014
Approved July 21, 2014
DON NESS, Mayor

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ORDINANCE NO. 10320

AN ORDINANCE AUTHORIZING THE DIRECT SALE OF CERTAIN PROPERTY IN THE PIEDMONT HEIGHTS NEIGHBORHOOD TO JEROLD M. AND LINDA S. FORSBERG FOR \$4,600 SUBJECT TO RETENTION OF AN EASEMENT.

The city of Duluth does ordain:

Section 1. Pursuant to city Resolution 14-0257, the city council stated its intention to sell or convey certain property in the Piedmont Heights neighborhood, specifically, all of Lot 31, and all that part of Lots 28, 29, and 30 lying north of the dividing line between the N 1/2 and S 1/2 of the NE 1/4 Section 32, Township 50 North of Range 14 in Block 42, Harrison's Brookdale Division of Duluth, St. Louis County, Minnesota, subject to an easement for public park recreational area purposes (the "property").

(a) As per Section 2-176(a) of the Duluth City Code, 1959, as amended (the "Code"), the manager of the city's physical planning division has reviewed this proposed conveyance and found it to be in conformity with the city's comprehensive land use plan.

(b) The manager of the city's physical planning division has also determined that under existing law, no building can legally be constructed on the property and therefore, the direct sale at market value by ordinance to Jerold M. and Linda S. Forsberg as adjacent owner is authorized pursuant Section 2-178 of the Code.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(c) As per Section 2-176(c) of the Code, the county assessor has provided a written estimate of the market value of the property to be \$4,600.

(d) The property is hereby determined to be surplus to the city's future needs and is therefore appropriate for sale pursuant to Article XXXIII of Chapter 2 of the Code.

Section 2. That, subject to the conveyance of an easement by Jerold M. and Linda S. Forsberg over Lot 31, Block 42, Harrison's Brookdale Division of Duluth, St. Louis County, Minnesota, for public park recreational area purposes, the proper city officials are hereby authorized to sell and convey the following described property in St. Louis County, Minnesota, by quit claim deed to Jerold M. and Linda S. Forsberg for the amount of \$4,600 to be deposited into Fund 110 (general), Agency 700 (transfers and other functions), Organization 1420 (capital programs), Object 4640 (sale of land), and further to execute all documents necessary with regard to said conveyance:

All of Lot 31, and all that part of Lots 28, 29, and 30 lying north of the dividing line between the N 1/2 and S 1/2 of the NE 1/4 Section 32, Township 50 North of Range 14 in Block 42, Harrison's Brookdale Division of Duluth, subject to retention of an easement for public park recreational area purposes, an access trail to Enger Park for foot travel and golf cart use, in, under, over, upon and across the southerly 40.00 feet of Lot 31, measured radially from the South line of Lot 31, Block 42, Harrison's Brookdale Division of Duluth.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: August 23, 2014)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 21, 2014
Approved July 21, 2014
DON NESS, Mayor

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ORDINANCE NO. 10321

**AN ORDINANCE ANNEXING PARCEL I IN MIDWAY TOWNSHIP
INTO THE CITY OF DULUTH.**

The city of Duluth does ordain:

Section 1. That the city council hereby finds that:

(a) On January 14, 2013, the city entered into an agreement for orderly annexation by and between the city of Duluth and the town of Midway ("Midway") bearing City Contract No. 21799 (the "agreement") providing that certain property in Midway described therein and identified as "Parcel I" was currently substantially owned by the city and was appropriate for annexation by ordinance;

(b) On January 15, 2013, the agreement was filed in the office of the chief administrative law judge of the office of administrative hearings for the state of Minnesota;

(c) Paragraph 5 of the agreement provides that Midway and the city agree that the city would be authorized to annex the property within said Parcel I at such time as it deems appropriate;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(d) Midway and the city agree that it is appropriate at this time for the city to annex the property described in the agreement as Parcel I.

Section 2. Midway has, by resolution, manifested its consent to and approves the annexation of that property located in Midway, referenced as Parcel I in the agreement and described on Public Document No. 14-0721-14, into the city of Duluth.

Section 3. Upon its effective date, the city clerk shall promptly file a copy of this ordinance with the chief administrative law judge of the office of administrative hearings for the state of Minnesota with a request that said official approve said annexation based on a finding that annexation would be in the best interests of the subject area as provided for in Minnesota Statutes Section 414.315, subd. 3(b)(3).

Section 4. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: August 23, 2014)

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

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

Nays: Councilor Fosle -- 1

Passed July 21, 2014

Approved July 21, 2014

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 10322

AN ORDINANCE ALLOCATING ONE-HALF OF ONE PERCENT OF FOOD AND BEVERAGE TAX AND ONE-HALF OF ONE PERCENT OF HOTEL-MOTEL TAX PROCEEDS TO \$18 MILLION RECREATION AND TOURISM BOND ISSUE FOR WEST DULUTH, AMENDING SECTION 42A-44 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That section 42A-44 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 42A-44. Allocation and distribution of revenues produced by tax.

(a) All proceeds realized from the taxes imposed by this chapter, except those amounts described in subsections (b) and (c), shall be paid into the general fund and distributed as provided in this subsection. After the payment of all expenses of collection and enforcement of the taxes authorized under this chapter, and after making refunds provided for in this chapter, the remainder of the taxes levied and collected under this chapter shall be allocated and distributed in accordance with the annual budget submitted by the mayor and approved by the city council;

(b) Taxes realized as the result of "sale and purchase" as defined in paragraph (e) of the definition thereof shall be paid into the tourism tax fund, the proceeds of which will be devoted to one or more of the following recreational, cultural or civic projects:

Spirit Mountain recreation area;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Arena-auditorium complex;
Duluth Convention and Visitors Bureau;
St. Louis County Heritage and Arts Center;
An account for civic or tourist projects.

The distribution of these proceeds shall be determined by the budget process described in subsection (a);

(c) Revenues received from one percent of the tax authorized by Section 42A-2(b) in this chapter shall be used to pay for activities conducted by the city or by other organizations which promote tourism in the city of Duluth, and to subsidize the Duluth arena-auditorium and the Spirit Mountain recreation area. Distribution of said revenues shall be approved by the city council at least once annually, and shall be made in accordance with the provisions of this subsection. Revenue received from one and one-quarter percent of the tax authorized by said Sections 42A-2(b) and 42A-49 shall be used to pay the debt service on bonds as follows:

(1) One-half of one percent of such taxes shall be used to pay the debt service on bonds in a principal amount of no more than \$18,000,000, plus issuance and discount costs, to finance capital improvements to public facilities to support tourism and recreational activities in that portion of the city west of 34th Avenue West; and

(2) Three-quarters of one percent of such tax for bonds to be issued in the principal amount of \$40,285,000 plus issuance and discount costs for capital improvements at the Duluth Entertainment Convention Center, including a new arena.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: August 23, 2014)

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

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

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 21, 2014
Approved July 21, 2014
DON NESS, Mayor

- - -

ORDINANCE NO. 10323

BY COUNCILOR FOSLE:

AN ORDINANCE AMENDING SECTION 33-259 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING EMERGENCY WRECKER SERVICE FOR MOTOR VEHICLES AND TRAFFIC.

The city of Duluth does ordain:

Section 1. That Section 33-259 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 33-259. Emergency wrecker service.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

An emergency wrecker service shall provide the following minimum services:

(a) Such service shall provide services with a wrecker or wreckers which meet the requirements of sections 33-257(a) and (c) and, where relevant, Section 33-257(b) of this Article;

(b) Such service shall provide 24 hour a day, seven day a week service;

(c) Such service shall come at all times when summoned by the chief of police to remove a disabled vehicle and, when summoned, shall remove such vehicle on all occasions;

(d) Such service's vehicles shall arrive at the scene of a disabled vehicle when summoned by the chief of police within a reasonable time after being summoned, such time not to exceed 20 minutes;

(e) Such services shall, upon the request of any peace officer, store any vehicle in a secured indoor storage facility which is inside a building which is reasonably weatherproof and secure for as long as is necessary to complete any police investigation of such vehicle;

(f) If the chief of police directs that any vehicle be towed to any location other than a storage location normally used by the wrecker service providing such service, such wrecker service shall deposit such vehicle as directed; provided that if services provided pursuant to such direction would justify additional charges under this Article, the chief of police shall pay such charges;

(g) The city council may, from time to time, by resolution, set such fees for the following services when summoned by the chief of police:

(1) Towing of disabled vehicles from one location in the city to another, or to a lot maintained outside the city by the service; when the vehicle requires dollying or a flat bed wrecker or when a flat bed wrecker is required by the police;

(2) Towing a vehicle which requires heavy duty wrecker equipment from one location in the city to another, or to the service's lot maintained outside of the city, unless a higher rate is authorized by the chief because of special circumstances;

(3) Storage of towed vehicles, up to a maximum of 25 days;

(4) Operation of the wrecker's winch if the vehicle to be towed is off of the roadway and requires more than 20 feet of winching;

(h) Licensee shall, if requested, release towed vehicles to their rightful claimants 24 hours per day, seven days per week on at least an on-call basis;

(i) No fees shall be charged if a licensee tows a vehicle from one location to another for its own purposes;

(j) In the event that the chief of police deems it reasonably necessary in his sole discretion to use more than one wrecker vehicle to safely provide required emergency wrecker service to a disabled vehicle, he may authorize said use in which case the effected service may charge up to the maximum rates set forth above for each authorized wrecker vehicle used;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(k) When an emergency wrecker service is summoned by the chief of police and, as a result, performs services for a fee, the emergency wrecker service shall pay a fee, set by resolution, to the city of Duluth.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: August 23, 2014)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed July 21, 2014
Approved July 21, 2014
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August 18, 2014, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Filipovich, Fosle, Gardner, Hanson, Russ, Sipress and Vice President Larson -- 7

Absent: Councilor Julsrud and President Krug -- 2

- - -

Vice President Larson presided in the absence of President Krug.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

14-0818-20 Matthew Daly communication regarding the proposed ordinance related to recreational trails and paths (14-041-O). -- Received

14-0818-01 Randall Jenkins, et al. (four signatures), additional petition for North 85th Avenue West watermain extension. -- Assessor

14-0818-02 Sixth Judicial District Chief Judge Shaun R. Floerke order reappointing Dennis Lamkin, Kimberly Maki and John Strongitham, and appointing Douglas Britton, Eric Erdmann, Peg Spehar and George Zimmerman, replacing Cynthia Albright, Jeffrey Anderson, George Hanson and Eli Miletich, to the Charter commission for a term expiring June 1, 2018. -- Received

- - -

REPORTS FROM OTHER OFFICERS

14-0818-03 Clerk applications for exempt permits (raffles) to the Minnesota gambling control board from: (a) Essentia Health - Duluth on November 7, 2014; (b) Essentia Health St. Mary's Medical Center on November 7, 2014; (c) Lake Superior Zoological Society on September 23, 2014; (d) Minnesota Quilter's, Inc., on June 13, 2015. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

14-0818-04 Duluth Seaway Port authority budget summary of June 2014. -- Received

14-0818-05 Housing and redevelopment authority levy report for 2015 local housing and redevelopment activities. -- Received

14-0818-06 Indigenous commission minutes of June 16, 2014, meeting. -- Received

14-0818-07 Parks and recreation commission minutes of June 11, 2014, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Karen Lewis expressed concerns of public safety on: an exposed gas valve access on West Fourth Street at First Avenue West; of a sinkhole forming on Seventh Street and Lake Avenue; that Park Point zoning and that the possible intersection change be resolved and that street lighting not be glaring.

- - -

Karl Schuettler thanked the council for their service and that they listen to citizens at their meetings.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- - -

RESOLUTION TABLED

Councilor Russ moved to remove Resolution 14-0385, approving the sale of certain tax forfeit lands on Park Point by St. Louis County, from the table, which motion was seconded and unanimously carried.

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

Ken Kollodge and Karen Lewis expressed support for selling individual parcels of land between 13th and 15th avenues on Park Point to individuals who are adjacent to those properties and that there would still be a path for individuals to access the lake.

Resolution 14-0385 was adopted as follows:

RESOLVED, that the city of Duluth approves the sale of 24 parcels and 18 lots of tax forfeit land located on Park Point (Minnesota Point) by the board of commissioners of St. Louis County and requests that seven parcels not be sold.

Parcels to be offered for sale include the following described parcels:

010-3110-01800	010-3120-03570
010-3110-01940	010-3120-03590
010-3120-02190	010-3120-03700
010-3120-02310	010-3120-03830
010-3120-02380	010-3120-03930
010-3120-02480	010-3120-04220
010-3120-02520	010-3120-01120
010-3120-02530	010-4390-01200
010-3120-02600	010-4390-00070
010-3120-03080	010-4400-01210
010-3120-03120	010-4400-02790
010-3120-03200	010-3120-03315

Lots to be offered for sale include the following described lots:

LOT 85, UPPER DULUTH ST LOUIS AVE, Parcel Number: 010-4400-00440;
LOTS 87 THRU 119 ODD NUMBERED LOTS, UPPER DULUTH ST LOUIS AVE, Parcel Number: 010-4400-00450.

Parcels to be withheld from sale include the following described parcels:

010-3100-03990	010-4390-02490
010-3100-04040	010-4390-02500
010-3100-04060	010-4400-01060
010-4390-02370	

Resolution 14-0385 was unanimously adopted.

Approved August 18, 2014

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 Krug 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 the renewal and issuance of the on sale intoxicating liquor, on sale Sunday intoxicating liquor, additional bar, on sale dancing, and 2:00 a.m. beverage licenses, for the period beginning September 1, 2014, and ending August 31, 2015, as set forth on Public Document No. 14-0818-08, and further subject to departmental approvals and payment of sales and property taxes, as provided in the Duluth City Code.

Resolution 14-0418 was unanimously adopted.

Approved August 18, 2014

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of the on sale wine licenses as set forth on Public Document No. 14-0818-09, for the period beginning September 1, 2014, and ending August 31, 2015, for issuance by the liquor control commissioner and further subject to departmental approvals and the payment of sales and property taxes, as provided for in the Duluth City Code.

Resolution 14-0419 was unanimously adopted.

Approved August 18, 2014

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of the on sale club liquor licenses as set forth on Public Document No. 14-0818-10, for the period beginning September 1, 2014, and ending August 31, 2015, for issuance by the liquor control commissioner and further subject to departmental approvals and the payment of sales and property taxes, as provided for in the Duluth City Code.

Resolution 14-0420 was unanimously adopted.

Approved August 18, 2014

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of the off sale intoxicating liquor licenses as set forth on Public Document No. 14-0818-11, for the period beginning September 1, 2014, and ending August 31, 2015, for issuance by the liquor control commissioner and further subject to departmental approvals and the payment of sales and property taxes, as provided for in the Duluth City Code.

Resolution 14-0421 was unanimously adopted.

Approved August 18, 2014

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of the brewery malt liquor off sale intoxicating liquor licenses and brewery malt liquor on sale intoxicating liquor licenses as set forth on Public Document No. 14-0818-12, for the period beginning September 1, 2014, and ending August 31, 2015, 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.

Resolution 14-0422 was unanimously adopted.

Approved August 18, 2014

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:

Red Herring, LLC (The Red Herring Lounge), 208 East First Street, for August 23, 2014, serving from 6:00 p.m. to 10:00 p.m.;

Clyde Industrial Park, Inc. (Clyde Iron Works Restaurant), 2920 West Michigan Avenue, for August 19, 2014, serving from 6:00 p.m. to 12:00 a.m.

St. Louis County Heritage & Arts Center (Duluth Depot), 506 West Michigan Street, for August 28, 2014, serving from 4:00 p.m. to 8:00 p.m., and August 31, 2014, serving from 1:30 p.m. to 3:30 p.m.

Resolution 14-0423 was unanimously adopted.

Approved August 18, 2014

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:

Duluth Superior GLBTAQI Pride (Duluth Superior Pride Festival), Bayfront Park, for August 30, 2014, serving from 11:00 a.m. to 7:00 p.m., with Carolyn Reisberg, manager.

Resolution 14-0424 was unanimously adopted.

Approved August 18, 2014

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the issuance of the following on sale wine license for the period beginning September 1, 2014, ending August 31, 2015 and issues an on sale 3.2 percent malt liquor license for the period ending April 30, 2015, subject to departmental approvals and further subject to approval of the liquor control commissioner:

Joshua Aaron Kalligher (Gannucci's Italian Market & Restaurant), 301 North Central Avenue, main floor of the restaurant and deli, with Joshua Kalligher, 100 percent owner.

Resolution 14-0426 was unanimously adopted.

Approved August 18, 2014

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

RESOLVED, that the reappointment by Mayor Ness of Suzanne Ross to the Duluth airport authority for a term expiring on July 1, 2017, is confirmed.

FURTHER RESOLVED, that the appointment by Mayor Ness of Richard D. Stewart to the Duluth airport authority for a term expiring on July 1, 2017, replacing Roger Wedin, is confirmed.

Resolution 14-0406 was unanimously adopted.

Approved August 18, 2014

DON NESS, Mayor

- - -

RESOLVED, that the reappointments by Mayor Ness of Ronald Boshey and Nancy Bratrud to the housing and redevelopment authority of Duluth for terms expiring on January 7, 2019, are confirmed.

Resolution 14-0414 was unanimously adopted.

Approved August 18, 2014

DON NESS, Mayor

- - -

RESOLVED, that the appointments by Mayor Ness of Andrew Reiersen and Branden H. Robinson to the Duluth legacy endowment fund advisory board for terms expiring on March 31, 2015, replacing Kenneth Browall and Becky Hall, who resigned, are confirmed.

FURTHER RESOLVED, that the appointment of Todd D. Wentworth to the Duluth legacy endowment fund advisory board for terms expiring on March 31, 2017, replacing Daniel Fuchs, who resigned, is confirmed.

Resolution 14-0431 was unanimously adopted.

Approved August 18, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept the conveyance of an easement for public recreational purposes, except for the use of motorized recreational vehicles, substantially in the form of that on file with the city clerk as Public Document No. 14-0818-13 from Peter Senich for the Western Waterfront Trail at no cost to city.

Resolution 14-0399 was unanimously adopted.

Approved August 18, 2014

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 construction of Bridge No. 92277F located on First Street over Miller Creek, City Project No. 1304.

FURTHER RESOLVED, that the grant has been approved and that the amount of the grant is \$22,175.

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,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project 1304, S.A.P. 118-173-010, Flood Site No. 562.

Resolution 14-0396 was unanimously adopted.

Approved August 18, 2014

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 construction of Bridge No. 92277H located on Superior Street over Miller Creek, City Project No. 1235.

FURTHER RESOLVED, that the grant has been approved and that the amount of the grant is \$61,718.

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 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1235, S.P. 118-109-014, Flood Site No. 261.

Resolution 14-0397 was unanimously adopted.

Approved August 18, 2014

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 construction of Bridge No. 92277J located on Michigan Street over Miller Creek, City Project No. 1235.

FURTHER RESOLVED, that the grant has been approved and that the amount of the grant is \$42,150.

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 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1235, S.P. 118-194-07, Flood Site No. 261.

Resolution 14-0398 was unanimously adopted.

Approved August 18, 2014

DON NESS, Mayor

- - -

RESOLVED, that Contract No. 21841 with LHB, Inc., for professional engineering services for construction administration and inspection for flood repair of Bridge No. L6115 on Skyline Parkway at Chester Creek be amended to increase the amount by \$134,823 for a new total of \$223,063. This increase is due to the construction engineering phase for the bridge rehabilitation project, and is payable from Disaster Recovery Fund 225, Department/Agency

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

125 (finance), Organization 1803 (roads and bridges), Object 5303 (engineering services), City Project No. 1177, S.P. 118-179-004, Flood Site No. 539.

Resolution 14-0400 was unanimously adopted.

Approved August 18, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept the dedication of a walking path easement from Independent School District 709 in the form of Public Document No. 14-0818-14, on file in the office of the city clerk dedicating to the general public a 20 foot wide walking path easement over the property described therein as depicted by Exhibit A providing public access to the walking path easement.

Resolution 14-0402 was unanimously adopted.

Approved August 18, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Donald Holm Construction Co., Inc., for the interior remodeling of Duluth Comfort Systems, located at 520 Garfield Avenue, in accordance with plans and specifications prepared by Architecture Advantage, LLC, the consultant, dated June 30, 2014, and the contractor's low bid of \$230,347, payable as follows: \$46,069.40 Water Fund 510, Public Works and Utilities 500, Capital 1905, Capital Improvements 5533, Project Util-Garf 14; \$92,138.80 Gas Fund 520, Public Works and Utilities 500, Capital 1905, Capital Improvements 5533, Project Util-Garf 14; \$57,586.75 from Sewer Fund 530, Public Works and Utilities 500, Capital 1905, Capital Improvements 5533, Project Util-Garf 14; \$34,552.05 Stormwater Fund 535, Public Works and Utilities 500, Capital 1905, Capital Improvements 5533, Project Util-Garf 14.

Resolution 14-0407 was unanimously adopted.

Approved August 18, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into Amendment No. 1 to Mn/DOT Agreement No. 05305 with the state of Minnesota department of transportation to provide for payment by the city to the state for the city's share of the costs of state-provided right-of-way acquisition services including direct purchase and relocation assistance, payable from Permanent Improvement Fund 0411, Department/Agency 035 (capital project accounts), Object 5530 (improvements other than buildings), and would be reimbursed from the city's municipal state aid construction account, Project No. 1251.

FURTHER RESOLVED, that Resolution 14-0277 authorizing the original agreement be amended to decrease the amount by \$441,045.20 for a new total of \$49,005.

Resolution 14-0411 was unanimously adopted.

Approved August 18, 2014

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Northland Constructors of Duluth, LLC for the 2014 street preservation project - mill and overlay of Second Avenue West and 21st Avenue West in the amount of \$241,592.25, payable out of Permanent Improvement Fund 411, Department/Agency 035 (capital project accounts), Object 5530 (improvements other than buildings), City Project No. 1334.

Resolution 14-0412 was unanimously adopted.

Approved August 18, 2014

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 2012 flood repairs - rehabilitation of Bridge L6113 on Fourth Street at Tischer Creek in the amount of \$517,894.35, payable out of Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1176, S.P. 118-133-007, Flood Site No. 533.

Resolution 14-0413 was unanimously adopted.

Approved August 18, 2014

DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth does hereby accept on behalf of the general public the conveyance of an easement legally described in that document on file in the office of the city clerk as Public Document No. 14-0818-15, from BlueStone Commons Owner's Association, Inc., for utility purposes in connection with the BlueStone Commons development.

Resolution 14-0415 was unanimously adopted.

Approved August 18, 2014

DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth does hereby accept on behalf of the general public the conveyance of an easement legally described in that document on file in the office of the city clerk as Public Document No. 14-0818-16, from BlueStone Commons Owner's Association, Inc., for waterline, utility and signal purposes in connection with the BlueStone Commons development.

Resolution 14-0416 was unanimously adopted.

Approved August 18, 2014

DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth does hereby accept on behalf of the general public the conveyance of an easement legally described in that document on file in the office of the city clerk as Public Document No. 14-0818-17, from Waterline Med Fund II, LLC, for waterline utility purposes in connection with the BlueStone Commons development.

Resolution 14-0417 was unanimously adopted.

Approved August 18, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept grants of easement from Jay Craig Gilpin and Staci Ann Gilpin, copies of which are on file in the office of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

the city clerk as Public Document Nos. 14-0818-18(a) and 14-0818-18(b) for sanitary sewer and storm sewer and storm water holding pond purposes on property located in:

Outlot A, LAKEVIEW DIVISION, First Addition.

Resolution 14-0425 was unanimously adopted.

Approved August 18, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to accept Grant Agreement No. EMW-2013-FO-04868 from the U.S. department of homeland security, federal emergency management agency, assistance to firefighters grant program, operations and safety program, a copy of which is on file in the office of the city clerk as Public Document No. 14-0818-19, in the amount of \$219,573, said funds to be deposited in Fund 210-special projects fund, Agency 030-finance, Organization 3187-FEMA AFG grant, Revenue Source 4209-01 capital equipment, for the purpose of purchasing three sets of extrication equipment, eight washers, eight dryers and eight decontamination stations (for each station), and committing \$24,397 as the city's local share cost of said grant, said sum to be paid from the city's Fund 250-capital equipment fund, 015-administrative services, Fiscal Year 2014, 5580.

Resolution 14-0401 was unanimously adopted.

Approved August 18, 2014

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 200 block of East First Street on August 23, 2014, to coincide with the CHUM events license for the Chaperone Records 2nd Anniversary Block Party, 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 14-0427 was unanimously adopted.

Approved August 18, 2014

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 29th Avenue West between West Michigan Street and Helm Street on August 19, 2014, to coincide with the Duluth Heritage Sports Center 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 14-0428 was unanimously adopted.

Approved August 18, 2014

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- - -

The following resolutions were also considered:

RESOLVED, that the proper city officials are hereby authorized to contract with Traffic Control Corporation, the regional distributor for the contract vendor, for the purchase and delivery of 28 Econolite TS2 traffic signal cabinets for the traffic operations division in accordance with Minnesota State Contract No. 70760, Release T-639(5), specifications and pricing in the amount of \$524,050, terms net 30, payable from the Street Lighting Utility Fund 550, Public Administration 120, Capital Equipment 5580 and Requisition No. 14-0513.

Resolution 14-0410 was unanimously adopted.

Approved August 18, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Kraus-Anderson Construction Company for civil work and site preparation required for the turf field, lighting, stormwater, electrical and upgrades associated with Phase I field and lighting at Wade Stadium, located at 101 North 35th Avenue West in Duluth, Minnesota, in accordance with plans and specifications prepared by the city's consultant TKDA, dated July 28, 2014, and the contractor's successful bid of \$2,298,000, payable from the Capital Improvements Fund 450, Finance 030, Other Professional Services 5319, Project No. CP 450 - Wade and Requisition No. 14-0501.

Resolution 14-0405 was unanimously adopted.

Approved August 18, 2014

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR JULSRUD

14-057 - AN ORDINANCE REPEALING AND REPLACING ORDINANCE NO. 10317, ADOPTED ON JULY 21, 2014, AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OR NOTE OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

- - -

BY COUNCILOR LARSON

14-041 - AN ORDINANCE AMENDING SECTION 35-6 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO RECREATIONAL TRAILS AND PATHS.

- - -

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR HANSON

14-055 (10324) - AN ORDINANCE AMENDING SECTIONS 8-41 AND 8-44 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO ON SALE INTOXICATING LIQUOR LICENSES.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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

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The meeting was adjourned at 7:39 p.m.

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 10324

AN ORDINANCE AMENDING SECTIONS 8-41 AND 8-44 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO ON SALE INTOXICATING LIQUOR LICENSES.

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;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(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 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 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; or

(4) A brewer who manufactures fewer than 3,500 barrels of malt liquor in a year;

in connection with a social event sponsored by the licensee. The 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;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(h) Microdistillery cocktail room licenses may only be granted to microdistilleries licensed 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: September 19, 2014)

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

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

Nays: None -- 0

Absent: Councilor Julsrud and President Krug -- 2

Passed August 18, 2014
Approved August 18, 2014
DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August 25, 2014, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of council meetings held on January 27, February 10 (special), February 10 (regular), February 20 and February 24, 2014, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

14-0825-09 Byron Johnson communication regarding the proposed ordinance relating to recreational trails and paths (14-041-O). -- Received

- - -

REPORTS FROM OTHER OFFICERS

14-0825-01 Clerk application for exempt permit (bingo) to the Minnesota gambling control board from Zion Lutheran Church on September 13, 2014. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Henry Banks commented on the Clayton, Jackson, McGhie Memorial, stating concerns that the memorial has become a haven for drug dealers, drug users and prostitution and requested that city administration and the council do something to address the problems.

- - -

Karen Lewis commented on the Fond du Lac casino and expressed support for a city-owned casino.

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

RESOLVED, that the assessment roll levied for reassessment of a canceled razing assessment (Contract 52840 - assessable amount \$5,514) for Plat 3830, Parcel 17680, to be deposited in Fund 110, is hereby confirmed.

Resolution 14-0437 was unanimously adopted.

Approved August 25, 2014

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

RESOLVED, that the assessment roll levied for reassessment of a canceled razing assessment (Contract 52840 - assessable amount \$5,514) for Plat 3830, Parcel 17670, to be deposited in Fund 110, is hereby confirmed.

Resolution 14-0438 was unanimously adopted.

Approved August 25, 2014

DON NESS, Mayor

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BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On July 2, 2014, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Hospitality Associates of Duluth, LLC (Aces on First), 113 West First Street, and has submitted its report to the city council of the city of Duluth as Public Document No. 14-0825-02;

(b) Pursuant to Duluth City Code Chapter 8, Section 9(a), on August 25, 2014, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 14-0825-02 regarding any suspension, revocation and/or civil penalty relating to the on sale intoxicating liquor license of Hospitality Associates of Duluth, LLC (Aces on First), 113 West First Street, are adopted.

FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: the Duluth City Council hereby adopts the recommended penalty of the alcohol gambling and tobacco commission and imposes a reduced civil penalty of \$250 due and payable by licensee within 30 days of final council action.

Resolution 14-0442 was unanimously adopted.

Approved August 25, 2014

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On July 2, 2014, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of The Dukes Partners, LLC (Spurs on 1st), 109 West First Street, and has submitted its report to the city council of the city of Duluth as Public Document No. 14-0825-03;

(b) Pursuant to Duluth City Code Chapter 8, Section 9(a), on August 25, 2014, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 14-0825-03 regarding any suspension, revocation and/or civil penalty relating to the on-sale intoxicating liquor license of The Dukes Partners, LLC (Spurs on 1st), 109 West First Street, are adopted.

FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: the Duluth City Council finds that a violation of the Duluth City Code by the licensee did not occur and therefore no penalty is imposed.

Resolution 14-0443 was unanimously adopted.

Approved August 25, 2014

DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

RESOLVED, that:

(a) The city council hereby grants Mary Dubois an interim use permit to operate a vacation dwelling unit located at 815 Lake Avenue South and as described by the following: PID 010-4380-02310 and 010-4390-01170; 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 14-069); the commission gave due notice of public hearing and considered the application during a public hearing occurring on July 8, 2014; and

(f) The city planning commission, at their regular meeting on August 12, 2014, 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;

(b) The interim use permit shall not be effective until the applicant has received all required licenses and permits for operation;

(c) The applicant shall adhere to the terms and conditions listed in the interim use permit document;

(d) The applicant shall construct a privacy fence on the south side of rear deck, to screen deck from the neighboring property;

(e) 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 14-0439 was unanimously adopted.

Approved August 25, 2014

DON NESS, Mayor

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RESOLVED, that the Duluth legacy endowment fund committee membership be increased from 11 members to 18 members with ten members constituting a quorum, and to authorize the proper city officials to amend Exhibit B of the Duluth-Superior Area Community Foundation Duluth legacy endowment fund organizational endowment agreement to reflect these changes.

Resolution 14-0444 was unanimously adopted.

Approved August 25, 2014

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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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 unimproved street easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, August 12, 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 street easement described below and as described and depicted on Public Document No. 14-0825-04:

That part of MORGAN PARK FIRST ADDITION, a duly recorded plat on file and of record in the St. Louis County, Minnesota, recorder's office, described as follows:

An area lying west of the west line of Block 3 and it's southerly extension, in said MORGAN PARK FIRST ADDITION; lying north of the westerly extension of the north line of Lot 1, Block 3 to the southeasterly right-of-way of State Highway 23; lying southeasterly of southeasterly right-of-way of State Highway 23; 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. 14-0825-04 showing the platted street to be vacated.

Resolution 14-0445 was unanimously adopted.

Approved August 25, 2014

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 unimproved sewer easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, August 12, 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 sewer easement described below and as described and depicted on Public Document No. 14-0825-05:

All that part of the platted ten foot wide sewer easement lying in Block 2 of HANDY GARDEN TRACTS, according to the recorded plat thereof, St. Louis County, Minnesota, the centerline of said easement is described as follows:

Commencing at the northwest corner of Lot 1, said Block 2; thence easterly, along the southerly right-of-way line of Maple Grove Road as platted, a distance of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

316.43 feet to the northwest corner of Lot 2, said Block 2, said point being the Point of Beginning of the easement centerline; thence southerly along the westerly line of said Lot 2, a distance of 283.98 feet to a point which lies 15 feet north of the southwest corner of said Lot 2, and there terminating; 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. 14-0825-05 showing the platted easement to be vacated.

Resolution 14-0446 was unanimously adopted.

Approved August 25, 2014

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 to the already built-up area of the industrial park located on the north side of Kruger Road, south of Enterprise Circle and Airpark Drive as described in the legal description and shown on the map of Public Document No. 14-0825-06, from Business Park to Rural Residential; and

(d) The city planning commission has reviewed this future land use amendment, conducted a public hearing on August 12, 2014, 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 as identified in Public Document No. 14-0825-06.

Resolution 14-0447 was unanimously adopted.

Approved August 25, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Veit & Company, Inc., for the cured-in-place pipe (CIPP) rehabilitation of sanitary sewers in basins 23, 19 and a portion of 18 in the amount of \$4,573,257, with \$1,026,801 payable out of Clean Water Fund 532, Department 500 (public works and utilities), Object 5532 (capital improvements - Bond), City Project No. 1072. The remaining \$3,546,456 will be reimbursed with a WIF grant from the EPA.

Resolution 14-0430 was unanimously adopted.

Approved August 25, 2014

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

DON NESS, Mayor

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RESOLVED, that by Resolution of Intent 14-0245 the council did request the administration to prepare plans and specifications for the construction of approximately 970 feet of watermain in 85th Avenue West beginning at Vinland Street and extending northerly.

FURTHER RESOLVED, that said work be done by contract and that the estimated total cost of said improvement as estimated by the city engineer is \$151,025.52, payable from Water Fund 510, Department 500 (public works and utilities), Division 1905 (capital), Object 5535 (non-capital improvements), and of these costs \$143,025.52 will be assessed to benefitting properties on a front foot basis.

FURTHER RESOLVED, that assessments shall be levied upon lands benefitting per the preliminary assessment roll 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 14-0434 was unanimously adopted.

Approved August 25, 2014

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 Congdon Park trails reconstruction in the amount of \$311,501.20, payable out of Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1316, Flood Site No. 303.

Resolution 14-0440 was unanimously adopted.

Approved August 25, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with EBI Drilling, Inc., for the Kingsbury Creek water mains relocation at Grand Avenue in the amount of \$249,812, payable out of Water Fund 510, Department 500 (public works and utilities), Division 1905 (capital), Object 5533 (capital improvements - revenue), City Project No. 1078.

Resolution 14-0449 was unanimously adopted.

Approved August 25, 2014

DON NESS, Mayor

- - -

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 \$10,640 and \$416.91, 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 14-0403 was unanimously adopted.

Approved August 25, 2014

DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

RESOLVED, that the proper city officials are hereby authorized to accept a ballistic vest reimbursement grant from the United States department of justice, bureau of justice assistance, office of justice programs, in an amount not to exceed \$10,703 to be deposited in Fund 110-160-1610-4209-02 (general fund, police department, administration and investigation, federal operating grants), and to execute any documents required to be executed to accept such grant.

FURTHER RESOLVED, that the proper city officials are authorized to accept a ballistic vest reimbursement grant from the Minnesota department of public safety in an amount not to exceed \$17,317 to be deposited in Fund 110-160-1610-4220-02 (general fund, police department, administration and investigation, Minnesota operating grants), and to execute any documents required to be executed to accept such grant.

Resolution 14-0409 was unanimously adopted.

Approved August 25, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to accept an emergency management performance grant agreement for Grant No. A-EMPG-2014-DULUTHCI-00069, a copy of which is on file in the office of the city clerk as Public Document No. 14-0825-07, 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).

Resolution 14-0429 was unanimously adopted.

Approved August 25, 2014

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 Michigan Street, between Fifth and Sixth avenues West on August 28, 2014, 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.

Resolution 14-0433 was unanimously adopted.

Approved August 25, 2014

DON NESS, Mayor

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The following resolutions were also for consideration:

Resolution 14-0448, ordering the construction of sanitary sewer in Lakeview Avenue beginning 460 feet north of East Fourth Street and extending 230 feet northerly, at an

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

estimated cost of \$50,000, and to assess the costs thereof, was introduced by Councilor Filipovich.

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

Yufei Ren expressed appreciation to city administration for correcting prior bias and discrimination experienced by the homeowners involved in the project; and requested that future projects be transparent, fair and free of bias and that persons with non-traditional backgrounds be treated equally.

Resolution 14-0448 was adopted as follows:

RESOLVED, that by Resolution of Intent 14-0329 the council did request the administration to prepare plans and specifications for the construction of approximately 230 feet of sanitary sewer in Lakeview Avenue beginning at East Fourth Street and extending northerly.

FURTHER RESOLVED, that said work be done by contract and that the estimated total cost of said improvement as estimated by the city engineer is \$50,000, payable from Sanitary Sewer Fund 530, Department 500 (public works and utilities), Division 1905 (capital), Object 5535 (non-capital improvements), and of these costs \$50,000 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 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 14-0448 was unanimously adopted.

Approved August 25, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Compass Minerals America, Inc., (formerly North American Salt Company) for the purchase and pickup of 5,000 tons of road salt for October through December of year 2014 in accordance with Minnesota State Contract 7779, Release S-987(5), specifications and pricing at \$60.86 per ton for a total of \$304,300, terms net 30, payable from General Fund 110, Public Administration 121, Maintenance Operations 1217, Street Maintenance 2140, Salt/Sand Salt 5223-01.

Resolution 14-0435 was unanimously adopted.

Approved August 25, 2014

DON NESS, Mayor

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RESOLVED, that the following appointments by Mayor Ness to serve on the Midway township joint planning and zoning commission, pursuant to the agreement for orderly annexation approved by Resolution 13-0028, are hereby confirmed:

- City of Duluth director of business development;
- City of Duluth director of planning and construction services; and
- Chair of the city planning commission.

Resolution 14-0450 was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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

Nays: Councilor Fosle -- 1

Approved August 25, 2014

DON NESS, Mayor

- - -

Resolution 14-0451, by councilors Sipress and Larson, establishing the Lakewalk task force, was introduced for discussion.

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

Jackie Falk expressing support for citizen access to Lake Superior and support for the task force.

Councilors Gardner, Sipress, Larson, Fosle, Filipovich and President Larson expressed support for the resolution for reasons of: the past limitation of citizen access to the lake; the task force can study the issue in depth and can bring resolution to the situation; resolving the past polarization of the discussion; finding a long-term solution; having a thoughtful discussion to find practical solutions; building consensus; the council will have a final vote on the task force recommendations; the task force can address safety issues surrounding this section of the Lakewalk and the task force will provide for greater citizen input.

Councilors Russ, Julsrud and Hanson opposed the resolution for reasons of: the council has already arrived at solutions that are aligned with budgetary concerns; past issues with other task forces; there is no current need for a task force; the council needs to be part of the debate and discussion; the council should hold additional public hearings on this issue; it is the role of the council to lead this process and discussion and concerns over the configuration of the task force and process to be used.

Resolution 14-0451 was adopted as follows:

BY COUNCILORS SIPRESS AND LARSON:

RESOLVED, that the city council shall establish a 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 ("study area"). The task force shall examine and make recommendations regarding the following issues:

- Safety issues at the intersection of the Lakewalk, 23rd Avenue East and Water Street;
- Pedestrian access to the lakefront in the study area;
- Americans with Disabilities Act (ADA) issues in the study area; and
- The cost, benefits and funding sources of potential options.

FURTHER RESOLVED, bicycle and other wheeled traffic should be directed along Water Street as specified in the city's application to the Minnesota department of transportation for transportation alternative funding for a Lakewalk shared use plan along Water Street.

FURTHER RESOLVED, that the task force shall consist of six members, with one of the members being a resident of the Ledges development, one member being a resident of the Point or Lighthouse properties (aka "Beacon Point" development), one member being a representative of the Friends of the Lakewalk, two members being citizens-at-large and one non-voting member being a city councilor who shall act as liaison between the task force and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

the city administration. All six members shall be appointed by the Duluth City Council president.

FURTHER RESOLVED, that the task force shall produce a preliminary report summarizing its progress by December 1, 2014, and a final report containing its findings and recommendations to the Duluth City Council no later than January 15, 2015. The council president has the discretion to modify all reporting deadlines. The reports shall be delivered to the council by way of the clerk. The members shall serve without compensation. Reasonable expenses, approved by the Duluth City Council president and finance director, within the existing budget, shall be paid.

Resolution 14-0451 was adopted upon the following vote:

Yeas: Councilors Filipovich, Fosle, Gardner, Larson, Sipress and President Krug -- 6

Nays: Councilors Hanson, Julsrud and Russ -- 3

Approved August 25, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby 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. 14-0825-08 in the amount of \$45,000, with Moss and Barnett related to the cable franchise renewal process and general cable matters, payable from Fund 0110, Agency 700, Organization 1407, Object 5319 (general fund, transfers and other functions, miscellaneous, other professional services).

Resolution 14-0441 was unanimously adopted.

Approved August 25, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Graybar Electric Company, Inc., for the purchase and delivery of 300 LED (light emitting diode) roadway luminaires in accordance with city-approved specifications and the vendor's low bid in the amount of \$140,400, payable from Street Lighting Utility Fund 550, Public Administration 120, Street Lighting Supplies 5230 and Requisition NO. 14-0465.

Resolution 14-0436 was unanimously adopted.

Approved August 25, 2014

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

INTRODUCED BY COUNCILOR HANSON

14-056 - AN ORDINANCE AMENDING SECTION 8-48 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE SPIRIT MOUNTAIN RECREATION AREA AUTHORITY INTOXICATING LIQUOR LICENSE.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR JULSRUD

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

14-057 (10325) - AN ORDINANCE REPEALING AND REPLACING ORDINANCE NO. 10317, ADOPTED ON JULY 21, 2014, AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OR NOTE OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

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

- - -

BY COUNCILOR LARSON

14-041 - AN ORDINANCE AMENDING SECTION 35-6 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO RECREATIONAL TRAILS AND PATHS.

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

Judy Hubbart, Joan Olszewski, representing the Duluth Horse Trail Alliance, Jerry Nelson, Karen Lewis and Ed Barbo expressed opposition to the ordinance for reasons of: there would be no way to enforce the ordinance; there are decisions regarding the trails being made without public input, specifically the posting of "no horseback riding" on several trails which have been used by horse owners for many years; the Duluth Horse Trail Alliance has been working with the city to get a trail dedicated for horses but have not yet received a dedicated trail; Duluth is an inclusive community and horse owners should be allowed to use trails also; the DWDP railroad trail bed was initially supposed to be dedicated for horses and is now a mixed use trail; current trails need to be made sustainable and there needs to be better control on the current trails.

Councilor Larson moved to table the ordinance, which motion was seconded and unanimously carried.

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The meeting was adjourned at 8:42 p.m.

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

- - -

ORDINANCE NO. 10325

AN ORDINANCE REPEALING AND REPLACING ORDINANCE NO. 10317, ADOPTED ON JULY 21, 2014, AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REVENUE BONDS OR NOTE OF THE CITY OF DULUTH FOR THE IMPROVEMENT OF THE MUNICIPAL SEWER UTILITY UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTION OF THE CITY COUNCIL AND PLEDGING REVENUES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

- Section 1. That Ordinance No. 10317 is hereby repealed and replaced as follows:
- Section 2. BOND PURPOSE AND AUTHORIZATION.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

2.01 Under and pursuant to the provisions of Section 55 of the City Charter, Section 444.075 and Chapter 475 of Minnesota Statutes and other pertinent provisions of said Charter and Statutes, the city is authorized to issue its general obligation bonds to provide funds for the improvement of the municipal sewer utility plant, which bonds shall be a specific lien upon such plant and are payable primarily from net revenues, as hereinafter defined, to be derived from operation of the municipal sewer utility pledged for their payment. The city has applied for and received commitments from the Minnesota Public Facilities Authority (the "Authority") for a loan and grant for the CIPP lining rehabilitation of sanitary sewers for Sewer Basins 23, 19 and a portion of 18 (the "Project"), as identified in the city's application to the Authority.

2.02 The city council hereby determines that it is in the best interest of the city and it is necessary to improve the municipal sewer utility for the Project, and determines that it is necessary to issue general obligation sewer utility revenue bonds or notes, in one or more series, in the maximum amount of \$1,255,464 for the purpose of paying costs of the Project.

2.03 The city has heretofore issued and sold the following: general obligation sewer utility revenue note dated December 12, 2003, now outstanding in the amount of \$453,000; general obligation utilities revenue bonds dated December 19, 2006, the sewer utility portion of such bonds now outstanding in the amount of \$570,000; general obligation sewer utility revenue note dated July 12, 2007, now outstanding in the amount of \$1,348,000; general obligation sewer utility revenue bonds dated December 13, 2007, now outstanding in the amount of \$1,420,000; 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 \$255,000; general obligation utilities revenue bonds dated February 19, 2009, the sewer utility portion of such bonds now outstanding in the amount of \$1,035,000; general obligation sewer utility revenue note dated August 3, 2009, now outstanding in the amount of \$619,000; general obligation sewer utility revenue note dated December 16, 2009, now outstanding in the amount of \$1,932,000; general obligation utilities revenue bonds dated December 17, 2009, the sewer utility portion of such bonds now outstanding in the amount of \$1,019,142; two general obligation sewer utility revenue notes dated September 14, 2010, in the aggregate original principal amount of \$12,840,444, the proceeds of which have not been fully advanced, now outstanding in the amount of \$9,885,839; general obligation utilities revenue bonds dated November 23, 2010, the sewer utility portion of such bonds now outstanding in the amount of \$1,202,128; general obligation sewer utility revenue refunding bonds dated November 29, 2011, now outstanding in the amount of \$1,940,000; two general obligation sewer utility revenue notes dated November 29, 2011, in the aggregate original principal amount of \$632,700, the proceeds of which have not been fully advanced, now outstanding in the amount of \$330,361; general obligation sewer utility revenue note dated December 21, 2011, in the original principal amount of \$282,620, the proceeds of which have not been fully advanced, now outstanding in the amount of \$160,829; general obligation sewer utility revenue note dated September 20, 2012, in the original principal amount of \$600,175, the proceeds of which have not been fully advanced, now outstanding in the amount of \$407,978; and general obligation sewer utility revenue bonds dated November 27, 2012, now outstanding in the amount of \$2,000,000. Under the provisions of the ordinances authorizing said bonds and notes, the city reserved the privilege of issuing additional bonds and notes payable from said net revenues on a parity with the bonds and notes dated December 12, 2003, December 19, 2006, July 12, 2007, December 13, 2007, February 19, 2009, August 3,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

2009, December 16, 2009, December 17, 2009, September 14, 2010, November 23, 2010, November 29, 2011, December 21, 2011, September 20, 2012, and November 27, 2012.

2.04 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of general obligation sewer utility revenue bonds or notes, in one or more series, of the city of Duluth in the maximum amount of \$1,255,347.30, and pledges the full faith and credit and taxing powers of the city irrevocably for the payment of the principal and interest when due on such bonds, and also pledges and appropriates irrevocably, to the amounts required for the payment of the principal and interest on the bonds and the maintenance of a reserve, any and all net revenues to be derived from time to time from the operation of the municipal sewer utility. Net revenues are defined as sums from time to time within the sewer utility operating account within the sewer utility fund maintained under Section 54 of the City Charter, in excess of sums required 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 sewer utility and to maintain such reasonable reserves for such expenses as the director of public works and utilities shall determine to be necessary from time to time in accordance with the policies established by the city council.

2.05 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.

Section 3. TERMS OF BONDS.

3.01 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 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 this ordinance.

Section 4. REVENUES AND ACCOUNTS.

4.01 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 all facilities of the municipal sewer utility at the times and amounts required to pay the normal, reasonable and current operating expenses and to maintain the municipal sewer utility and also 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 and hereafter issued and made payable from said net revenues.

4.02 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 5. CERTIFICATE OF PROCEEDINGS.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

5.01 The city clerk is directed to file with the county auditor of St. Louis county a certified copy of this ordinance, and such other information as the county may require, and to obtain from the county auditor a certificate stating that the bonds herein authorized have been duly entered on his register.

5.02 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 action stated therein to have been taken.

Section 6. That this ordinance shall take effect 30 days 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 26, 2014)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed August 25, 2014
Approved August 25, 2014
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, September 8, 2014, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

The minutes of the meetings held on March 10 and 24, 2014, were approved upon a unanimous vote.

REPORTS FROM THE ADMINISTRATION

14-0908-07 Mayor proposed 2015 levy and general fund budget. -- Received

REPORTS FROM OTHER OFFICERS

14-0908-01 Clerk application for exempt permit to the Minnesota gambling control board from Minnesota Knights Foundation on May 16, 2015 (raffle). -- Received

REPORTS OF BOARDS AND COMMISSIONS

14-0908-02 Alcohol, gambling and tobacco commission minutes of June 4, 2014, meeting. -- Received

14-0908-03 Duluth airport authority minutes of July 15, 2014, meeting. -- Received

14-0908-04 Duluth economic development authority minutes of June 25, 2014, meeting. -- Received

14-0908-05 Duluth transit authority: (a) May 2014 financial statement; (b) Minutes of May 28, 2014, meeting. -- Received

14-0908-06 Library board minutes of June 24, 2014, meeting. -- Received

OPPORTUNITY FOR CITIZENS TO BE HEARD

Ronald Miller expressed support for the Climate Action Campaign and the People's Climate March. He urged consideration for climate change by the council in their decisions and deliberations.

RESOLUTION TABLED

Councilor Gardner moved to remove Resolution 14-0365, by Council Hanson, requesting the state legislature amend state gambling laws to provide for the operation of a for-profit casino at the Duluth Entertainment Convention Center, from the table, which motion was seconded and unanimously carried.

The resolution was withdrawn by Councilor Hanson.

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

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 2015 for the housing and redevelopment authority taxing district's operation is hereby determined to be the sum of \$933,342 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 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 \$933,342.

Resolution 14-0464 was unanimously adopted.

Approved September 8, 2014

DON NESS, Mayor

- - -

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 2015 for Duluth transit authority special taxing district's operations is hereby determined to be the sum of \$1,391,900 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, viz:

Section 2. That pursuant to Minnesota Statutes, Sec. 485A.31, Subd. 1, there will be levied for transit operations the sum of \$1,391,900.

Resolution 14-0465 was unanimously adopted.

Approved September 8, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Infor (US) Inc., for consulting services in planning and implementing modifications and enhancements necessary to improve and expand the Infor enterprise asset management (EAM) system for an amount not to exceed \$49,940, payable as follows:

\$12,485 - Water Fund 510, Public Works and Utilities 500, Utility General Expense 1915, Contract Services 5310;

\$12,485 - Gas Fund 520, Public Works and Utilities 500, Utility General Expense 1915, Contract Services 5310;

\$12,485 - Sewer Fund 530, Public Works and Utilities 500, Utility General Expense 1915, Contract Services 5310;

\$12,485 - Stormwater Fund 535, Public Works and Utilities 500, Utility General Expense 1915, Contract Services 5310.

Resolution 14-0454 was unanimously adopted.

Approved September 8, 2014

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city personnel are hereby authorized to contract with ESC Systems Sound and Life Safety for the purchase, delivery and installation of three public address (PA) systems for Duluth fire halls 2, 4, 7 in the amount of \$26,729.56, a proprietary source procurement based on compatibility and uniformity to existing systems, and payable from Capital Equipment Fund 250, Public Administration 015, Fiscal Year 2013 and Capital Equipment 5580; Project CE250-E1311.

Resolution 14-0456 was unanimously adopted.

Approved September 8, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a Minnesota cross country trail assistance program grant, a copy of which is on file in the office of the city clerk as Public Document No. 14-0908-08, with the Minnesota department of natural resources for the maintenance of the Duluth cross country trails for the 2014-2015 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.

Resolution 14-0459 was unanimously adopted.

Approved September 8, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to amend Agreement C22115 with Suit, LLC, for furniture consultation services in the Phase II Second Floor City Hall remodel/space plan project, an increase of \$5,510, and a total contract amount not to exceed \$50,510, payable from the Capital Improvements Fund 450, Stimulus Act (ARRA) 025, Buildings and Structures 5520, Project CP 2009-0929B.

Resolution 14-0466 was unanimously adopted.

Approved September 8, 2014

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:

Minnesota Ballet (Black and White Ball), 301 West First Street, Suite 800, for September 26, 2014, with Willy McManus, managing director.

Resolution 14-0468 was unanimously adopted.

Approved September 8, 2014

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 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Resolution 14-0469 was unanimously adopted.
Approved September 8, 2014
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:

Just Take Action, Inc. (Endion Station) 200 Lake Place Drive, for September 20, 2014, serving from 1:00 p.m. to 6:00 p.m.

Resolution 14-0472 was unanimously adopted.
Approved September 8, 2014
DON NESS, Mayor

- - -

RESOLVED, that the Duluth city council hereby issues the following on sale intoxicating liquor license, on sale Sunday license and on sale dancing license for the period September 1, 2014, through 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, with Daniel Witzman, manager.

Resolution 14-0473 was unanimously adopted.
Approved September 8, 2014
DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth shall use \$39,950 of the approximately \$3,500,000 Minnesota board of soil and water resources (BSWR) flood recovery grant already authorized for this stream site to cost-share \$39,950 of the \$169,950 project, payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1807 (parks, recreation and other), Object 5303 (engineering services), City Project No. 1290.

Resolution 14-0452 was unanimously adopted.
Approved September 8, 2014
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 construction of Bridge No. 88552 located on Third Street over Miller Creek, City Project No. 1178.

FURTHER RESOLVED, that the grant has been approved and that the amount of the grant is \$55,672.

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 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project 1178, S.P. 118-126-021, Flood Site No. 550.

Resolution 14-0453 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Approved September 8, 2014
DON NESS, Mayor

- - -

RESOLVED, that plans for State Project 6910-89 showing proposed alignments, and geometrics for the construction, reconstruction or improvement of Trunk Highway No. 23 (Grand Avenue from Becks Road to Interstate 35) within the limits of the city as a state project have been prepared and presented to the city, and that said plans be in all things approved.

Resolution 14-0460 was unanimously adopted.

Approved September 8, 2014
DON NESS, Mayor

- - -

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. 14-0908-09, with St. Louis County pursuant to a 2013 Operation Stonegarden grant 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 July 1, 2014, through August 31, 2015.

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 \$45,404, funds to be deposited in Fund Number 215-200-2297-4210-02 (Duluth police grant programs, police, 2013 Operation Stonegarden).

Resolution 14-0393 was unanimously adopted.

Approved September 8, 2014
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to execute and implement a one-year agreement with Duluth Area Family YMCA to provide after school and summer youth programming at various city or school district locations, substantially the same as that on file with the city clerk as Public Document No. 14-0908-10, and providing for the total contract amount of \$150,000 for one year, payments to be made from Fund 205-130-1219-5310 (parks, community resources, parks operating, contract services).

Resolution 14-0463 was unanimously adopted.

Approved September 8, 2014
DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 14-0457, awarding a contract to KTM Paving, Inc., for the Fire Station #1 upper lot bituminous replacement in the amount of \$161,454, was introduced by Councilor Hanson.

Councilor Fosle expressed concerns that: the project cost was too great; city streets are in greater need for the funding and the resurfacing is not needed.

Resolution 14-0457 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to contract with KTM Paving, Inc., for the Fire Station #1 upper lot bituminous replacement, located at 602 West

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Second Street, in accordance with plans and specifications prepared by John Ivey Thomas Associates, Inc., the consultant, dated June 26, 2014, and the contractor's low bid of \$161,454, payable as follows:

\$111,900.00	Capital Improvement Fund 450	Finance 030	Capital Improvements 5530	Project CP2014-1410B
\$27,000.00	Capital Improvement Fund 450	Finance 030	Capital Improvements 5530	Project CP2014-1414B
\$16,421.51	Capital Improvement Fund 450	Finance 030	Capital Improvements 5530	Project CP2013-1311B
\$6,132.49	Capital Improvement Fund 450	Finance 030	Capital Improvements 5530	Project CP2013-1310B

Resolution 14-0457 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved September 8, 2014

DON NESS, Mayor

- - -

Resolution 14-0476, by Councilor Gardner, articulating city council position as to the development of Tier 2 access points on Park Point and proposing the use of a study group to further analyze the issues and make recommendations regarding Tier 2 access points on Park Point, was introduced for discussion.

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

Marcia Hales and Rory Strange expressed support for the resolution but requested the resolution be amended so that the timeline set forth in the resolution begin in January to provide more time for residents to work together.

Councilor Gardner moved to amend the second paragraph of the resolution to delete the phrase "within one year of this resolution," and insert "by December 31, 2015," which motion was seconded and unanimously carried.

Resolution 14-0476, as amended, was adopted as follows:

BY COUNCILOR GARDNER:

RESOLVED, that the city council finds the following:

(a) The city council adopted the comprehensive land use plan on June 26, 2006, 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 undertook a small area plan on Park Point that entailed over a year of meetings involving more than 200 individuals, a detailed study of land uses in the area, a traffic study and media promotion; and

(c) The city council adopted the Park Point small area plan recommendations on the use of improved and unimproved right-of-ways for public access and directed city planning staff to meet with Park Point community groups to develop amendments to the current list of 16 Tier 2 access points (see amended Resolution 14-0262); and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(d) Pursuant to amended Resolution 14-0262, a meeting was held on July 19, 2014, to review Tier 2 access points. No consensus was reached as to the final location of the Tier 2 access points. The meeting participants recommended that more study was needed to designate the access points.

FURTHER RESOLVED, that city council supports the establishment of a study group, functioning under the guidance of city planning staff, to review the various issues involved, including environmental concerns, location and number of access points, screening needs and level of improvements needed at the access points. The city council proposes that members of the study group include members of the parks commission, representatives from the Park Point Community Club and the Street End Coalition, and two volunteers familiar with the comprehensive land use plan. The study group should submit its findings and recommendations to the city planning staff by December 31, 2015.

FURTHER RESOLVED, that the city council recommends that the city suspend implementation of the portion of the Park Point small area plan involving Tier 2 access points until the study group submits its findings and recommendations to the city planning staff.

Resolution 14-0476, as amended, was unanimously adopted.

Approved September 8, 2014

DON NESS, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCE

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR HANSON

14-056 (10326) - AN ORDINANCE AMENDING SECTION 8-48 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE SPIRIT MOUNTAIN RECREATION AREA AUTHORITY INTOXICATING LIQUOR LICENSE.

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

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The meeting was adjourned at 7:26 p.m.

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

- - -

ORDINANCE NO. 10326

AN ORDINANCE AMENDING SECTION 8-48 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE SPIRIT MOUNTAIN RECREATION AREA AUTHORITY INTOXICATING LIQUOR LICENSE.

The city of Duluth does ordain:

Section 1. That Section 8-48 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 8-48. Same--same--Spirit Mountain recreation area.

(a) That license issued under authority of Laws 1974, Chapter 345, shall be issued for use at one or more locations within the boundaries of the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Spirit Mountain recreation area, provided that any alcoholic beverages served shall be served by Spirit Mountain employees only;

(b) Such license shall be issued only to the Spirit Mountain recreation area authority. Notwithstanding any provision of this Code to the contrary, the Spirit Mountain recreation area authority may lease the food and beverage operations to an independent contractor, provided, however, that said authority shall be responsible for the actions of any such independent contractor as provided in Sections 8-34 and 8-35 of this Chapter;

(c) The Spirit Mountain recreation area authority, when holding said license, shall maintain a liquor liability insurance policy as required by Minnesota Statutes, Chapter 340A, which names said authority and the city of Duluth as insured parties under such policy. Such policy shall be kept on file by said authority in the office of the city clerk of the city of Duluth and shall contain a provision requiring that written notice be delivered to the city of Duluth not less than ten days prior to the termination of such policy;

(d) The fee for such license shall be that fee established by Section 8-56 of this Chapter;

(e) Said license shall be treated as an on sale intoxicating liquor license under the provision of this Chapter;

(f) All other provisions of this Chapter shall be applicable to said license and to said authority except as they are inconsistent with the provisions of this Section.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: October 12, 2014)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed September 8, 2014
Approved September 8, 2014
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, September 22, 2014, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of council meetings held on April 14 and 28, 2014, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

14-0922-03 Brian Ronstrom communication regarding the proposed amendment to the comprehensive plan - future land use map located at the intersection of 41st Avenue East and Jay Street (14-0489R). -- Received

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REPORTS FROM OTHER OFFICERS

14-0922-01 Clerk applications to the Minnesota gambling control board from: (a) The ALS Association, MN/ND/SD Chapter, on January 31, 2015 (raffle); (b) Lincoln Park Business Group on November 20, 2014 (bingo, raffle); (c) Muskie, Inc., Lake Superior Chapter, on February 7, 2015 (raffle). -- Received

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REPORTS OF BOARDS AND COMMISSIONS

14-0922-02 Parks and recreation commission minutes of July 9, 2014, meeting. -- Received

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

RESOLVED, by the city council of the city of Duluth, Minnesota (the "City), as follows:

Section 1. Note Purpose and Authorization.

1.01 Under and pursuant to the provisions of Section 55 of the City Charter, Minnesota Statutes, Section 444.075 and Chapter 475, and other pertinent provisions of said Charter and statutes, the City is authorized to issue its general obligation bonds or notes to provide funds for the payment of costs of improvements to the municipal sewer utility, which bonds or notes shall be a specific lien upon the sewer utility and are payable primarily from net revenues to be derived from the operation of the municipal sewer utility and pledged for their payment. The City has applied for and received a commitment from the Minnesota Public Facilities Authority (the "PFA") for a loan for the Project, as hereinafter defined.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

1.02 The city council has, by Ordinance No. 10325 adopted August 25, 2014 (the "Ordinance"), ordered the issuance, sale and delivery of a general obligation sewer utility revenue note in the maximum amount of \$1,255,464 of the City for the following project: CIPP lining rehabilitation of sanitary sewers for Sewer Basins 23, 19 and a portion of 18 (the "Project") as identified in the City's application to the PFA, and for the payment of part of the interest cost of the bond or note.

1.03 The City has applied for and received a grant from the State of Minnesota's Wastewater Infrastructure Fund in the amount of \$3,540,832 and principal forgiveness in the amount of \$5,624 to pay a portion of the costs of the Project. The general obligation sewer utility revenue note to be issued under the Ordinance for the Project shall be issued in the principal amount of \$1,255,464 (the "Note") to pay the portion of the costs of the Project, not paid by such grant and principal forgiveness funds.

1.04 The council hereby determines that the Project is a project for the purpose of designing, constructing, repairing or replacing structures or facilities, including sanitary sewage overflow storage and for the purpose of attaining compliance with federal or state inflow and infiltration standards, within the meaning of City Code Section 43-11.1(7), and thus the costs of the Project and debt service of the Note which paid costs of the Project are eligible costs to be paid from the Clean Water Fund created under City Code Section 43-11.1 (the "Clean Water Fund").

1.05 The City hereby authorizes the issuance and sale of the Note, in substantially the form on file in the office of the clerk as Public Document No. 14-0922-04(a), for the Project to the PFA pursuant to a Minnesota Public Facilities Authority Bond Purchase and Project Loan Agreement dated August 12, 2014, between the PFA and the City, in substantially the form presented to the Council and on file in the office of the clerk (the "Loan Agreement"), as Public Document No. 14-0922-04(b) which is hereby authorized, ratified and approved.

Section 2. Execution and Delivery of Note and Loan Agreement.

2.01 The Note to be issued hereunder shall be dated as of the date of delivery to PFA, shall be issued in the principal amount of \$1,255,464, in fully registered form and lettered and numbered R-1. Interest on the Note shall be at the rate of 1.00% per annum. Principal and interest payments shall be made in the respective years and amounts set forth on Exhibit A to the Note, subject to adjustment as provided in the Loan Agreement. If the principal and interest payments are paid by check and mailed to the registered holder of the Note, such payment shall be mailed by the City at least five business days prior to the payment date.

2.02 The Note shall be prepared for execution in accordance with the approved form and shall be signed by the manual signature of the Mayor and attested by the manual signature of the Clerk. In case any officer whose signature shall appear on the Note shall cease to be an officer before delivery of the Note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery. All actions of the officers of the City regarding the Loan Agreement, including but not limited to, the officers of the City executing the Loan Agreement, are ratified, confirmed and approved as of the date of the Loan Agreement.

2.03. The City will cause to be kept at its offices a register in which, subject to such reasonable regulations as the City may prescribe, the City shall provide for the registration of transfers of ownership of the Note. The Note shall be initially registered in the name of the PFA and shall be transferable upon the register by the PFA in person or by its agent duly

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

authorized in writing, upon surrender of the Note, together with a written instrument of transfer satisfactory to the Clerk, duly executed by the PFA or its duly authorized agent.

2.04. Delivery of the Note shall be made at a place mutually satisfactory to the City and the PFA. The Note shall be furnished by the City without cost to the PFA. The Note, when prepared in accordance with this Resolution and executed, shall be delivered to the PFA by and under the direction of the Treasurer. Disbursement of the proceeds of the Note shall be made pursuant to the Loan Agreement.

2.05. In the event of an inconsistency between a provision of this Resolution and a provision of the Loan Agreement, the provision of the Loan Agreement shall govern.

Section 3. Revenues, Accounts and Covenants.

3.01 The city council covenants and agrees with the PFA 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 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 Note and on all other bonds and notes heretofore or hereafter issued and made payable from said net revenues, and will operate the 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 sewer utility in a separate Sewer Utility Operating Account within the Public Utility Sewer 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 sewer utility, and to maintain such reasonable reserves for such expenses as the proper City official 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 sewer utility bonds or notes when due.

3.02 The City hereby creates a separate construction account (the "2014B Construction Account") within the Public Utility Sewer Fund to which there shall be credited the proceeds of the Note as received, together with investment income thereon, all grant funds for the Project and any additional funds which may be available and are appropriated for improvements to 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 the Project and costs of the issuance of the Note.

3.03 Until the Note issued hereunder is fully paid or duly called for redemption, or otherwise discharged, the City will also maintain a separate debt service account (the "Sewer Debt Service Fund") in the Public Utility Sewer Fund to be used solely for the payment of the principal and interest, as such principal and interest become due and payable, on the Note and on any other bonds or notes which have been or may be issued and made payable from said net revenues of the sewer utility. The council further authorizes the use of monies on deposit in the Clean Water Fund to pay the principal of and interest on the Note. All investment income on funds in the Sewer Debt Service Fund are pledged to payment of the Note and other bonds and notes payable from the Sewer Debt Service Fund. The treasurer shall

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

transfer from the Sewer Utility Operating Account and the Clean Water Fund to the Sewer Debt Service Fund amounts of the net revenues and monies from the Clean Water Fund sufficient for the payment of all interest and principal then due on the Note. 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.

3.04 Surplus utility revenues from time to time received in the Sewer Utility Operating Account, in excess of payments due from and reserves required to be maintained in the Sewer Utility Operating Account and in the Sewer Debt Service Fund, may be used for necessary capital expenditures for the improvement of the municipal sewer utility, for the prepayment and redemption of bonds or notes constituting a lien on the municipal sewer utility, and for any other proper municipal purpose consistent with policies established by resolutions of the city council.

3.05 A. In the event the monies and payments appropriated to the Sewer Debt Service Fund are insufficient to pay principal of and interest on the Note and the other bonds and notes payable from such fund as the same become due, the City is required by law and by contract with the holders of the Note and such bonds and notes and hereby obligates itself to levy and cause to be extended, assessed and collected any additional taxes found necessary for full payment of the principal of and interest on the Note.

B. The full faith and credit and taxing powers of the City are irrevocably pledged for the prompt and full payment of the principal of and interest on the Note, as such principal and interest respectively become due. However, the net revenues of the sewer utility appropriated to the Sewer Debt Service Fund are estimated to be not less than five percent in excess of the principal of and interest on the Note and the other bonds and notes payable from such fund, and accordingly, no tax is levied at this time.

3.06 Monies on deposit in the 2014B Construction Account and the Sewer Debt Service Fund may, at the discretion of the City, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investments shall mature at such times and in such amounts as will permit payment of the Project costs and/or the principal and interest on the Note and bonds or notes payable from the Sewer Debt Service Fund when due, as applicable.

Section 4. Tax Covenants; Miscellaneous.

4.01 The city council covenants and agrees with the holders of the Note that the City will (i) take all action on its part necessary to cause the interest on the Note to be exempt from federal income taxes including, without limitation, restricting, to the extent necessary, the yield on investments made with the proceeds of the Note 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 Note to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Note and investment earnings thereon on certain specified purposes.

4.02 A. No portion of the proceeds of the Note 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 Note was issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Note or \$100,000. To this effect, any proceeds of the Note and any sums from time to time held in the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Sewer Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Note) 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 or minor portion made available under the federal arbitrage regulations.

B. In addition, the proceeds of the Note and money in the Sewer 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 Note to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1996, as amended (the "Code").

C. The City hereby covenants not to use the proceeds of the Note, or to cause or permit them to be used, in such a manner as to cause the Note to be a "private activity bond" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 If the City determines that the Note does not qualify for exemption from the federal arbitrage rebate requirements under Section 148(f) of the Code, the City agrees to cause the calculations and payments to the United States to be made pursuant to Section 148 of the Code and Treasury Regulations relating thereto.

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 from the county auditor a certificate stating that the Note herein authorized has been duly entered on his register.

5.02 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 Note and other affidavits and certificates as may reasonably be requested to show the facts relating to the legality and marketability of the Note 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.

Resolution 14-0471 was unanimously adopted.

Approved September 22, 2014

DON NESS, Mayor

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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 2015 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.

Resolution 14-0480 was unanimously adopted.

Approved September 22, 2014

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

DON NESS, Mayor

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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 of interests of the city and its residents, that the city should issue its approximately \$1,155,000 General Obligation Improvement Refunding Bonds, Series 2014F (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 2015 through 2020 maturities of the city's General Obligation Improvement Bonds, Series 2005C, dated June 1, 2005.

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 on file with the city clerk as Public Document No. 14-0922-05. 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 financial consultant, 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 financial 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.

Resolution 14-0483 was unanimously adopted.

Approved September 22, 2014

DON NESS, Mayor

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BE IS 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 \$2,355,000 Taxable General Obligation Tourism Tax Revenue Bonds, Series 2014C (the "Bonds"), pursuant to Minnesota Laws 1974, Chapter 130, Minnesota Laws 2014, Chapter 308, Article 3, Sections 21 and 22, Minnesota Statutes, Chapter 475, and Ordinance No. 10318 adopted July 21, 2014, for the purpose of providing the local match for a State of Minnesota grant for constructing, furnishing and equipping improvements to Wade Stadium, including the stadium walls and facade, grandstand, lighting, concession facilities and field, with proper drainage, for a ballpark and public outdoor events facility.

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 on file with the city clerk as Public Document No. 14-0922-06. 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 financial consultant, may modify the official

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 financial 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.

Resolution 14-0484 was unanimously adopted.

Approved September 22, 2014

DON NESS, Mayor

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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 \$1,870,000 General Obligation Tourism Tax Revenue Bonds, Series 2014D (the "Bonds"), pursuant to Minnesota Laws 1974, Chapter 130, Minnesota Laws 2014, Chapter 308, Article 3, Sections 21 and 22, Minnesota Statutes, Chapter 475, and Ordinance No. 10318, adopted July 21, 2014, for the purpose of providing the local match for a State of Minnesota grant for the construction of works and systems to transport water from St. Louis River to the Spirit Mountain Recreation Area. Proceeds of the Bonds are to provide approximately \$2,100,000 for project costs. The city's financial 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 on file with the city clerk as Public Document No. 14-0922-07. 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 financial consultant, 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 financial 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.

Resolution 14-0485 was unanimously adopted.

Approved September 22, 2014

DON NESS, Mayor

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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. 13-0631 on December 16, 2013, declaring its intent to issue capital improvement bonds in 2014 in an amount not to exceed \$1,850,000. It is hereby found, determined, and declared to be

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

necessary, and in the best interests of the city and its residents, that the city should issue General Obligation Capital Improvement Bonds, Series 2014E, in the approximate amount of \$1,010,000 (the "Bonds"), pursuant to Minnesota Statutes, Section 475.521 and Chapter 475, and the City Charter, for the purpose providing approximately \$1,097,000 for capital improvements projects pursuant to an approved capital improvement plan. The city's financial 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 on file with the city clerk as Public Document No. 14-0922-08. 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 financial consultant, 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 financial 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.

Resolution 14-0486 was unanimously adopted.

Approved September 22, 2014

DON NESS, Mayor

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RESOLVED, that Resolution 11-0347 be amended to extend the use of the existing line of credit to include hanger improvements estimated to cost \$2 million to facilitate the establishment of an aviation program at the airport with Lake Superior College. Interest at a rate of 2.50 percent per annum shall be charged on drawn funds.

Resolution 14-0492 was unanimously adopted.

Approved September 22, 2014

DON NESS, Mayor

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BY COUNCILOR JULSRUD:

RESOLVED, that the proper city officials are authorized to enter into a joint powers agreement, substantially in the form of the copy that is on file in the office of the city clerk as Public Document No. 14-0922-09, with the St. Paul Port Authority pursuant to which the St. Paul Port Authority will undertake to implement and administer their property assessed clean energy ("PACE") of Minnesota program in the city of Duluth.

Resolution 14-0495 was unanimously adopted.

Approved September 22, 2014

DON NESS, Mayor

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BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

1. Authorization of Notes. The city council adopted Resolution No. 13-0632 on December 16, 2013, declaring its intent to issue general obligation capital equipment notes in 2014 in an amount up to \$3,888,500 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 2014B, in the approximate amount of \$2,385,000 (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 \$2,467,300 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 financial 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 on file with the city clerk as Public Document No. 14-0922-10. 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 financial consultant, 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 financial 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.

Resolution 14-0496 was unanimously adopted.

Approved September 22, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Springsted, Inc., for the professional services to provide an indirect cost allocation study for the city of Duluth (the "city"), for an amount not to exceed \$35,000 payable from: General Fund 110, Transfers and Other Functions 700, Miscellaneous 1407, Other Professional Services 5319.

Resolution 14-0501 was unanimously adopted.

Approved September 22, 2014

DON NESS, Mayor

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BE IT RESOLVED, that the city council of the city of Duluth hereby approves the issuance of the following on sale wine license for the period beginning September 1, 2014, ending August 31, 2015, and issues an on sale 3.2 percent malt liquor license for the period ending April 30, 2015, subject to departmental approvals and further subject to approval of the liquor control commissioner:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Iron Mug Coffee House, LLC (Iron Mug Coffee House), 1096 88th Avenue West, with Paul M. Johnson, 50 percent owner, and Brandon M. Johnson, 50 percent owner.

Resolution 14-0477 was unanimously adopted.

Approved September 22, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to contract to lease with Kassbohrer All Terrain Vehicles, Inc., third party lessor, Lease Finance Group, for the Pisten Bully Groomer, payable from Parks Fund 205, Community Resources 130, Parks Maintenance 1221, Vehicle/Equip Lease (long-term) 5418.

Resolution 14-0481 was unanimously adopted.

Approved September 22, 2014

DON NESS, Mayor

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RESOLVED, that Resolution 13-0593 adopting license, permit, fine, penalty and other charges for 2014 be amended by adopting the following new license fee for a microdistillery cocktail room license, pursuant to Section 31-6(a) of the Duluth City Code, 1959, as amended.

Clerk	
Fee Name	New 2014 Fee
Alcoholic Beverage - Intoxicating Liquor - Microdistillery Cocktail Room - On Sale	\$210.00

Resolution 14-0490 was unanimously adopted.

Approved September 22, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to contract 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, Minnesota, 55802, in accordance with plans and specifications prepared by Scalzo Architects dated August 28, 2014, and the contractors successful bid of \$375,000 payable as follows:

Capital Improvements 450, Finance Improvements Other Than Buildings 030-5530, 2013 Capital Projects CP2013 and 2014 Capital Projects CP2014, City Hall Tuckpoint Repair Steps 1309B and 1409B.

Resolution 14-0500 was unanimously adopted.

Approved September 22, 2014

DON NESS, Mayor

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RESOLVED, that the council finds as follows:

That the building official of the city of Duluth duly issued condemnation orders for structures located upon the parcels of land described below within the city of Duluth after

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

determining that criteria of Section 10-3 of the city of Duluth Legislative Code was met in each case:

Parcel 1: 422 North Third Avenue East, Tax Parcel Number 010-1010-01530. Notification of order for condemnation to owners Bonnie Douglas and Kevin Popovich by certified mail on September 23, 2010, and of building appeal board action denying the appeal to the demolition order by regular mail on May 1, 2014; and

Parcel 2: 1025 West Second Street, Tax Parcel Number 010-1160-00730. Notification of the order of condemnation for demolition to St. Louis County land office by certified mail on October 21, 2013 and to John Vos by certified mail on October 21, 2013.

All such orders are final; and

The cost for demolition of the structures has been estimated not to exceed \$40,000.

BE IT FURTHER 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; 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 14-0458 was unanimously adopted.

Approved September 22, 2014

DON NESS, Mayor

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RESOLVED, that the city council hereby amends the 2013 annual action plan to add \$243,500 in CDBG funds for the demolition of blighted and nuisance properties that are condemned for demolition by the city building official.

2010 CDBG Program

Fund 262, Agency 020, Object 5434, Project CD10CD

<u>Project</u>	<u>Activity</u>	<u>Original Budget</u>	<u>New Grant</u>	<u>Difference</u>
10-ED-02	CHUM support services for employment	112,500	109,000	(3,500)

Fund 261, Agency 020, Object 5434, Project CD10CD

<u>Project</u>	<u>Activity</u>	<u>Original Budget</u>	<u>New Grant</u>	<u>Difference</u>
	Housing revolving loan fund	120,000	0	(120,000)

Fund 263, Agency 020, Object 5434, Project CD10CD

<u>Project</u>	<u>Activity</u>	<u>Original Budget</u>	<u>New Grant</u>	<u>Difference</u>
	Economic development revolving loan fund	120,000	0	(120,000)

2013 CDBG Program

Fund 262, Agency 020, Object 5434, Project CD13CD

<u>Project</u>	<u>Activity</u>	<u>Original Budget</u>	<u>New Grant</u>	<u>Difference</u>
PFAC-PF07	Demolition of blighted properties	0	243,500	243,500

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Resolution 14-0462 was unanimously adopted.
Approved September 22, 2014
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 unimproved right-of-way is useless for all purposes; and

(c) The city planning commission, at its Tuesday, September 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. 14-0922-11:

VACATION LEGAL DESCRIPTION:

That part of the 16 foot wide Alley, as platted and dedicated in Block 3, DULUTH HEIGHTS FIFTH ADDITION, according to the recorded plat thereof, St. Louis County, Minnesota, lying northerly of the westerly extension of the south line of Lot 16, said Block 3 and lying southerly of the westerly extension of the north line of Lot 13, said Block 3. A drainage and utility easement is to be retained over all of the vacated Alley.

PROPOSED DRAINAGE AND UTILITY EASEMENT:

An easement for drainage and utility purposes over, under and across the east 5.00 feet of Lot 12, Block 3, DULUTH HEIGHTS FIFTH ADDITION, according to the recorded plat thereof, St. Louis County, Minnesota.

PROPOSED DRAINAGE AND UTILITY EASEMENT:

An easement for drainage and utility purposes over, under and across the west 10.00 feet of Lots 13, 14, 15 and 16, Block 3, DULUTH HEIGHTS FIFTH ADDITION, 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. 14-0922-11 showing the platted easement to be vacated.

Resolution 14-0487 was unanimously adopted.
Approved September 22, 2014
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. L6113 located on Fourth Street over Tischer Creek, City Project No. 1176.

FURTHER RESOLVED, that the grant has been approved and that the amount of the grant is \$248,578.87.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project 1176, S.P. 118-133-007, Flood Site No. 533.

Resolution 14-0470 was unanimously adopted.

Approved September 22, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Northland Constructors of Duluth, LLC, for construction of a sanitary sewer extension in Lakeview Avenue in the amount of \$63,886.70, payable from Sanitary Sewer Fund 530, Department 500 (public works and utilities), Division 1905 (capital), Object 5536 (utility infrastructure replacement), City Project No. 1372. Of these costs, \$50,000 will be assessed to benefitting properties.

Resolution 14-0488 was unanimously adopted.

Approved September 22, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Utility Systems of America, Inc., for construction of a watermain extension in North 85th Avenue West in the amount of \$201,728, payable from Water Sewer Fund 510, Department 500 (public works and utilities), Division 1905 (capital), Object 5535 (noncapital improvements), City Project No. 1073. Of these costs, \$145,025.52 will be assessed to benefitting properties.

Resolution 14-0491 was unanimously adopted.

Approved September 22, 2014

DON NESS, Mayor

- - -

RESOLVED, that in accordance with Section 33-125 of the Duluth City Code, 1959, as amended, the city council hereby indicates that on Monday, October 13, 2014, at 7:00 PM in Council Chamber on the third floor in City Hall, the council will conduct a public hearing on whether to reduce the size of the Denfeld High School ("DHS") resident permit parking zone by one block on the north, one block on the east, and by a one-half block area on 46th Avenue West south of Fourth Street, as manifested by the map on Public Document No. 14-0922-12.

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 streets to be removed from the DHS resident permit parking zone.

Resolution 14-0503 was unanimously adopted.

Approved September 22, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a 35 year agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0922-14, with the state of Minnesota, department of natural resources, for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

the construction of improvements and the management of the St. Louis River Rice's Point public water access at no cost to the city.

Resolution 14-0475 was unanimously adopted.
 Approved September 22, 2014
 DON NESS, Mayor

- - -

RESOLVED, that the city council hereby approves the Morgan Park mini-master plan and authorizes implementation of the plan, in partnership with the Morgan Park Community Club, as funding becomes available.

Resolution 14-0493 was unanimously adopted.
 Approved September 22, 2014
 DON NESS, Mayor

- - -

RESOLVED, that the city council hereby authorizes the disbursement of grant funds from the public facility and program fund pursuant to City Code Section 10A-18 to the following organizations in the following amounts, and further authorizes the proper city officials to execute a grant agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 14-0922-15, with each organization receiving funds, amounts to be payable from Fund 259-400-5439 (Duluth public facility and program, parks and recreation, special projects and events):

Organization	Program Name	Rec Amt
COGGS	Multi-use trail maintenance	\$2,000
DAHTA	Duluth equestrian master plan - map work	\$1,000
DXC	Spirit XC ski trail bridges	\$2,000
Friends of Dog Parks	Off leash fenced dog area	\$2,000
Gary-Morgan Park Hockey Association	Hockey rink refurbishing	\$2,000
GND Development Alliance	Materials for restroom ADA compliance	\$2,000
Hartley Nature Center	Classroom carpet replacement	\$2,000
		\$13,000

Resolution 14-0494 was unanimously adopted.
 Approved September 22, 2014
 DON NESS, Mayor

- - -

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. 14-0922-16, with GND Development Alliance for the development, management and operation of a recreation center in the city's Gary New Duluth Park.

Resolution 14-0497 was unanimously adopted.
 Approved September 22, 2014
 DON NESS, Mayor

- - -

RESOLVED, that city act as legal sponsor for the project contained in the parks and trails legacy grant application to be submitted on or before September 26, 2014, and that the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

city's chief administrative officer is hereby authorized to apply to the Minnesota department of natural resources (MnDNR) for funding of this project 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 the city of Duluth has not incurred any development costs and has not entered into a written purchase agreement to acquire the property described in the cost breakdown section on this application.

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 substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0922-17 agreeing to the project with grant funds to be deposited in Fund 205-130-1220-4220-01 (parks fund, community resources, parks capital, state of Minnesota capital).

FURTHER RESOLVED, that the city of Duluth estimates the total project cost to be \$999,688 including the grant amount of \$799,750; as well as matching funds as follows: \$150,000 from the city of Duluth park fund and \$49,938 from donations and other grants still in the application process, but will be confirmed prior to accepting the grant.

FURTHER RESOLVED, that the city of Duluth will comply with all applicable laws, environmental requirements, and regulations stated in the grant agreement including dedicating the park property for uses consistent with the funding grant program into perpetuity.

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 14-0499 was unanimously adopted.

Approved September 22, 2014

DON NESS, Mayor

- - -

The following resolutions were also considered:

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. 14-0922-13, with Chester Bowl Improvement Club for the management and operation of recreational programs at Chester Bowl, with an annual management fee of \$21,000 for 2015, \$22,050 for 2016, and \$23,152 for 2017, payable from Fund 205-130-1219-5319 (parks, community resources, parks operating, other professional services).

Resolution 14-0474 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: Councilor Filipovich -- 1

Approved September 22, 2014

DON NESS, Mayor

- - -

Resolution 14-0479, proposing the sum to be raised by taxation for general purposes for the year 2015, was introduced by Councilor Julsrud for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Councilors Sipress and Filipovich moved to amend the resolution as follows:

- (a) In Section 1, replace the sum of "\$19,868,800" with "\$20,118,800";
- (b) In Section 2, replace the sum of "\$13,014,500" with "\$13,264,500";
- (c) In the statement of purpose:

(1) Delete the following sentences in the first paragraph: "The administration is proposing a 2.2% tax levy increase, which will result in a tax rate increase of 1.61%. For the average homeowner, city taxes will increase \$9 per year";

- (2) Add the following paragraph:

"The intent of this amendment is to provide additional funding options for city programs, including providing \$30,000 for a housing access center and reducing the street light fee by 10%. Increasing the maximum levy by the amended amount will result in a total levy increase of 3.5% and a total tax rate increase of 2.91%. The average homeowner will see a total tax increase of \$15 per year. The council will have the opportunity to debate these funding";

which motion was seconded and discussed.

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

Joel Kilgour and Jeff Corey, executive director of One Roof Community Housing, spoke in support of funding to reopen the housing access center program and the need for it in the community.

Councilors discussed the proposed amendment at great length and where the funding for this amendment would come from.

Councilor Larson moved to amend the amendment to delete the phrase "including providing \$30,000 for a housing access center and reducing the street light fee by 10%," which motion was seconded for discussion.

Councilors Hanson and Fosle and President Krug opposed the amendment for reasons of: that there should not be any increases in the levy that the administration recommended and no increase in fees; the amendment lumps two entirely different issues together; there are cut backs everywhere and the city should not be funding this; roads are a part of public safety and needs to be addressed and other agencies offer the services proposed by the amendment.

Councilor Larson's amendment to the amendment carried as follows:

Yeas: Councilors Filipovich, Gardner, Hanson, Larson, Russ and Sipress -- 6

Nays: Councilors Fosle, Julsrud and President Krug -- 3

The amended amendment carried as follows:

Yeas: Councilors Filipovich, Gardner, Larson, Russ and Sipress -- 5

Nays: Councilors Fosle, Hanson, Julsrud and President Krug -- 4

Resolution 14-0479, as amended, was adopted as follows:

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 2015 for general operations is hereby determined to be the sum of \$20,118,800 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 \$13,264,500.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Section 3. For the payment of debt, there will be levied for the general obligation debt fund the sum of \$6,574,300.

Section 4. That pursuant to Laws of Minnesota 1972, 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.

Resolution 14-0479, as amended, was adopted upon the following vote:

Yeas: Councilors Filipovich, Gardner, Larson, Russ, Sipress -- 5

Nays: Councilors Fosle, Hanson, Julsrud and President Krug -- 4

Approved September 22, 2014

DON NESS, Mayor

- - -

BY COUNCILOR GARDNER:

RESOLVED, that the Duluth City Council hereby reappoints Norm Voorhees to the Duluth Seaway Port authority for a term expiring on October 10, 2020.

Resolution 14-0507 was unanimously adopted.

Approved September 22, 2014

DON NESS, Mayor

- - -

Resolution 14-0489, amending the comprehensive plan - future land use map located at the intersection of 41st Avenue East and Jay Street; Lots 1 thru 16, Block 104, London Addition to Duluth, was introduced by Councilor Russ for discussion.

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

Linda Ross Sellner commented on: the importance of green infrastructure on the stormwater utility; nine of the 16 trout streams are impaired; Lake Superior is becoming more polluted every day; that this land could be left as green space and that the land should be cleaned up, but not at the cost of high end housing.

Betty Holmen Greene, resident across the street from this lot, expressed support for the continuation of green space for this lot.

Resolution 14-0489 was adopted as follows:

RESOLVED, that based on the review conducted by the planning division and public input for residential development, and to comply with the Municipal Planning Act, the city proposes amending the comprehensive land use plan - future land use map from Recreation to Traditional Neighborhood, as described and depicted in the following map:



(Ref. File. No. 14-116)

Resolution 14-0489 was unanimously adopted.

Approved September 22, 2014

DON NESS, Mayor

- - -

Resolution 14-0498, authorizing application for and acceptance of a parts and trails legacy grant of \$992,188 for completion of the Duluth Traverse Trail, was introduced by Councilor Larson for discussion.

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

Waylon Munch, Mike Reuter and Tjaard Breeuwer expressed support for the resolution for reasons of: this will work towards making the trail go from one end of the city to the other; this is a sign of a healthy city that will draw tourists who will be spending money here and the variety of trail difficulty is a draw.

Councilor Fosle expressed concerns of where the funds come from to pay for this and that there should also be trails for ATV users and consideration should be given for a fee for the use of the trails.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Chief Administrative Officer David Montgomery gave a detailed response about how the half and half taxes works and the options available.

Resolution 14-0498 was adopted as follows:

RESOLVED, that city act as legal sponsor for the project contained in the parks and trails legacy grant application to be submitted on or before September 26, 2014, and that the city's chief administrative officer is hereby authorized to apply to the Minnesota department of natural resources (MnDNR) for funding of this project 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 substantially in the form of that on file in the office of the city clerk as Public Document No. 14-0922-18 agreeing to the project with grant funds to be deposited in Fund 205-130-1220-4220-01 (parks fund, community resources, parks capital, state of Minnesota capital).

FURTHER RESOLVED, that the city of Duluth estimates the total project cost to be \$1,984,375 including the grant amount of \$992,188; as well as matching funds as follows: \$992,188 from the city of Duluth.

FURTHER RESOLVED, that 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 14-0498 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved September 22, 2014

DON NESS, Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

ORDINANCE TABLED

BY COUNICLOR LARSON

14-041 - AN ORDINANCE AMENDING SECTION 35-6 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO RECREATIONAL TRAILS AND PATHS.

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

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

- - -

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR RUSS

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

14-060 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RR-1 TO MU-C FOR THE PROPERTY LOCATED AT 4602 ARROWHEAD ROAD (HUNTERS PARK CONGREGATION OF JEHOVAH'S WITNESSES, INC).

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

Linda Ross Sellner expressed her concerns: that she felt the area proposed to be rezoned should be considered part of what the City Code calls a sensitive land overlay; that there is natural, native cover on this land; the natural features of the land are not identified and neighbors have stated that there are wet lands on this property that have not been delineated.

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INTRODUCED BY COUNCILOR RUSS

14-061 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO MU-N FOR THE PROPERTY LOCATED AT 4121 AND 4127 GRAND AVENUE (SUPERIOR CHOICE CREDIT UNION).

- - -

INTRODUCED BY COUNCILOR RUSS

14-062 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING CHANGES TO THE PERMITTED USE TABLE AND USE SPECIFIC STANDARDS.

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

JEFFREY J. COX, City Clerk

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, October 9, 2014, 5:15 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Filipovich, Gardner, Hanson, Julsrud, Larson, Russ, Sipress and President Krug -- 8

Absent: Councilor Fosle -- 1

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

14-1009-01 Public Financial Management, Inc., bid results for the proposed issuance, sale and delivery of: \$2,460,000 GO capital equipment notes, Series 2014B; \$2,330,000 taxable GO tourism tax revenue bonds, Series 2014C; \$2,150,000 GO tourism tax revenue bonds, Series 2014D; \$1,115,000 GO capital improvement bonds, Series 2014E; and \$865,000 GO improvement refunding bonds, Series 2014F (14-0519R, 14-0520R, 14-0521R, 14-0522R, 14-0523R). -- Received

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MOTIONS AND RESOLUTIONS

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. 13-0632R on December 16, 2013 (the "Intent Resolution"), declaring the intention of the City to issue such capital equipment notes in the maximum amount of \$3,888,500 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 \$2,460,000 General Obligation Capital Equipment Notes, Series 2014B, 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., financial consultant 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 Hutchinson, Shockey, Erley & Co. of Chicago, Illinois (the "Purchaser"), to purchase the Notes at a cash price of \$2,508,665.35, 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. Upon receipt of the good faith deposit, 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 financial 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:

Year	Amount	Interest Rate
2016	\$470,000	1.50%
2017	485,000	1.50%
2018	495,000	1.50%
2019	500,000	1.75%
2020	510,000	2.00%

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, 2015. 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 04-0219-02. 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, New York, New York ("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 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 Notes 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 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

GENERAL OBLIGATION CAPITAL EQUIPMENT NOTE, SERIES 2014B

R-__ \$_____

Interest Rate	Maturity Date February 1, ____	Date of Original Issue October __, 2014	CUSIP
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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, 2015. 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 \$2,460,000, 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 9, 2014 (the "Resolution"), and is issued for the purpose of providing money, together with other available funds,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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
10/___/2014	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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 \$2,505,300 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

principal and interest on the Notes as such principal and interest respectively become due as follows:

Levy Year	Collection Year	Tax Levy
2014	2015	\$547,038
2015	2016	544,583
2016	2017	547,444
2017	2018	544,898
2018	2019	546,210

(b) A separate debt service account is hereby created and designated as the “2014 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 (\$3,365.35) 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 Tourism Tax Revenue Bonds, Series 2014D (the "Series 2014D Bonds"), General Obligation Capital Improvement Bonds, Series 2014E (the "Series 2014E Bonds") and General Obligation Improvement Refunding Bonds, Series 2014F (the "Series 2014F Bonds"). The Notes and the Series 2014E 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 2014D Bonds and the Series 2014F 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 substantially in the form of the certificate on file in the office of the city clerk as Public Document No. 14-1009-02.

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.

Resolution 14-0519 was unanimously adopted.

Approved October 9, 2014

DON NESS, Mayor

- - -

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 by ordinance 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

the City west of 34th Avenue West (the “2014 Law Projects”) and shall be payable primarily from the 0.5% Tourism Tax, as hereinafter defined.

(b) Under and pursuant to the provisions of Minnesota Laws 1974, Chapter 130, the City is authorized to issue its general obligation bonds to provide the funds necessary to match state, private and federal grants for projects within the City’s boundaries, which bonds are to be payable from annual ad valorem taxes or other revenues of the City.

(c) The city council has, by Ordinance No. 10318 adopted on July 21, 2014, authorized the issuance and sale of general obligation bonds to provide net proceeds of \$2,300,000 for the purpose of providing the local match of state grant funds in the amount of \$2,300,000 (the “Grant”) to pay part of the costs for constructing, furnishing and equipping improvements to Wade Stadium, including the stadium walls and facade, grandstand, lighting, concession facilities and field, with proper drainage, for a ballpark and public outdoor events facility (the “Project”).

(d) Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$2,330,000 Taxable General Obligation Tourism Tax Revenue Bonds, Series 2014C, to be dated the date of delivery, as the date of original issue (the “Bonds”) to provide for the City’s match for the Grant for the Project. The city council hereby finds and determines that the Project meets the requirement to be financed under the 2014 Act. Net proceeds of the Bonds to be issued by the City in an amount of \$2,300,000 are allocated to pay a portion of the costs of the Project. The balance of the funds (\$72,762.10) are allocated to issuance and discount costs of the Bonds. The City reserves the right and privilege of issuing additional general obligation bonds and pledging the 0.50% Tourism Tax on a parity with the Bonds pursuant to the 2014 Act.

(e) Public Financial Management, Inc., financial consultant 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 Robert W. Baird & Co. of Milwaukee, Wisconsin (the “Purchaser”), to purchase the Bonds at a cash price of \$2,334,906.14, 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 (a) 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	Amount	Interest Rate
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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Year	Amount	Interest Rate
2016	\$105,000	3.00%
2017	130,000	3.00%
2018	135,000	3.00%
2019	140,000	3.00%
2020	140,000	3.00%
2021	145,000	3.00%
2022	150,000	3.00%
2023	155,000	3.00%
2024	160,000	3.00%
2025	165,000	3.10%
2026	170,000	3.25%
2028	355,000	3.50%
2030	380,000	3.70%

(b) The Bonds maturing on February 1 in the years 2028 and 2030 shall be subject to mandatory redemption prior to maturity pursuant to the requirements of this Section 2.01(b) at a redemption price equal to the stated principal amount, as hereinafter provided, plus interest accrued thereon to the redemption date, without premium. The Bond Registrar, as designated below, shall select for redemption, by lot or other manner deemed fair, on February 1 in each of the following years, the following stated principal amounts:

(1) For Bonds maturing on February 1, 2028 (the “2028 Term Bonds”):

Year	Principal Amount
2027	\$175,000

The remaining \$180,000 stated principal amount of the 2028 Term Bonds shall be paid at maturity on February 1, 2028.

(2) For Bonds maturing on February 1, 2030 (the “2030 Term Bonds”):

Year	Principal Amount
2029	\$185,000

The remaining \$195,000 stated principal amount of the 2030 Term Bonds shall be paid at maturity on February 1, 2030.

If less than such amount of the Term Bonds is outstanding on such payment date, the City shall pay the remaining balance of the Term Bonds then outstanding. The Bond Registrar shall select and call for redemption, in accordance with Section 2.02 hereof, from the Term Bonds the amounts specified above and the Term Bond selected by the Bond Registrar shall become due and payable on such date.

2.02 (a) The Bonds maturing in the years 2016 through 2025 shall not be subject to optional redemption and prepayment before maturity, but those maturing or subject to mandatory redemption pursuant to Section 2.01(b), in the year 2026 and in subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2025, 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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(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, New York, New York (“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, 2015. 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 proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each Bond, together with a certificate to be signed by the manual signature of the city clerk in substantially the form set forth in Section 2.11, but only if the opinion is not manually executed. The city clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

2.05 The City hereby appoints Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 the agreement currently on file in the office of the city clerk as Public Document No. 04-0219-02. 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

SERIES 2014C

R-____ \$_____

Interest			
Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	October __, 2014	

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, 2015. 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 \$2,330,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, and is issued pursuant to Minnesota Laws 1974, Chapter 130, Minnesota Laws 2014, Chapter 304, Article 3, Sections 21 and 22, Minnesota Statutes, Chapter 475, the City Charter and other pertinent provisions of said statutes, Ordinance No. 10318 and a resolution adopted by the governing body of the City on October 9, 2014 (the "Resolution"), for the purpose of providing funds necessary to provide the local match for a state grant for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

constructing, furnishing and equipping improvements to Wade Stadium, including the stadium walls and facade, grandstand, lighting, concession facilities and field, with proper drainage, for a ballpark and public outdoor events facility, 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 maturing in the years 2028 and 2030 shall be subject to mandatory redemption and redeemed in installments as provided in the Resolution, at par plus accrued interest to the date of redemption.

The Bonds of this series maturing in the years 2016 through 2025 are not subject to redemption before maturity, but those maturing, or subject to mandatory redemption, in the year 2026 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2025, 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.

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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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
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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

10/__/2014 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 account titled "Wade Stadium Project Account" within the Capital Improvement Capital Project Fund 450, Agency 030, to which there shall be credited the proceeds of the Bonds in the amount of \$2,300,000, together with any additional funds, including monies from the Grant, 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. An additional \$30,000 shall be credited to such account 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, including the Project, 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, including the Project, 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, including the Project.

3.03 A separate debt service account is hereby created and designated as the "2014 Wade Stadium 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) \$4,906.14 from the rounding amount of the Bonds; (ii) the amount of accrued interest paid by the Purchaser upon closing and delivery

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 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 2014 Wade Stadium Project 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. 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 the certificate currently on file in the office of the city clerk as Public Document No. 14-1009-02.

Section 5. Certificate of Proceedings.

5.01 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.

5.02 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

heretofore furnished, constitute representations of the City as to the correctness of facts recited therein and the actions stated therein to have been taken.

5.03 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.

Resolution 14-0520 was unanimously adopted.

Approved October 9, 2014

DON NESS, Mayor

- - -

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 by ordinance 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 (the "2014 Law Projects") and shall be payable primarily from the 0.5% Tourism Tax, as hereinafter defined.

(b) Under and pursuant to the provisions of Minnesota Laws 1974, Chapter 130, the City is authorized to issue its general obligation bonds to provide the funds necessary to match state, private and federal grants for projects within the City's boundaries, which bonds are to be payable from annual ad valorem taxes or other revenues of the City.

(c) The city council has, by Ordinance No. 10318 adopted on July 21, 2014, authorized the issuance and sale of general obligation bonds to provide net proceeds of \$2,100,000 for the purpose of providing the local match of state grant funds in the amount of \$3,400,000 (the "Grant") to pay part of the costs associated with Spirit Mountain Recreation Area Authority's acquisition, easements, licenses and other interest in real property and engineering, design, permitting and construction of works and systems to transport water from St. Louis River estuary to the Spirit Mountain Recreation Area (the "Project").

(d) Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$2,150,000 General Obligation Tourism Tax Revenue Bonds, Series 2014D, to be dated the date of delivery, as the date of original issue (the "Bonds") to provide for the City's match for the Grant for the Project. The city council hereby finds and determines that the Project meets the requirement to be financed under the 2014 Act. Net proceeds of the Bonds to be issued by the City in an amount of \$2,100,000.00 are allocated to pay a portion of the costs of the Project. The balance of the funds (\$63,600.75) are allocated to issuance and discount costs of the Bonds. The City reserves the right and privilege of issuing additional general obligation bonds and pledging the 0.50% Tourism Tax on a parity with the Bonds pursuant to the 2014 Act.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(e) Public Financial Management, Inc., financial consultant 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 Hutchinson, Shockey, Erley & Co. of Chicago, Illinois (the "Purchaser"), to purchase the Bonds at a cash price of \$2,132,247.54, 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 (a) 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	Amount	Interest Rate
2016	\$ 70,000	2.000%
2017	85,000	2.000%
2018	90,000	2.000%
2019	90,000	2.000%
2020	95,000	2.000%
2021	95,000	2.000%
2022	95,000	2.000%
2023	100,000	2.250%
2024	100,000	2.375%
2026	210,000	3.125%
2029	340,000	3.125%
2031	245,000	3.250%
2033	260,000	3.375%
2035	275,000	3.400%

(b) The Bonds maturing on February 1 in the years 2026, 2029, 2031, 2033 and 2035 shall be subject to mandatory redemption prior to maturity pursuant to the requirements of this Section 2.01(b) at a redemption price equal to the stated principal amount, as hereinafter provided, plus interest accrued thereon to the redemption date, without premium. The Bond Registrar, as designated below, shall select for redemption, by lot or other manner deemed fair, on February 1 in each of the following years, the following stated principal amounts:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- (1) For Bonds maturing on February 1, 2026 (the “2026 Term Bonds”):

Year	Principal Amount
2025	\$105,000

The remaining \$105,000 stated principal amount of the 2026 Term Bonds shall be paid at maturity on February 1, 2026.

- (2) For Bonds maturing on February 1, 2029 (the “2029 Term Bonds”):

Year	Principal Amount
2027	\$110,000
2028	\$115,000

The remaining \$115,000 stated principal amount of the 2029 Term Bonds shall be paid at maturity on February 1, 2029.

- (3) For Bonds maturing on February 1, 2031 (the “2031 Term Bonds”):

Year	Principal Amount
2030	\$120,000

The remaining \$125,000 stated principal amount of the 2031 Term Bonds shall be paid at maturity on February 1, 2031.

- (4) For Bonds maturing on February 1, 2033 (the “2033 Term Bonds”):

Year	Principal Amount
2032	\$130,000

The remaining \$130,000 stated principal amount of the 2033 Term Bonds shall be paid at maturity on February 1, 2033.

- (5) For Bonds maturing on February 1, 2035 (the “2035 Term Bonds”):

Year	Principal Amount
2034	\$135,000

The remaining \$140,000 stated principal amount of the 2035 Term Bonds shall be paid at maturity on February 1, 2035.

If less than such amount of the Term Bonds is outstanding on such payment date, the City shall pay the remaining balance of the Term Bonds then outstanding. The Bond Registrar shall select and call for redemption, in accordance with Section 2.02 hereof, from the Term Bonds the amounts specified above and the Term Bond selected by the Bond Registrar shall become due and payable on such date.

2.02 (a) The Bonds maturing in the years 2016 through 2025 shall not be subject to optional redemption and prepayment before maturity, but those maturing or subject to mandatory redemption pursuant to Section 2.01(b), in the year 2026 and in subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2025, 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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, New York, New York (“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, 2015. 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 proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each Bond, together with a certificate to be signed by the manual signature of the city clerk in substantially the form set forth in Section 2.11, but only if the opinion is not manually executed. The city clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

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 the agreement

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

currently on file in the office of the city clerk as Public Document No. 04-0219-02. 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:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(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 TOURISM TAX REVENUE BOND
SERIES 2014D

R-____

\$_____

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Interest Rate	Maturity Date February 1, _____	Date of Original Issue October __, 2014	CUSIP
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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, 2015. 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 \$2,150,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, and is issued pursuant to Minnesota Laws 1974, Chapter 130, 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, Ordinance No. 10318 and a resolution adopted by the governing body of the City on October 9, 2014 (the "Resolution"), for the purpose of providing funds necessary to provide the local match for a state grant for the acquisition, betterment and construction of works and systems to transport water from St. Louis River estuary to the Spirit Mountain Recreation Area, which obligations and interest thereon are payable from certain tourism taxes as set

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

forth in the Resolution to which reference is made for a full statement of rights and powers therein conferred.

The Bonds maturing in the years 2026, 2029, 2031, 2033 and 2035 shall be subject to mandatory redemption and redeemed in installments as provided in the Resolution, at par plus accrued interest to the date of redemption.

The Bonds of this series maturing in the years 2016 through 2025 are not subject to redemption before maturity, but those maturing, or subject to mandatory redemption, in the year 2026 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2025, 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.

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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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
10/___/2014

Registered Owner
Cede & Co.
c/o The Depository Trust Company
570 Washington Blvd.
Jersey City, NJ 07310
Federal Taxpayer I.D. No.:
13-2555119

Signature of Bond
Registrar

ASSIGNMENT

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 account titled "2014 Spirit Mountain Project Account" within the Spirit Mountain Capital Improvement Fund to which there shall be

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

credited the proceeds of the Bonds in the amount of \$2,100,000, together with any additional funds, including monies from the Grant, 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. An additional \$28,000 shall be credited to such account 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, including the Project, 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, including the Project, 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, including the Project.

3.03 A separate debt service account is hereby created and designated as the "2014 Spirit Mountain 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) \$4,274.54 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 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 2014 Spirit Mountain Project 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 such debt service account (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 such debt service account 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").

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(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 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Bonds, the following schedule will be met: (i) at least 15% of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (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 Bonds, and that 100% of the available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

(b) The City shall comply with all federal rebate requirements which may apply if a spending exception test is not met.

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 Note, Series 2014B (the “Notes”), General Obligation Capital Improvement Bonds, Series 2014E (the “Series 2014E Bonds”) and General Obligation Improvement Refunding Bonds, Series 2014F (the “Series 2014F Bonds”). As the Notes, the Series 2014E Bonds and the Series 2014F Bonds will not be paid from substantially the same source of funds, they are not an “issue” with the Bonds under Treasury Regulations Section 1.150-1(c).

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 the certificate currently on file in the office of the city clerk as Public Document No. 14-1009-02.

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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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.

Resolution 14-0521 was unanimously adopted.

Approved October 9, 2014

DON NESS, Mayor

- - -

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 2014 through 2018 (the "Plan").

(b) The City Council held a public hearing on the proposed Plan on December 9, 2013, and approved the Plan on December 16, 2013.

1.03 (a) On January 13, 2014, the City Council held a public hearing on the issuance of bonds in an amount not to exceed \$1,850,000 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 window replacements, energy conservation measures, furnace/boiler replacements, masonry repair, overhead door replacements and roof replacements; ventilation for 40th and 42nd Avenue West toolhouses; modernization/remodeling for City Hall; tuckpoint/repair steps - City Hall; desktop re-cabling - City Hall; generator - City Hall; Firehall improvements, including Firehall #1 driveway, Firehall #7 brick repair, Firehall overhead doors, Firehall access approaches and Firehall ventilation (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 January 13, 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 \$1,850,000 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 December 20, 2013.

(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 \$1,115,000 General Obligation Capital Improvement Bonds, Series 2014E, 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 \$8,719,784.48, which is an amount equal to 0.16% of estimated market value of property in the City for taxes payable in 2014.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(g) Public Financial Management, Inc., financial consultant 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 Hutchinson, Shockey, Erley & Co. of Chicago, Illinois (the "Purchaser"), to purchase the Bonds at a cash price of \$1,123,073.20, 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. Upon receipt of the good faith deposit, 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. In the event the Purchaser fails to provide the good faith deposit in accordance with the Official Terms of Offering, the mayor shall reject the Purchaser's bid and may award the sale of the Bonds to the bidder with the next best bid, or if such next best bidder fails to enter into a contract for sale of the Bonds and fails to satisfy such deposit requirements, the mayor is authorized to schedule a sale of the Bonds in substantial conformance with the Official Terms of Offering. All actions of the mayor and the clerk and Public Financial Management, Inc., independent financial 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:

Year	Amount	Interest Rate
2016	\$ 95,000	2.000%
2017	105,000	2.000%
2018	105,000	2.000%
2019	110,000	2.000%
2020	110,000	2.000%
2021	115,000	2.000%
2022	115,000	2.000%
2023	115,000	2.250%
2024	120,000	2.375%
2025	125,000	2.500%

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, 2015. 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 the agreement currently on file in the office of the city clerk as Public Document No. 04-0219-02. 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 2014E

R-__ \$_____

Rate	Maturity	Date of Original Issue	CUSIP
%	February 1, ____	October __, 2014	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: DOLLARS

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, 2015. 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 \$1,115,000, 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 2014 through 2018 (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 9, 2014 (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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Date 10/___/2014	Registered Owner Cede & Co. c/o The Depository Trust Company 570 Washington Blvd. Jersey City, NJ 07310 Federal Taxpayer I.D. No.: 13- 2555119	Signature of Bond Registrar _____
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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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 2014 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 “2014 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 \$73.20, 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:

Levy Year	Collection Year	Tax Levy
2014	2015	\$130,877
2015	2016	\$133,101
2016	2017	\$130,896
2017	2018	\$133,941
2018	2019	\$131,631
2019	2020	\$134,571
2020	2021	\$132,156
2021	2022	\$129,741
2022	2023	\$132,274
2023	2024	\$134,532

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 2014B (the “Notes”), General Obligation Tourism Tax Revenue Bonds, Series 2014D (the “Series 2014D Bonds”) and General Obligation Improvement Refunding Bonds, Series 2014F (the “Series 2014F 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 2014D Bonds and the Series 2014F 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 the certificate currently on file in the office of the city clerk as Public Document No. 14-1009-02.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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.

Resolution 14-0522 was unanimously adopted.

Approved October 9, 2014

DON NESS, Mayor

- - -

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 Pursuant to Chapter 475 of Minnesota Statutes and the home rule charter of the City, the City previously issued \$2,275,000 General Obligation Improvement Bonds, Series 2005C, dated June 1, 2005 (the "2005 Bonds"), for the purpose of financing local public improvements.

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 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 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 \$865,000 General Obligation Improvement Refunding Bonds, Series 2014F (the "Bonds"), to refund the outstanding 2005 Bonds maturing on and after February 1, 2015, of which \$1,145,000 in principal amount is outstanding (the "Refunded Bonds"), in order to reduce debt service cost to the City. The 2005 Bonds maturing on and after February 1, 2014, are subject to prepayment and redemption and are called for prepayment and redemption on November 10, 2014 (November 10, 2014 is herein referred to as the "Redemption Date").

1.04 Public Financial Management, Inc., financial consultant 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.

1.05 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 Hutchinson, Shockey, Erley & Co. of Chicago, Illinois (the "Purchaser"), to purchase the Bonds at a cash price of \$881,267.00, 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 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:

Year	Amount	Interest Rate
2016	\$160,000	1.50%
2017	170,000	1.50%
2018	175,000	1.50%
2019	180,000	1.75%
2020	180,000	2.00%

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 herein referred to as an "Interest Payment Date") commencing on August 1, 2015. 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 the agreement currently on file in the office of the city clerk as Public Document No. 04-0219-02. 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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
GENERAL OBLIGATION IMPROVEMENT REFUNDING BOND, SERIES 2014F

R-__ \$_____

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Interest Rate	Maturity Date February 1, ____	Date of Original Issue October __, 2014	CUSIP
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REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: DOLLARS

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, 2015. 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 \$865,000, 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, Section 475.67, Subdivisions 1 through 4 and all other laws thereunto enabling; and (ii) an authorizing resolution adopted by the governing body of the City on October 9, 2014 (the "Resolution"), for the purpose of providing money to refund, on a current refunding basis, the outstanding principal amount of the City's General Obligation Improvement Bonds, Series 2005C, dated June 1, 2005. The Bonds and interest thereon will be payable primarily from special assessments levied against property specially

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

benefitted by local public improvements and the balance, if any, from annual ad valorem taxes, as described in the Resolution.

The Bonds are not subject to optional 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 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: _____

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 10/___/2014	Registered Owner Cede & Co. c/o The Depository Trust Company 55 Water Street New York, NY 10041 Federal Taxpayer I.D. No.: 13-2555119	Signature of Bond Registrar _____
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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 _____

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 to 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) 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 2014F 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 Redemption Date, in the debt service account created in the City's resolution authorizing the issuance and sale of the 2005 Bonds (Resolution No. 05-0362) (the "Prior Resolution") after payment of principal and interest on the Refunded Bonds on the Redemption Date; (ii) all unpaid special assessments levied for the projects listed in Section 1.01 of the Prior

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Resolution; (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 \$1,672.00; (vii) all taxes pledged to repayment of the Refunded Bonds in the Prior Resolution hereafter collected pursuant to levies made in the Prior Resolution; 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 4.04 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 475.61, Subdivision 4 of the Act.

(b) If any payment of principal or interest on the Bonds shall become due when there is not sufficient money in the Debt Service Fund to pay the same, the City treasurer shall pay such principal or interest from other available funds of the City, and such other funds shall be reimbursed for such advances out of the proceeds of the special assessments or taxes levied by this resolution, when collected.

(c) The construction fund created for the 2005 Bonds have previously been terminated and all bond proceeds therein have been expended.

4.02 The proceeds of the Bonds in the amount of \$857,595 are hereby irrevocably appropriated and allocated to the 2005 Improvement Bond Account (the "Prior Debt Service Fund") within the Special Assessment Debt Service Fund created in the Prior Resolution, such amount together with available funds therein shall be used solely to redeem the Refunded Bonds on the Redemption Date. Upon redemption of the Refunded Bonds on the Redemption Date, the Prior Debt Service Fund shall be terminated, and all monies remaining therein not required to refund the Refunded Bonds shall be transferred to the Debt Service Fund. All ad valorem taxes levied and special assessments under the Prior Resolution and collected after the Redemption Date shall be deposited in the Debt Service Fund.

4.03 The City Council hereby declares that it has assessed against benefitted property not less than 20% of the cost of the projects financed by the 2005 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 benefitted property.

4.04 (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. It is estimated that the special assessments levied and appropriated to the 2005 Improvement Bond Account and now appropriated to the Debt Service Fund will be received at the times and amounts not less than 5% in excess of the amounts needed to meet when due the principal and interest on the Bonds; however, there is hereby levied as additional security for the Bonds, 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:

Levy Year	Collection Year	Tax Levy
2014	2015	\$186,844
2015	2016	191,022
2016	2017	193,594
2017	2018	196,088

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Levy Year	Collection Year	Tax Levy
2018	2019	192,780

Said levies are such that if collected in full they will produce at least 5% in excess of the amount needed to meet when due the principal and interest on the Bonds.

(b) As such tax levies are additional security for payment of principal and interest on the Bonds, such 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 (i) anticipated special assessments to be collected in the next following calendar year, or (ii) 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.

(c) 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.

4.04 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 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.

4.05 It is hereby determined that upon the receipt of the proceeds of the Bonds for payment of the Refunded Bonds that an irrevocable appropriation to the Prior Debt Service Fund shall have been made within the meaning of Section 475.61, Subdivision 3 of the Act and the County Auditor is hereby authorized and directed to certify such fact and cancel any and all tax levies made by the Prior Resolution.

Section 5. Refunding; findings; redemption of Refunded Bonds.

5.01 (a) It is hereby found and determined, based upon information presently available from the City's financial advisers, that as of the date of issuance of the Bonds, the issuance of the Bonds and the refunding of the Refunded Bonds are consistent with the covenants in the Prior Resolution, the issuance of the Bonds will result in a reduction of debt service cost to the City.

(b) It is hereby found and determined that the Proceeds of the Bonds, as set forth in Section 4.02 (\$857,595) and funds available and appropriated to the Prior Debt Service Fund (\$300,000) will be sufficient to pay the principal (\$1,145,000) of and interest (\$12,595) on the Refunded Bonds on the Redemption Date.

5.02 The Refunded Bonds shall be redeemed and prepaid in accordance with their terms and in accordance with the terms and conditions set forth in the form of notice of call for redemption on file in the office of the clerk as Public Document No. 14-1009-03, which terms and conditions are hereby approved and incorporated herein by reference. The clerk is hereby authorized and directed to send or cause to be sent written notice of the call for redemption to the paying agent or bond registrar, as the case may be, and bond insurance company (if any), for the Refunded Bonds.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

5.03 The City auditor is authorized and directed to cause to be provided a material event notice regarding the refunding of the Refunded Bonds in accordance with the continuing disclosure certificate of the City dated June 1, 2005, and delivered in connection with the 2005 Bonds.

5.04 When the principal of the Refunded Bonds and all interest thereon have been discharged as provided in this section, all pledges, covenants and other rights granted by this Resolution to the holders of the Refunded Bonds shall cease, except that the pledge of the full faith and credit of the City for the prompt and full payment of the principal and interest on the Refunded Bonds shall remain in full force and effect. The City may discharge all the Refunded Bonds which are due on any date by depositing with the Bond Registrar on or before that date a sum sufficient for the payment thereof in full of the Refunded Bonds on the Redemption Date. If any Refunded Bond should not be paid when due, it may nevertheless be discharged by depositing with the Bond Registrar a sum sufficient for the payment thereof in full with interest accrued to the Redemption Date.

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 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 mayor and 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 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.

Section 7. Tax covenants.

7.01 The City 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 exempt from 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.

7.02 (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 (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Bonds or \$100,000. 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 or minor portion made available under the federal arbitrage regulations.

(b) 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.

7.03 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 2014B (the "Notes"), General Obligation Tourism Tax Revenue Bonds, Series 2014D (the "Series 2014D Bonds") and General Obligation Capital Improvement Bonds, Series 2014E (the "Series 2014E Bonds"). The Bonds will not be paid out of substantially the same source of funds as the Note, the Series 2014D Bonds or the Series 2014E Bonds; consequently, the Bonds will not be combined with any of such obligations as a single issue.

7.04 (a) The City covenants and certifies to and for the benefit of the owners of the Bonds that no use will be made of the proceeds of the Bonds, which will cause the Bonds to be arbitrage bonds within the meaning of Section 148(a) of the Code and the Treasury Regulations promulgated thereunder.

(b) The proceeds of the Refunded Bonds have been totally expended for the governmental purpose for which they were issued; the gross proceeds of the Bonds will be totally expended for the purpose of refunding the outstanding principal amount of the Refunded Bonds and interest thereon and paying the costs of issuance of the Bonds within six months of the date of issuance of the Bonds. Therefore, no rebate of arbitrage profit is required under the Code pursuant to Section 148(f)(4)(B) of the Code under Regulation Section 1.148-9(h).

Section 8. 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 the certificate currently on file in the office of the city clerk as Public Document No. 14-1009-02.

Resolution 14-0523 was unanimously adopted.

Approved October 9, 2014

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

DON NESS, Mayor

- - -

The meeting was adjourned at 5:25 p.m.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, October 13, 2014, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

14-1013-01 George Hovland appeal of the planning commission denial of three variances from the Skyline Parkway overlay of Section 50-18.4 (14-0517R and 14-0518R). -- Committee 2 (planning and economic development)

14-1013-24 The following communications regarding the proposed reduction of the Denfeld resident permit parking zone (14-0541R): (a) John and Diane Montgomery; (b) Jennie Olesiak; (c) Lee and Jackie Sengthao; (d) Lars White; (e) Collin Zimmerman; (f) Randi Zimmerman. -- Received

14-1013-25 The following communications regarding the proposed allocation of \$250,000 to the Spirit Mountain recreation area (14-0542R): (a) Amy and Chris Carlson; (b) Jim Gearn; (c) Jim Hill; (d) Liz Nelson; (e) Richard Paulson; (f) Dave Plude; (g) Mary Kate Wheeler. -- Received

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REPORTS FROM OTHER OFFICERS

14-1013-02 Clerk application for exempt permit to the Minnesota gambling control board from A Race Worth Winning - ALS on January 31, 2015 (raffle). -- Received

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REPORTS OF BOARDS AND COMMISSIONS

14-1013-03 Alcohol, gambling and tobacco commission minutes of: (a) July 2; (b) August 6, 2014, meetings. -- Received

14-1013-04 Duluth economic development authority minutes of August 27, 2014, meeting. -- Received

14-1013-05 Duluth parking commission minutes of: (a) May 16; (b) June 13; (c) July 11, 2014, meetings. -- Received

14-1013-06 Duluth public utilities commission minutes of: (a) May 20; (b) June 17, 2014, meetings. -- Received

14-1013-07 Duluth transit authority: (a) June 2014 financial statement; (b) Minutes of June 25, 2014, meeting; (c) July 2014 financial statement. -- Received

14-1013-08 Housing and redevelopment authority of Duluth minutes of: (a) June 24; (b) July 29; (c) August 26, 2014, meetings. -- Received

14-1013-09 Library board minutes of August 26, 2014, meeting. -- Received

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At this time, 7:02 p.m., the public hearing regarding the proposed Denfeld resident permit parking zone reduction began.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Dave Ruger, Colin Zimmerman, Dan Williams and Diane Andresen opposed changes to the Denfeld resident permit parking zone for reasons of: concerns over which streets remained in the zone and that parking would now be concentrated on those streets; requested the council consider eliminating the zone completely; the zone is too large and the zone should be eliminated.

At this time, 7:09 p.m., the public hearing was closed and the regular order of business was resumed.

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

RESOLVED, that the proper city officials are hereby authorized to amend Agreement C22263 with Gausman & Moore for design changes to the First Floor City Hall remodel design, an increase of \$7,500, and a total contract amount not to exceed \$31,500, payable from Capital Improvements 450, Finance 030, Buildings and Structures 5520, Project: CP2013-1308b-2013 capital projects, City Hall modernization/remodel.

Resolution 14-0505 was unanimously adopted.

Approved October 13, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to amend Contract C22296 with Amendola Builders for Firehall Station No. 7, an increase in the amount of \$20,539, and a total contract amount not to exceed \$81,681, payable from Capital Improvements 450, Finance 030, Buildings and Structures 5520, projects as follows: CP2013-1303B bldgs citywide energy measures \$14,185; CP2013-1311B fire dept-firehall #10 and 6 remod \$6,354.

Resolution 14-0506 was unanimously adopted.

Approved October 13, 2014

DON NESS, Mayor

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RESOLVED, that the city council of the city of Duluth hereby approves the issuance of two off sale 3.2 percent malt liquor licenses for the period ending April 30, 2015, to Kwik Trip, Inc., for Kwik Trip #218, 4215 Grand Avenue, and Kwik Trip #224, 2715 West Michigan Street, subject to departmental approvals and the payment of sales and property taxes, as set forth in the Duluth City Code.

Resolution 14-0525 was unanimously adopted.

Approved October 13, 2014

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the issuance of a microdistillery cocktail room license and Sunday license for the period ending August 31, 2015, subject to departmental approvals and the payment of sales and property taxes, as set forth in the Duluth City Code:

Vikre Distillery, LLC (Vikre Distillery), 525 Lake Avenue South, Suite 102.

Resolution 14-0526 was unanimously adopted.

Approved October 13, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized and directed to execute an agreement between the city of Duluth and Granicus, Inc., for the purchase of boards and commissions management, agenda management and meeting efficiency software and professional services, substantially the same as that on file in the office of the city clerk as Public Document No. 14-1013-10, in an amount not to exceed \$17,000 in capital costs, to be paid from Fund 250-015-2010-5580 Project CE250-E1004 (capital equipment, public administration, Fiscal Year 2010) and Fund 250-015-2013-5580 Project CE250-E1301 (capital equipment, public administration, Fiscal Year 2013), and an amount not to exceed \$1,850 in monthly maintenance costs, to be paid from Fund 110-110-1101-5414 (general, legislative and executive, city council, software licenses and maintenance), for a term of 18 months.

Resolution 14-0528 was unanimously adopted.

Approved October 13, 2014

DON NESS, Mayor

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BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On August 6, 2014, the alcohol, gambling and tobacco commission ("AGT commission") recommended approval of the renewal of the on sale intoxicating liquor license, on sale Sunday license, and 2:00 a.m. closing license of North Pole Bar, Inc. (North Pole Bar), 5606 Raleigh Street, for the period ending August 31, 2015 ("liquor licenses");

(b) On August 18, 2014, the Duluth City Council approved the renewal of the North Pole Bar, Inc., liquor licenses subject to departmental approvals and payment of sales and property taxes, as provided in the Duluth City Code;

(c) On September 3, 2014, and September 24, 2014, the city notified North Pole Bar, Inc., that the liquor licenses would not be issued due to delinquent sales tax filings and unpaid property taxes, as provided in the Duluth City Code;

(d) As of October 1, 2014, North Pole Bar, Inc., remains delinquent on sales tax filings and property taxes owed;

(e) At their meeting on October 1, 2014, the AGT commission reconsidered their recommendation of approval for the liquor licenses of North Pole Bar, Inc., and approved a motion reversing their prior recommendation to approve and now recommend denial of the license application;

(f) The city council has considered the record set forth herein.

THEREFORE, BE IT FURTHER RESOLVED, that, based upon the failure of the applicant to satisfy all conditions necessary to be eligible for the licenses applied for, and based upon the recommendation of the alcohol, gambling and tobacco commission, the Duluth City Council hereby reverses its conditional approval of the renewal of the on-sale intoxicating

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

liquor license, on sale Sunday license, and 2:00 a.m. closing license of North Pole Bar, Inc. (North Pole Bar), 5606 Raleigh Street, for the period ending August 31, 2015, and denies the application for license renewal.

Resolution 14-0530 was unanimously adopted.

Approved October 13, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of housing inspector leadworker, which were approved by the civil service board on October 7, 2014, and which are filed with the city clerk as Public Document No. 14-1013-11, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 32, \$4,231 to \$4,987 per month.

Resolution 14-0532 was unanimously adopted.

Approved October 13, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of engineering technician, which were approved by the civil service board on December 10, 2013, and which are filed with the city clerk as Public Document No. 14-1013-12, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 28, \$3,613 to \$4,231 per month.

Resolution 14-0533 was unanimously adopted.

Approved October 13, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of senior engineering technician, which were approved by the civil service board on December 10, 2013, and which are filed with the city clerk as Public Document No. 14-1013-13, 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, \$4,059 to \$4,784 per month.

Resolution 14-0534 was unanimously adopted.

Approved October 13, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of utility maintenance worker, which were approved by the civil service board on October 7, 2014, and which are filed with the city clerk as Public Document No. 14-1013-14, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 23, \$2,971 to \$3,468 per month.

Resolution 14-0535 was unanimously adopted.

Approved October 13, 2014

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- - -

RESOLVED, that the city of Duluth approves the reconveyance of 25 tax forfeited parcels conveyed by conditional use deed to the city and located within the city of Duluth to the state of Minnesota. Parcels to be reconveyed include the following described parcels:

010-1850-01065	010-1620-00290	010-2690-01190
010-2730-01160	010-2690-01530	010-2230-06980
010-2010-04855	010-2230-07000	010-2230-06990
010-3740-00130	010-2230-07470	010-3740-00110
010-3740-00120	010-3740-00090	010-3740-00100
010-0890-01720	010-3740-00080	010-0890-02080
010-0890-02070	010-0890-06510	010-0890-02340
010-0890-06490	010-0890-06500	010-1370-06310
010-0890-06480	010-1370-06330	010-1370-06320
010-1370-06350	010-1370-06340	

Resolution 14-0510 was unanimously adopted.

Approved October 13, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a brownfield hazardous materials and petroleum contamination assessment grant from the U.S. environmental protection agency (EPA), Region 5 in the amount of \$400,000 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. BF-00E01360-0 substantially in the form of that on file in the office of the city clerk as Public Document No. 14-1013-15, with the EPA in connection with the above grant.

Resolution 14-0527 was unanimously adopted.

Approved October 13, 2014

DON NESS, Mayor

- - -

RESOLVED, that pursuant to the provisions of Minnesota Statutes, Section 414.0325, the board of supervisors of the township of Rice Lake (the "township") and the city council of the city of Duluth 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, a copy of which is on file in the office of the city clerk as Public Document No. 14-1013-16, to be appropriate for orderly annexation.

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.

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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 14-0504 was unanimously adopted.

Approved October 13, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are hereby authorized to execute a two year temporary access and use agreement substantially in the form as filed with the city clerk as Public Document No. 14-1013-17 with the Minnesota department of natural resources (MnDNR) granting the MnDNR access across and on city property for the installation and maintenance of bank operated cableway near Mission Creek for a bedload and flow sampling, at no cost to the city or the MnDNR.

Resolution 14-0515 was unanimously adopted.

Approved October 13, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to pay State Farm Insurance (as subrogees: Donika and Thomas Hoppenyan) the sum of \$12,482.49 in full and final settlement of the claim which arose out of a vehicle accident occurring near 33 West Mulberry Street, January 30, 2014; payment to be made from Self Insurance Fund No. 610-036-1651-5842 (self-insurance - liability, insurance accounting, general city, damage/loss expense).

Resolution 14-0514 was unanimously adopted.

Approved October 13, 2014

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. 14-1013-18, with the Western Lake Superior Sanitary District, accepting the grant of an easement, in trust for the general public, over certain property in the vicinity of Polk Street and 55th Avenue West for the purpose of maintaining a municipal water hydrant.

Resolution 14-0508 was unanimously adopted.

Approved October 13, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement between the city of Duluth and the Minnesota Department of transportation (Mn/DOT), a copy of which is on file in the office of the city clerk as Public Document No. 14-1013-19, for the 2012 flood repairs of Bridge L6129 on MSAS 157 (Woodland Avenue) over Tischer Creek at an estimated cost of \$18,475.

Resolution 14-0512 was unanimously adopted.

Approved October 13, 2014

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Northland Constructors of Duluth, LLC, for the 2012 Flood repairs - concrete retaining wall repairs and rehabilitation of Bridge 91143 on Third Street at Chester Creek in the amount of \$744,602.90, payable out of Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1175, S.P. 118-126-020, Flood Site No. 537.

Resolution 14-0537 was unanimously adopted.

Approved October 13, 2014

DON NESS, Mayor

- - -

RESOLVED, that plans for State Project 6910-96 showing proposed alignments and geometrics for the construction, reconstruction or improvement of Trunk Highway No. 23 (Grand Avenue from Becks Road to Interstate 35) within the limits of the city as a state project have been prepared and presented to the city, and that said plans be in all things approved.

Resolution 14-0538 was unanimously adopted.

Approved October 13, 2014

DON NESS, Mayor

- - -

RESOLVED, that proper city officials are authorized to accept a grant from the Minnesota board of firefighter training and education and the fire service advisory committee in the amount of \$10,000, said funds to be deposited in Fund 210, Agency 030, Organization 3188, Revenue Source 4220-02 (special projects, finance, chemical assessment team fund, state of Minnesota), and committed for the purpose of supporting Duluth fire department chemical assessment team training.

Resolution 14-0478 was unanimously adopted.

Approved October 13, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute a memorandum of agreement with the United States department of justice, bureau of alcohol, tobacco, firearms and explosives ("ATF"), providing for participation by the city of Duluth in the ATF task force; said memorandum to be substantially in the form of that on file in the office of the city clerk as Public Document No. 14-1013-23.

Resolution 14-0502 was unanimously adopted.

Approved October 13, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a grant from the state of Minnesota, department of public safety, in the amount of \$326,281.86 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, and grant management and administration, and to execute a grant agreement substantially the same as that on file in the office of the city clerk as Public Document No. 14-1013-20, funds to be deposited in Fund No. 215-200-2209-4210-02 (Duluth police grant programs, police, 2015 TZD grant, pass thru federal grants operating).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Resolution 14-0509 was unanimously adopted.
Approved October 13, 2014
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a three year use agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 14-1013-21, with Duluth Amateur Hockey Association (DAHA) for the use of the city's outdoor hockey properties and adjoining property, various fixtures and personal property.

Resolution 14-0540 was unanimously adopted.
Approved October 13, 2014
DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 14-0542, authorizing city officials to allocate \$250,000 from the tourism tax fund balance to the Spirit Mountain recreation area, was introduced by Councilor Julsrud.

Councilor Fosle expressed concerns that: tourism tax dollars have already been allocated to Spirit Mountain; Spirit Mountain already has a revolving line of credit; municipalities need to review what core services they provide and nepotism is occurring at Spirit Mountain.

Resolution 14-0542 was adopted as follows:

RESOLVED, that the proper city officials are authorized to allocate \$250,000 from Fund 258, the tourism tax undesignated fund balance to the Spirit Mountain recreation area for operational support.

Resolution 14-0542 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1
Approved October 13, 2014
DON NESS, Mayor

- - -

Resolution 14-0541, reducing the size of the Denfeld High School resident permit parking zone by one block on the north, one block on the east and by a one-half block area on 46th Avenue West south of Fourth Street, was introduced by Councilor Fosle for discussion.

Councilor Fosle moved to amend the title and last paragraph of the resolution to delete the language "and by a one-half block area on 46th Avenue West south of Fourth Street," which motion was seconded and unanimously carried.

Resolution 14-0541, as amended, was adopted as follows:

THE CITY COUNCIL FINDS:

(a) That Resolution 01-0704, as amended, adopted by the city council, designated portions of certain streets in the vicinity of Denfeld High School ("DHS") as a resident permit parking zone pursuant to Section 33-125 of the Duluth City Code, 1959, as amended; and

(b) On June 30, 2014, the city parking division held a community forum attended by residents in the DHS resident permit parking zone and other stakeholders to discuss

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

eliminating or changing the boundaries of the DHS resident permit parking zone. A consensus was reached that the DHS resident permit parking zone should be maintained, but the overall size of the zone should be reduced; and

(c) A public hearing was held on October 13, 2014. After review of this matter, the city council has determined that reducing the size of the DHS resident permit parking zone is appropriate.

RESOLVED, that Resolution 01-0704, as amended, be amended by reducing the DHS resident permit parking zone by one block on the north and one block on the east, as manifested by the map on file in the office of the city clerk as Public Document No. 14-1013-22. This resolution shall take effect on September 1, 2015.

Resolution 14-0541, as amended, was unanimously adopted.

Approved October 13, 2014

DON NESS, Mayor

- - -

Resolutions 14-0517 and 14-0518, affirming and reversing, respectively, the decision of the planning commission to deny the application for three variances by George Hovland from the Skyline Parkway overlay of Section 50-18.4 of the Duluth City Code, were introduced by Councilor Russ.

Councilor Filipovich moved to table Resolution 14-0517, which motion was seconded and unanimously carried.

Councilor Gardner moved to table Resolution 14-0518, which motion was seconded and unanimously carried.

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

INTRODUCED BY COUNCILOR GARDNER

14-063 - AN ORDINANCE AMENDING CHAPTER 13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CIVIL SERVICE, ADDING EXPANDED CERTIFICATION FROM UNDERREPRESENTED GROUPS.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR RUSS

14-060 (10327) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RR-1 TO MU-C FOR THE PROPERTY LOCATED AT 4602 ARROWHEAD ROAD (HUNTERS PARK CONGREGATION OF JEHOVAH'S WITNESSES, INC).

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

- - -

INTRODUCED BY COUNCILOR RUSS

14-061 (10328) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO MU-N FOR THE PROPERTY LOCATED AT 4121 AND 4127 GRAND AVENUE (SUPERIOR CHOICE CREDIT UNION).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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

- - -

INTRODUCED BY COUNCILOR RUSS

14-062 (10329) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING CHANGES TO THE PERMITTED USE TABLE AND USE SPECIFIC STANDARDS.

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

- - -

The meeting was adjourned at 7:46 p.m.

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

- - -

ORDINANCE NO. 10327

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RR-1 TO MU-C FOR THE PROPERTY LOCATED AT 4602 ARROWHEAD ROAD (HUNTERS PARK CONGREGATION OF JEHOVAH'S WITNESSES, INC).

The city of Duluth does ordain:

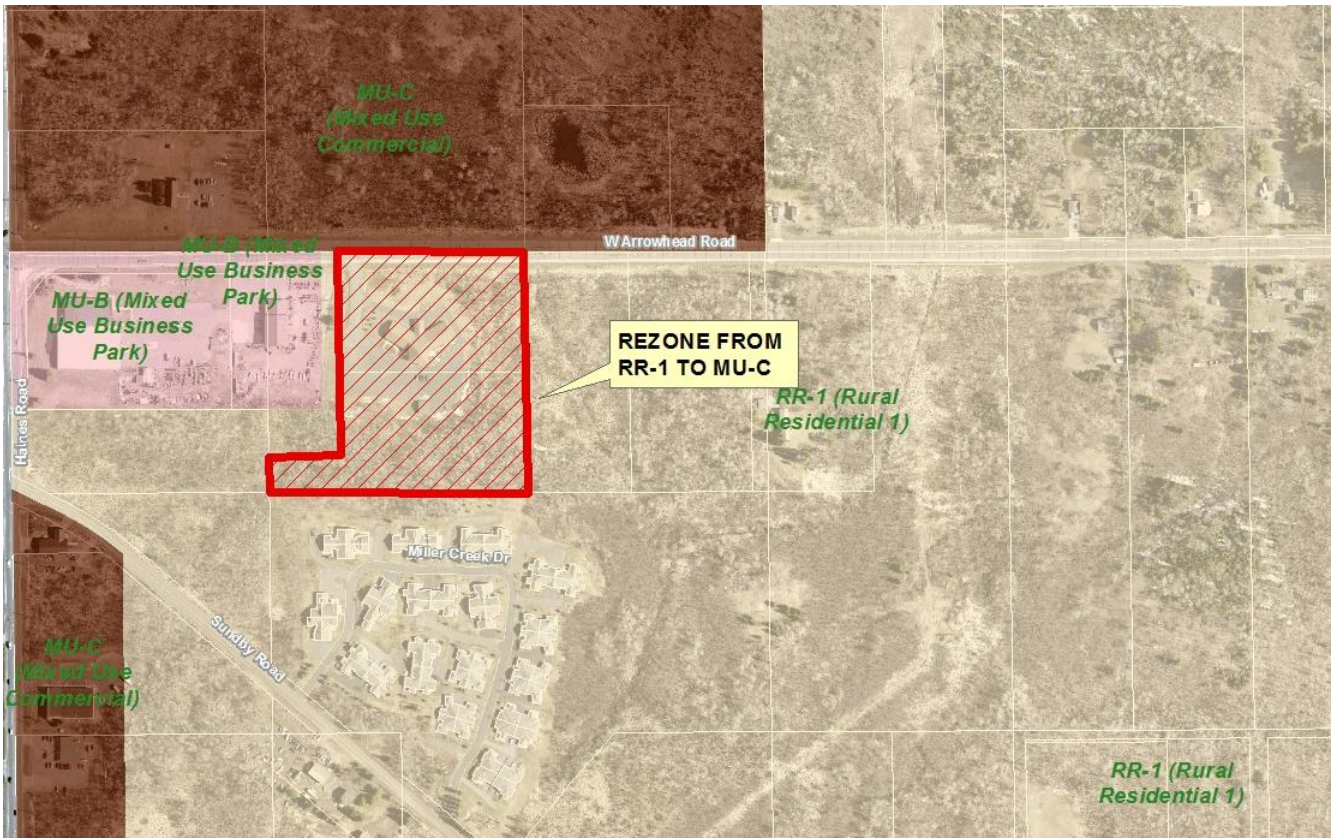
Section 1. That the approximately eight acres of the subject property of parcels 010-2710-00440 and 010-2710-0445 located at 4602 Arrowhead Road and as more particularly described by the following:

THE N 1/2 of NE 1/4 of NW 1/4 of NW 1/4 EXCLUDING THE WESTERLY 192 FEET, AND

THE S 1/2 OF NE 1/4 OF NW 1/4 OF NW 1/4 EXCLUDING THE WESTERLY 192 FEET LYING N OF SLY 100 OF SECTION 18 TOWNSHIP 15 RANGE 14;
be reclassified from RR-1 to MU-C.

Section 2. 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:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014



(Ref. File No. 14-118)

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: November 15, 2014)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed October 13, 2014
Approved October 13, 2014
DON NESS, Mayor

ORDINANCE NO. 10328

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO MU-N FOR THE PROPERTY LOCATED AT 4121 AND 4127 GRAND AVENUE (SUPERIOR CHOICE CREDIT UNION).

The city of Duluth does ordain:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Section 1. That the approximately 16,500 square feet of the subject property of parcels 010-0480-00420 and 010-0480-0400 located at 4121 and 4127 Grand Avenue and as more particularly described by the following:

Lots 26 to 30 of Block 3, Chandler Park Addition to Duluth;
be reclassified from R-1 to MU-N.

Section 2. 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. 14-119)

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: November 15, 2014)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed October 13, 2014
Approved October 13, 2014
DON NESS, Mayor

- - -

ORDINANCE NO. 10329

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING CHANGES TO THE PERMITTED USE TABLE AND USE SPECIFIC STANDARDS.

The city of Duluth does ordain:

Section 1. That Section 50-19.8 of Chapter 50 is hereby amended as follows:

50-19.8 Permitted Use Table 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-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
RESIDENTIAL USES																									
Household Living																									
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 ²	P	P ²				P ¹	P													50-20.1.B
Dwelling, multi-family					P ²	P	P ²	P ¹	P ¹		P ¹	P	U	P	U	P	P	P	U	P	P				50-20.1.C
Dwelling, live-work							P ²	P ¹	P ¹		P ¹	P	P	P	P	P	P	P		P	P				
Manufactured home park				S	S ²	P	S ²																		50-20.1.F
Group Living																									
Co-housing facility				S	S ²	P	P ²					P													
Residential care facility/assisted living (6 or fewer)		P	P	P	P ²	P	P ²					P	U	P	U	P	P	U	U	P	P				50-20.1.D
Residential care facility/assisted living (7 or more)				S	P ²	P	P ²	P ¹	P ¹		P ¹	P	U	P	U	P	P	U	U	P	P				50-20.1.D
Rooming house					S ²		P ²	P ¹	P ¹		P ¹	P	U	P	U	P	P	U	U	P	P				50-20.1.E
PUBLIC, INSTITUTIONAL AND CIVIC USES																									
Community and Cultural Facilities																									
Bus or rail transit station							P ²	P ¹	P ¹	P	P ¹	P	P	P	P	P	P	P	P	P	P				
Cemetery or mausoleum	S	S	S	S	S ²	P	S ²	S	S	S														S	
Club or lodge (private)					S ²	P	P ²	P ¹	P ¹		P ¹	P	P	P	P	P	P	P	P	P	P			S	50-20.2.A
Government building or public safety facility		P	P	S	P ²	P	P ²	P ¹	P	P	P ¹	P	P	P	P	P	P	P	P	P	P	S	S	S	
Museum, library, or art gallery				S	S ²	P	P ²	P ¹		S	P ¹	P	P	P	P	P	P	P	P	P	P			S	
Park, playground, or forest reserve	P	P	P	P	P ²	P	P ²	P ¹	P ¹		P ¹	P	P	P	P	P	P	P	P	P	P			P	
Religious assembly, small (less than 50,000 sq. ft.)		P	P	S	P ²	P	P ²	P ¹	P ¹	S	P ¹	P	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 ²	P	P ²	P ¹	P ¹	S	P ¹	P	P	P	P	P	P	P	P	P	P				50-20.2.C

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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
Educational Facilities																									
Business, art, or vocational school							p ²	p ¹	p ¹	P	p ¹	P	P	P	P	P	P	P	P	P					
School, elementary		P	P	P	p ²	P	p ²	p ¹	p ¹			P	U	P	U	P	P	U	U	U					50-20.2.D
School, middle or high		S	S	S	S ²	P	S ²	S ¹	S ¹			P	U	P	U	P	P	U	U	U					50-20.2.D
University or college									p ¹			P			U	P	P	U	U	U					
Health Care Facilities																									
Hospital									p ¹																
Medical or dental clinic					S ²	P	p ²	p ¹	p ¹	P	p ¹	P	P	P	P	P	P	P	P	P					50-20.2.B
Nursing home					p ²	P	p ²	p ¹	p ¹		p ¹	P		P		P									
Other institutional support uses not listed in this table									p ¹																
COMMERCIAL USES																									
Agriculture and Animal-Related																									
Agriculture, general	P	P																							50-20.3.B
Agriculture, urban		P	P	P	p ²	P	p ²					P													
Kennel	S	S						S	S	P		P													
Riding stable	S	S	S			P					S													S	
Veterinarian or animal hospital	S	S			p ²	P	p ²	p ¹	p ¹	P	p ¹	P	P	P	P	P	P	P							50-02.3T
Food, Beverage, and Indoor Entertainment																									
Adult entertainment establishment																						P			50-20.3.A
Convention or event center								p ¹		P	p ¹	P				P	P		P	P	P				50-20.3.H
Indoor entertainment facility								p ¹		P	p ¹	P		P		P	P		P	P	P				
Restaurant (less than 5,000 sq. ft.)					S ²	S	S ²	p ¹	p ¹	P	p ¹	S	P	P	P	P	P	P	P	P	P				50-20.3.Q
Restaurant (5,000 sq. ft. or more)						S		p ¹	p ¹	P	p ¹	S	P	P	P	P	P	P	P	P	P				50-20.3.Q
Theater							S ²	p ¹			p ¹	P		P		P	P		P	P	P				

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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
Lodging																									
Hotel or motel							S ²	p ¹	p ¹	P	p ¹	P		P		P	P		P	P	P				
Bed and breakfast				S	P ²	P	P ²	p ¹	p ¹	P	p ¹	P		P		P		P						50-20.3.F	
Seasonal camp or cabin	P	P				P					p ¹												S	50-20.3.S	
Vacation dwelling unit		I	I	I	I ²	I	I ²										I							50-20.3.U	
Offices																									
Bank							S ²	p ¹	p ¹	P	S	P	P	P	P	P	P	P	P	P	P			50-20.3.E	
Office					S ²		P ²	p ¹	p ¹	P	p ¹	P	P	P	P	P	P	P	P	P	P			50-20.3.M	
Data center							S ²	p ¹	p ¹	P	S	P	U	U	U	U	U	U	U	U	U	P			
Outdoor Recreation & Entertainment																									
Golf course		S	S			P																	P		
Marina or yacht club											p ¹											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	
Personal Services																									
Business park support activities										P	P														
Preschool		S	S	S	P ²	P	P ²	p ¹	p ¹		p ¹	P	P	P	P	P	P	P	S	P	S				
Day care facility, small (14 or fewer)	P	P	P	P	P ²	P	P ²	p ¹	p ¹		p ¹	P	P	P	P	P	P	P	P	P	P			50-20.3.I	
Day care facility, large (15 or more)		S	S	S	S ²	P	P ²	p ¹	p ¹		p ¹	P	P	P	P	P	P	P	S	P	S			50-20.3.I	
Funeral home or crematorium					S ²		S ²	p ¹	p ¹	P		P		P		P		P				P			
Mini-storage facility		S								P												P	P	50-20.3.L	
Personal service and repair, small (less than 10,000 sq. ft.)						P	P ²	p ¹	p ¹	P	p ¹	P	P	P	P	P	P	P	P	P	P				
Personal service and repair, large (10,000 sq. ft. or more)							S ²	p ¹	p ¹	P	p ¹	P		P		P		P		P		P			
Retail Sales																									

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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			
Adult book store																									P			Chapter 5
Building materials sales								S		P	P																	50-20.3.G
Garden material sales		S						p ¹			P					P												
Grocery store, small (less than 15,000 sq ft)						P	p ²	p ¹			p ¹	P		P		P	P	P	P	P								50-20.3.K
Grocery store, large (15,000 sq ft or more)								p ¹				P																50-20.3.K
Retail store not listed, small (less than 15,000 sq ft)					S ²	P	p ²	p ¹	p ¹		p ¹	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 ¹			p ¹	P		P		P	P		P	P								50-20.3.R
Vehicle-Related																												
Automobile and light vehicle repair and service							S ²	p ¹		P		P		P		P	P	P							P			50-20.3.C
Automobile and light vehicle sales, rental, or storage								p ¹		P															P			50-20.3.D
Filling station					S ²	P	S ²	p ¹		P	p ¹	P		P		P	P							P	P		50-20.3.J	
Parking lot or parking structure (primary use)								p ¹	p ¹	P	p ¹	P	S	S	S	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				
INDUSTRIAL USES																												
Industrial Service																												
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 ¹	P		P												P	P			
Industrial services										P														P	P			
Manufacturing and Mining																												
Manufacturing, light									p ¹	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			

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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
Transportation-Related																									
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		
Utilities																									
Electric power or heat generation plant																						P	P		
Electric power transmission line or substation	S	S	S	S	S ²	P	S ²	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 ²	P	S ²	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 ²	P	S ²	S	S	S	S	P	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
Waste and Salvage																									
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
Wholesale Distribution and Storage																									
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		
ACCESSORY USES																									
Accessory agriculture roadside stand	A	A																					A		50-20.5.A

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 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	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	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		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			
TEMPORARY USES																															
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	<u>50-20-6.A</u>				
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	<u>50-20-6.B</u>				
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						<u>50-20.6.C</u>			
Temporary real estate sales office				A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A							<u>50-20-6.D</u>			
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					
FORM DISTRICT BUILDING TYPES																															
Main Street Building I													P	P																	
Main Street Building II															P	P	P	P													
Main Street Building III																						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
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				

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Section 2. That Section 50-20.3 of Chapter 50 is hereby amended as follows:
50-20.3. Commercial uses.

B. Adult entertainment establishment.

All adult entertainment establishments shall comply with MSA 617.242 and Chapter 5 of this Code;

C. Agriculture, general.

1. 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;
2. 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;

D. Automobile and light vehicle repair and service.

1. No displays or storage of merchandise, parts or refuse may be located closer than 20 feet from any public right-of-way;
2. A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district;
3. 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;

E. 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;

F. Bank.

1. When in the MU-N district, the following standards apply:
 - (a) The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;
 - (b) 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;
 - (c) 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;
 - (d) 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;
 - (e) Banks are limited to no more than two drive-through windows and one drive-through lane for ATM services on the premises;
2. 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.;
3. 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;
4. Drive-through lanes shall allow for stacking space for three cars;

G. Bed and breakfast.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

This is a primary use of land, and the owner need not reside in the use. The use shall:

1. Have no more than 12 habitable units;
2. 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;
3. 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;
4. Be located on a lot or tract containing a minimum of 0.6 acre;
5. Contain a minimum of 1,500 square feet of area on the first floor of the main building;
6. 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;
7. Shall not have signage exceeding 12 square feet in size, and any signage shall complement the architecture of the structure;
8. Shall limit each guest stay to a maximum of 21 consecutive days;

H. Building materials sales.

1. Outdoor storage is limited to ten percent of the parcel's land area, and shall not be permitted in any required front yard area;
2. 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;
3. A landscaped earth berm may be used instead or in combination with a required fence or wall;

I. Convention or event centers.

1. 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;

J. Day care facility, small and large.

1. 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;

K. Filling station.

1. No displays or storage of merchandise, parts or refuse may be located closer than ten feet from any public right-of-way;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

2. A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district;

L. Grocery stores, small and large.

1. Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas;
2. Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock;

M. Mini-storage facility.

This use shall comply with the following standards:

1. The use shall be contained within an enclosed building or buildings;
2. 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;
3. The use shall be designed so that doors to individual storage units do not face any abutting street frontage;
4. 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;
5. 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.;
6. 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;
7. 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;
8. In the R districts a dense urban screen shall be installed along all side and rear property lines;

N. Office.

1. 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;
2. 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;
3. In the F-6 district, offices may not have drive-through facilities;

O. Other outdoor entertainment or recreation use not listed.

1. No circus ground, carnival ground, event ground, or amusement park shall be approved within 300 ft. of an R-C, RR-2 or R district;

P. Parking lot or parking structure (primary use).

1. In the MU-C district, any parking structure shall be located at least 50 feet from any RC, RR or R district;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

2. 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;

Q. Recreational vehicle (RV) park.

1. 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;
2. 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;
3. 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. 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;
4. 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:
 - (a) 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;

(b) 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 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;

R. Restaurant.

1. In the R-2 and MU-N district, no use shall exceed 5,000 square feet in gross floor area;
2. 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;
3. Drive-through lanes shall allow for stacking space for five cars;
4. When in the MU-N district, the following additional standards apply:
 - (a) The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;
 - (b) 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;
 - (c) 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;
 - (d) 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;
 - (e) Restaurants are limited to one drive through lane and one speaker box;
5. When in the F-3 and F-5 districts, the following additional standards apply:
 - (a) Access to and from the drive-through must be through the alley, if alley exists;
 - (b) Restaurants are limited to one drive through lane.

S. Retail stores, small and large.

1. Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas;
2. Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock;
3. Retail stores limited to one drive-through window;
4. 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.;

T. Seasonal camp or cabin.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

1. In the R-C and RR-1 districts, buildings shall be located not less than 200 feet from any R district;
2. In the R-C district, the design of the site shall preserve the rural character by:
 - (a) Separating each camp or cabin site by at least 50 feet, measured from the closest points on each tent or cabin area;
 - (b) Preserving all natural vegetation not required to be removed for access roads, trails or public safety;
 - (c) Using gravel or pervious paving, rather than impervious materials, for all access road and driveways serving fewer than 25 camp or cabin sites;

U. Veterinarian or animal hospital.

1. 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;
2. 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'

V. Vacation dwelling unit.

1. The minimum rental period shall be as follows:
 - (a) 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;
 - (b) 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;
2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two;
3. Off-street parking shall be provided at the following rate:
 - (a) 1-2 bedroom unit, one space;
 - (b) 3-4 bedroom unit, two spaces;
 - (c) 5+ bedroom unit, three spaces;
4. 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;
5. 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;
6. 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

disclosing a local contact, property use rules, taxation, and interim use permit violations procedures;

7. 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 15, 2014)

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

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

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed October 13, 2014

Approved October 13, 2014

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, October 27, 2014, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

14-1027-09 Steve Wick information regarding the Sweatshop Consortium (14-0544R).
-- Received

14-1027-10 The following reports regarding horse trails (14-0557): (a) Candy Barbo;
(b) Public administration department director. -- Received

- - -

REPORTS FROM OTHER OFFICERS

14-1027-01 Clerk applications for exempt permits (raffles) to the Minnesota gambling control board from: (a) Minnesota Bluegrass & Old-Time Music Association on March 21, 2015; (b) Rotary Club of Duluth on February 26, 2015. -- Received

- - -

OPPORTUNITIES FOR CITIZENS TO BE HEARD

Jane Brissett, president of the library board, thanked the administration and council for their support in the past to fund increased library hours and programs, noting activities/programs and requesting the continuous staff level.

- - -

Gerald Sternal commented on his recent claim for watermain break damages that was denied and his viewpoint on the water claims policy (Public Document No. 14-1027-11). He reviewed his situation and how he felt that the city would not pay claims filed against it, based in whole or in part on a water maintenance policy that no one knows about or can find. Mr. Sternal felt that seven watermain breaks on the same street since 2001 were neglect.

- - -

Sister Edith Bogue, member of the library board, requested that the council reconsider the proposed reduction of 2.5 positions in next years' budget. She noted that while it is not an essential service like police and fire, the library does produce the essential service of providing information and resources.

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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 Krug 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 Hunt Electric Corporation for the City Hall generator replacement including purchase and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

installation, located at 411 West First Street, Duluth, MN, in accordance with plans and specifications prepared by the city's consultant Gausman and Moore, dated July 17, 2014, and the contractor's successful bid of \$255,053, plus alternate cost of \$24,150 for a total contract amount of \$279,203, payable from the Capital Improvements 450, Finance 030, Buildings and Structures 5520 (Project: CP2011-1120B-2011 capital projects, generator-City Hall).

Resolution 14-0539 was unanimously adopted.

Approved October 27, 2014

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness of Matthew Rosendahl to the library board for a term expiring on March 31, 2015, replacing Printha Markert who resigned, is confirmed.

Resolution 14-0548 was unanimously adopted.

Approved October 27, 2014

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 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, October 14, 2014, 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 utility easement described below and as described and depicted on Public Document No. 14-1027-02:

VACATION LEGAL DESCRIPTION:

The 20.00 foot wide utility easement lying over, under and across Lot 2, Block 1, GLEN PLACE DIVISION, 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. 14-1027-02 showing the platted easement to be vacated.

Resolution 14-0547 was unanimously adopted.

Approved October 27, 2014

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 of that on file in the office of the city clerk as Public Document No. 14-1027-03, with the Duluth Transit Authority ("DTA") and Michigan Street Transit Center, LLC, to address State Building Code issues related to the multi-modal transit center.

Resolution 14-0553 was unanimously adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Approved October 27, 2014
DON NESS, Mayor

- - -

RESOLVED, that the Duluth Seaway Port authority is authorized to submit an application to the Minnesota department of employment and economic development (DEED) for a contamination cleanup grant related to the cleanup and rehabilitation of Dock C & D.

Resolution 14-0556 was unanimously adopted.

Approved October 27, 2014
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to execute and implement a ten year agreement with St. Louis County substantially in the form as filed with the city clerk as Public Document No. 14-1027-04, which agreement sets out the responsibilities of each party in relation to maintenance, including traffic signs and pavement markings, and plowing of roads identified in the agreement, with payments from St. Louis County deposited into Fund 110-121-1217-2140-4260 (general, public administration, maintenance operations, street maintenance, St. Louis County).

Resolution 14-0529 was unanimously adopted.

Approved October 27, 2014
DON NESS, Mayor

- - -

RESOLVED, that Contract 22167 with Hanco Utilities, Inc., for construction of one inch through eight inch PE natural gas mains at various locations in the city of Duluth and surrounding service area be increased in the amount of \$389,945.50 for a new total of \$1,530,820.50. This increase is due to the following additional projects: installation of approximately 400 feet of eight inch PE gas main across Central Entrance, approximately 950 feet of eight inch PE gas main in Skyline Parkway, approximately 900 feet of eight inch PE gas main in Kenwood Avenue and approximately 1,550 feet of eight inch PE gas main in Grand Avenue crossing Kingsbury Creek; payable from Gas Fund 520, Department 500 (public works and utilities), Division 1905 (capital improvements), Object 5533 (revenue), City Project No. 1315.

Resolution 14-0545 was unanimously adopted.

Approved October 27, 2014
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to accept a gift from the Fond du Lac Band of Lake Superior Chippewa consisting of two surveillance cameras, together with the cost of installation and other related items, as set forth in the statement of work on file in the office of the city clerk as Public Document No. 14-1027-05, said cameras to be used by the Duluth police department in connection with the citywide video surveillance system, with the two cameras to be installed on Fourth Street near Second Avenue West and Third Avenue West, respectively.

Resolution 14-0404 was unanimously adopted.

Approved October 27, 2014
DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

RESOLVED, that the proper city officials are hereby authorized to accept a FY2014 port security grant program award from the United States department of homeland security, in the amount of \$24,374 to be used for the purchase of two additional surveillance cameras to enhance the city surveillance camera system.

FURTHER RESOLVED, that the proper city officials are authorized to execute a grant agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 14-1027-06, funds to be deposited in Fund Number 215-200-2210-4210-02 (Duluth police grant programs, police, 2014 port security grant program, pass-thru federal grants operating).

Resolution 14-0513 was unanimously adopted.

Approved October 27, 2014

DON NESS, Mayor

- - -

RESOLVED, that proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 14-1027-07, with the state of Minnesota through its commissioner of public safety, division of homeland security and emergency management for providing services as a hazardous materials chemical assessment team through September 30, 2016, in the amount of \$90,000 plus certain reimbursable costs as set forth herein, said sum to be payable to Fund No. 110-150-1505-4210-02 (general fund, fire, hazardous materials, pass through grant).

Resolution 14-0543 was unanimously adopted.

Approved October 27, 2014

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to enter into an agreement with Spirit Mountain recreational area authority for the installation and maintenance of public art, substantially in the form of that on file in the office of the city clerk as Public Document No. 14-1027-08, at no cost to the city.

Resolution 14-0524 was unanimously adopted.

Approved October 27, 2014

DON NESS, Mayor

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The following resolutions were also considered:

Resolution 14-0544, by Councilor Russ, to promote sweatshop free procurement policy, was introduced for discussion.

President Krug moved to amend the resolution as follows:

(a) In the sixth line of the seventh paragraph, add "the city's purchasing agent or his or her designee" after "council";

(b) Delete the last paragraph;

which motion was seconded and carried unanimously.

Councilor Fosle expressed concerns: that this possibly could bind purchasing operations; that there is already a very strong union aspect here and he does not see this as others see it.

Resolution 14-0544, as amended, was adopted as follows:

BY COUNCILOR RUSS:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

WHEREAS, the city of Duluth and its residents have long recognized the importance of international human rights and the continuous struggle for human dignity; and

WHEREAS, the city of Duluth is not only a regulator within its own borders but a purchaser of goods and services in the broader marketplace; and

WHEREAS, the city of Duluth recognizes a public interest in avoiding payments to contractors and subcontractors who maintain sweatshop working conditions, including below-subsistence wages, excessively long working hours, unhealthy and unsafe working environments, child, indentured and prison labor, disregard for local and international labor laws and workplace regulations, disregard for fundamental women's rights and repression of worker's rights to assemble and bargain collectively; and

WHEREAS, the city of Duluth, in its role as a market participant, seeks to insure the integrity of its procurement process by not utilizing contractors or subcontractors who engage in sweatshop labor practices. Such practices place responsible contractors at a competitive disadvantage and dissuades them from doing business with the city; and

WHEREAS, the city of Duluth recognizes the rights of its residents to information about working conditions and choice with regard to the expenditure of its tax money; and

BE IT RESOLVED, the city of Duluth seeks to end taxpayer support of sweatshops; protect the basic labor rights and human rights of workers and begin the creation of a sweatshop free procurement policy.

BE IT FURTHER RESOLVED, that the city council will establish a sweatshop free advisory group tasked to examine current city purchasing decisions as they relate to sweatshops and to draft a sweatshop free purchasing policy that adheres to goals of this resolution. Members of the sweatshop free advisory group shall be appointed by the city council president and include a member of the city council, the city's purchasing agent or his or her designee, a member of the Duluth human rights commission and members of the community, including but not limited to representatives from public employee unions, Duluth based human rights bodies, and local businesses from which the city procures products. The sweatshop free advisory group shall report to the city council within six months of this resolution.

Resolution 14-0544, as amended, was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved October 27, 2014

DON NESS, Mayor

- - -

Resolution 14-0557, by Councilor Fosle, requesting the city administration designate and re-open the Magney-Snively Trails and the 1.5 miles of Amity Trail for horseback riding and the preservation of historic multi use on Mission Creek Trail, was introduced for discussion.

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

Judy Hubbart, Gloria Hovland, Ginny Breidenbach, Lisa Nicholas, Penny Lynn Christensen, Jay Widdes, Tammy Daniels, Nanette Frederick, Candy Barbo, Jerry Brost, Britt Rohrbaugh, Michele Fitzgerald, Kathy Shopa and Ed Barbo voiced support for the resolution, citing reasons of: the trails were closed with no one knowing why; there is a study showing that the Magney Trail is a good candidate for horse riding; children benefit from the horse

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

riding experience; horse riders are being target by other trail users; their report (Public Document No. 14-1027-10(a)) supports horse trail use; there are locally over 14,000 horse backers; the city is missing the tourist money from the Twin City horseback riders; caring for a horse is a very empowering; the rural value of having trails bring value to a city; Minnesota ranks high in the number of individual recreation horseback riders; these areas have been used as horse trails for many years; the Magney sustainability study supports the use of these trails by horse riders; many of the reasons as to why the horse trails were closed are not valid and all the users should get together and learn how they can all work together.

Councilors commented at great length on the circumstances that have occurred with the trail closings and some short turn options to get some trails opened soon.

Councilor Russ moved to table the resolution to study the information presented and consider some immediate options at the next meeting, which motion was seconded and carried as follows:

Yeas: Councilors Filipovich, Gardner, Larson, Russ and Sipress -- 5

Nays: Councilors Fosle, Hanson, Julsrud and President Krug -- 4

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR HANSON

14-064 - AN ORDINANCE AMENDING CHAPTER 29A-27(G) OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO RENTAL LICENSING CORRECTING INCORRECT CODE REFERENCE.

- - -

INTRODUCED BY COUNCILOR RUSS

14-071 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM THE INDUSTRIAL-WATERFRONT (I-W) TO RESIDENTIAL-TRADITIONAL (R-1) THE PROPERTY LOCATED BETWEEN MINNESOTA AVENUE AND ST. LOUIS AVENUE FROM 13TH STREET TO 15TH STREET SOUTH.

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

Ken and Kathy Kollodge spoke in opposition to the ordinance for reasons of: this area is the largest sandbar on earth; no building should be allowed for these properties and it should be kept as green space; adjoining property owners should be allowed to purchase these areas at a reasonable price and this action should be delayed until the county board makes their decision.

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INTRODUCED BY COUNCILOR RUSS

14-072 - AN INTERIM ORDINANCE PURSUANT TO MINN. STAT. § 462.355, SUBD. 4, IMPOSING A MORATORIUM ON MEDICAL CANNABIS MANUFACTURING AND DISTRIBUTION FACILITIES PENDING COMPLETION OF A PLANNING STUDY WEIGHING THE NEED FOR ANY AMENDMENT TO OFFICIAL CONTROLS.

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

INTRODUCED BY COUNCILOR FILIPOVICH
14-065 - AN ORDINANCE DEDICATING EASEMENTS FOR STREET RIGHT-OF-WAY PURPOSES ON CITY-OWNED PROPERTIES ADJACENT TO GRAND AVENUE IN WEST DULUTH.

- - -

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR GARDNER
14-063 (10330) - AN ORDINANCE AMENDING CHAPTER 13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CIVIL SERVICE, ADDING EXPANDED CERTIFICATION FROM UNDERREPRESENTED GROUPS.

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

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The meeting was adjourned at 8:59 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10330

AN ORDINANCE AMENDING CHAPTER 13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CIVIL SERVICE, ADDING EXPANDED CERTIFICATION FROM UNDERREPRESENTED GROUPS.

The city of Duluth does ordain:

Section 1. That Section 13-23 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-23.1. Certification of eligibles.

Whenever a vacancy in a position in the classified service is to be filled other than by transfer or demotion, the appointing authority shall request that the secretary certify the names of the persons eligible for appointment.

(a) The secretary shall certify from the list in the following order: reappointment, re-employment, promotional, internal-employment and/or open-employment list;

(b) When certification from a reappointment or re-employment list is made, the secretary shall certify the name of the person whose name is highest on the list and who still meets the qualifications of the classification;

(c) When certification from a promotional or internal-employment list is made, the secretary shall certify the names of the three persons highest on the internal employment list; however, when more than one vacancy is to be filled, the number of names certified shall be twice the number of such vacancies. If the internal-employment list has less than three names, additional names may be certified from the open-employment list. Certification shall start with the name in the highest position on the promotional or internal-employment list. When certification is made from a rank consisting of more than one name, the names of all persons in such tied rank shall be certified;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(d) When certification from an open employment list is made, the secretary shall certify the names of the seven persons highest on the open employment list; however, when more than one vacancy is to be filled, an additional two names shall be certified for each additional vacancy. The secretary shall additionally certify names pursuant to Section 13-23.2. When certification is made from a rank consisting of more than one name, the names of all persons in such tied rank shall be certified;

(e) The appointing authority may also request the certification of the name of an additional eligible in case one whose name was first certified withdraws from consideration, does not accept the position or does not respond to the appointing authority's communications;

(f) The secretary shall provide notice of certification by mail or via electronic communication to the applicant certified at the last notification address appearing in the secretary's records;

(g) The notification shall advise the applicant of the certification, the title of the position, the organization unit, the name and address of the appointing authority and other appropriate instructions;

(h) A copy of the notice shall be sent to the appointing authority.

Section 2. That a new Section 13-23.2 be added to the Duluth City Code, 1959, as amended, to read as follows:

Sec. 13-23.2. Expanded certification of eligibles from underrepresented groups.

(a) At least once every calendar year, the secretary shall prepare and present a study to the board regarding the city's employment of persons in protected groups with respect to race/ethnicity and gender in each EEOC-defined occupational category. The secretary's study shall include the city's most-recent EEO-4 report. When both the secretary and the board find that the study indicates underutilization in any EEOC occupational category with respect to race/ethnicity or gender, certification from open-employment lists for positions in such categories shall be conducted in accordance with this Section in addition to Section 13-23.1;

(b) In addition to the certification of names as provided in Section 13-23.1, the names of the next highest scoring two persons on the open-employment list, per vacancy to be filled, from underrepresented groups shall also be certified. The number of additional certifications made shall not be decreased because any candidates already certified pursuant to Section 13-23.1 are members of an underrepresented group.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: November 29, 2014)

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

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

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed October 27, 2014
Approved October 27, 2014
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, November 10, 2014, 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

[Editor's Note: Councilor Krug resigned as city council president on November 6, 2014.]

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

14-1110-01 Betty Christensen, et al., appeal of the planning commission decision to grant a special use permit for a wireless telecommunications facility on city property (14-0565R and 14-0566R). -- Committee 2 (planning and economic development)

14-1110-16 George Hovland information regarding the appeal of the planning commission decision to deny the application for three variances from the Skyline Parkway Overlay (14-0517R and 14-0518R). -- Received

14-1110-02 Cindy McDonnell communication regarding the appeal of the planning commission decision to grant a special use permit for a wireless telecommunications facility on city property (14-0565R and 14-0566R). -- Received

14-1110-04 The following communications regarding horseback riding trails (14-0557R and 14-0570R): (a) Duluth Cross Country Ski Club; (b) Jane Eklund; (c) Janet C. Green; (d) John C. Green; (e) Britta Kauppila; (f) Patricia Opoien; (g) River Corridor Coalition; (h) Jim Rogers; (i) Beth Storaasli. -- Received

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REPORTS FROM OTHER OFFICERS

14-1110-05 Clerk application for exempt permit to the Minnesota gambling control board from Kenwood Lutheran Church on November 20, 2014 (bingo). -- Received

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REPORTS OF BOARDS AND COMMISSIONS

14-1110-06 Civil service board minutes of July 1, 2014, meeting. -- Received

14-1110-07 Community development committee minutes of: (a) August 19; (b) September 23; (c) September 25; (d) October 22, 2014, meetings. -- Received

14-1110-08 Duluth airport authority minutes of September 16, 2014, meeting. -- Received

14-1110-09 Duluth economic development authority minutes of September 24, 2014, meeting. -- Received

14-1110-10 Duluth public utilities commission: (a) Minutes of September 16, 2014, meeting; (b) Resolution approving and recommending 2015 utility budget (14PUC-003). -- Received

14-1110-11 Duluth Seaway Port authority budget summary of September 2014. -- Received

14-1110-12 Duluth transit authority: (a) August 27, 2014, minutes; (b) August 2014 financial statement. -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

14-1110-13 Entertainment and convention center authority minutes of: (a) April 29; (b) May 27; (c) June 24, 2014, meetings. -- Received

14-1110-14 Indigenous commission minutes of September 15, 2014, meeting. -- Received

14-1110-15 Library board minutes of September 23, 2014, meeting. -- Received

14-1110-03 Parks and recreation commission minutes of: (a) August 13; (b) September 10, 2014, meetings. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Dave Johnson updated the council on the status of the re-opening of the Lester-Amity Chalet which was formerly called the Lakeview Sports Center.

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RESOLUTIONS TABLED

Councilor Russ moved to remove resolutions 14-0517 and 14-0518, affirming and reversing, respectively, the decision of the planning commission to deny the application for three variances by George Hovland from the Skyline Parkway overlay of Section 50-18.4 of the Duluth City Code, from the table, which motion was seconded and unanimously carried.

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

George Hovland spoke in support of Resolution 14-0518, reviewing the packet of information he had submitted (Public Document No. 14-1110-16).

Councilor Fosle supported Resolution 14-0518, stating that the neighboring property at 1326 East Skyline Parkway was built prior to the Skyline Parkway Overlay plan being in effect.

Councilors discussed at length the merits of each of the three variances and separating the vote on each variance.

Resolution 14-0517, affirming the planning commission decision, was adopted as follows:

RESOLVED, that the city council finds as follows:

(a) On August 15, 2014, George Hovland applied for a variance that would allow construction of a 24'x84' home and would require three variances: it would occupy approximately 66 percent of the width of the lot (over the maximum 50 percent allows in the SP-O), have its long axis located parallel to Skyline Parkway (instead of within 20 degrees of perpendicular) and would be 25 feet from the front property line (half the distance of the 50 foot setback along the SP-O). Planning commission considered the request at its September 9, 2014, meeting and voted to deny the request. The basis for the commission's decision was its conclusion that:

(1) The purpose of the Skyline Parkway Overlay District is to protect views from Skyline Parkway toward Lake Superior, the St. Louis River and the harbor, from a wide variety of vantage points along the parkway and to encourage the construction of narrower buildings located farther from the parkway rather than wider buildings located closer to the parkway. Applicant is proposing a house that is wider and located closer to the parkway, which is inconsistent with the purposes of the UDC;

(2) After taking into consideration the setbacks of the SP-O and R-1 districts, a sizable buildable area remains that also is on the flattest portion of the lot. This suggests a variance is not needed for the preservation and enjoyment of a substantial property right.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Application does not include information showing it is not feasible to build a house within the buildable area and therefore has not demonstrated the existence of a practical difficulty or undue hardship;

(3) The SP-O regulations recognize that lots along Skyline have substantial slopes. Slopes on the subject property are steeper at the front of the lot. Similar conditions exist just to the west on Skyline Parkway as well as other locations. Thus, the special circumstances or conditions are not peculiar to this property;

(4) Applicant has not attempted to design a structure that would meet the City Code;

(5) At its September 9, 2014, meeting, planning commission was provided with conflicting information related to lot size and conditions and determined there were inaccuracies in the application;

(6) In addition to vehicles, many pedestrians and bicyclists also use Skyline Parkway and view protection is important for all users of the parkway;

(b) George Hovland was provided written notice of the commission's action on September 10, 2014;

(c) George Hovland filed an appeal of the commission's decision to the city council on September 19, 2014, pursuant to Section 50-37.1.O(4) of the City Code;

(d) The city council heard the appeal at its October 9, 2014, meeting of the planning and economic development committee and the matter was considered at the October 13, 2014, meeting.

RESOLVED FURTHER, that the decision of the planning commission to deny the application for three variances is affirmed on the following grounds:

(a) It is inconsistent with the purpose and intent of the comprehensive land use plan and Unified Development Chapter;

(b) It is not needed for the preservation and enjoyment of a substantial property right and does not demonstrate practical difficulty;

(c) The special circumstances or conditions are not peculiar to this property.

Resolution 14-0517 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 November 10, 2014

DON NESS, Mayor

- - -

Resolution 14-0518, reversing the planning commission decision, failed upon the following vote (Public Document No. 14-1110-17):

Yeas: Councilors Fosle and Hanson -- 2

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

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MOTIONS AND RESOLUTIONS

Councilor Julsrud moved to suspend the rules to consider Resolution 14-0570, by President Larson and Councilors Sipress and Julsrud, requesting that the city administration make necessary repairs to a 1.5 mile section of the Amity Creek Trail and designate the trail for use by horses, at this time, which motion was seconded and unanimously carried.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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

Kathy Shopa, Duluth Area Horse Trail Alliance (DAHTA) board member, Mike Shopa, Jane Ecklund, Judy Hubbartt, Britt Rohrbaugh, Lisa Nicholas, Jerry Brost and Ed Barbo expressed support for the resolution for reasons of: DAHTA supports this resolution and is willing to work to maintain the re-opening of horse trails that were mistakenly closed; youth working around horses stay out of trouble; because it was determined that there were areas of trails that were unsustainable, horse trails have been closed, but other uses for the trails are still allowed; there is high economic value with having horse trails available; horseback riders respect trails and care for them; there have been poorly made decisions by the city based on misinformation; a workable plan has been developed to address all the issues; there was no legitimate reason to close the Amity trail and it is appreciated that the other types of users are willing to work with the DAHTA.

Adam Sundberg, speaking on behalf of Cyclists of the Gitchee Gumees Shores (COGGS), Scott Kylander-Johnson, and Andre Watt, DXZ Cross Country Club board of directors, Chad Salmala, Mike Casey, chair of the River Corridor Coalition trails/parks subcommittee, expressed support but had concerns of: before other trails are designated for any user group there needs to be a determination as to how hard the tread is, can the trail support what a new user group is doing and how the current trail users would be affected; just because there is a desire to use a trail, does not mean the trail is ready for any type of user; scars remain from users where the trail was not developed for their particular use; the users of a particular type of use need to take ownership in the maintenance and care of those specific trails; Amity is a sustainable horse trail and all trail proposals need to go through the parks and recreation commission for full review.

Councilors and James Filby-Williams, director of the public administration department, commented at great length on aspects of this issue and the city's support for this resolution.

Resolution 14-0570 was adopted as follows:

BY COUNCILORS LARSON, SIPRESS AND JULSRUD:

WHEREAS, a 1.5 mile section of the Amity Creek Trail has previously been designated for use by horses; and

WHEREAS, the Amity Creek Trail was originally a road with a hardened surface that, with appropriate storm water management infrastructure, can support sustainable use by horses; and

WHEREAS, the Minnesota department of natural resources raised concern about sediment from the Amity Creek Horse Trail getting into the trout stream; and

WHEREAS, the city of Duluth, in partnership with the University of Minnesota Duluth's Natural Resources Research Institute, the Minnesota department of natural resources, and the South St. Louis soil and water district, have completed major trail improvements to protect adjacent Amity Creek from erosion and are working to complete the remaining improvements to three culverts, 240 linear feet of ditches and 320 linear feet of berms; and

WHEREAS, City Code states that all trails within the city limits of Duluth are closed to horses and bikes unless specifically designated for those uses.

THEREFORE BE IT RESOLVED, that 1.5 miles of the Amity Creek Trail be re-designated for use by horses.

BE IT FURTHER RESOLVED, that city council requests that the signage on the Amity Creek Trail prohibiting horses be removed.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

BE IT FURTHER RESOLVED, that the city council requests that the needed culvert, ditch and berm repairs be completed as soon as possible.

Resolution 14-0570 was unanimously adopted.

Approved November 10, 2014

DON NESS, Mayor

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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 roll levied for reassessment of a canceled delinquent garbage assessment (Contract 2008310; assessable amount: \$330.08) for Plat 0134, Parcel 00160, to be deposited in Fund 110, is hereby confirmed.

Resolution 14-0546 was unanimously adopted.

Approved November 10, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are hereby authorized to execute the Minnesota snowmobile trails assistance program grant agreement, a copy of which is on file in the office of the city clerk as Public Document No. 14-1110-18, with the Minnesota department of natural resources for the maintenance of the Duluth snowmobile trails for the 2014-2015 season in the amount of \$13,926.33; said funds to be deposited in the General Fund-110, Public Administration-121, Maintenance Operations/Park Maintenance 1217-2145, Snowmobile Trail Grants-4226.

Resolution 14-0558 was unanimously adopted.

Approved November 10, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of solid waste compliance officer, which were approved by the civil service board on November 4, 2014, and which are filed with the city clerk as Public Document No. 14-1110-19, 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 28, \$3,613 to \$4,231, to Pay Range 29, \$3,751 to \$4,405 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 14-0559 was unanimously adopted.

Approved November 10, 2014

DON NESS, Mayor

- - -

RESOLVED, that the appointments by Mayor Ness of Archie Davis and Michelle Pederson to the Duluth citizen review board for terms expiring on March 31, 2015, and 2016,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

respectively, replacing Blair Powless and Gabriel Green who resigned, are confirmed.

Resolution 14-0563 was unanimously adopted.

Approved November 10, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a Minnesota historical and cultural grant agreement with the Minnesota historical society, substantially in the form of that on file in the office of the city clerk as Public Document No. 14-1110-20(a), accepting a grant in the amount of \$365,380, related to the roof replacement and tuck-pointing of the Sacred Heart Music Center, payable into Fund 262-020-4220-01 (community development, planning, state of Minnesota capital).

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into a Minnesota historical and cultural subgrant agreement with Sacred Heart Music Center, substantially in the form of that on file in the office of the city clerk as Public Document No. 14-1110-20(b), to implement the rehabilitation program of the Sacred Heart Music Center, in the amount of \$365,380 payable from Fund 262-020-5434 (community development, planning, grants and awards).

Resolution 14-0560 was unanimously adopted.

Approved November 10, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to amend Agreement C22081 with Fryberger, Buchanan, Smith & Frederick, for corporate tower legal financing services, an increase of \$20,000, and a total contract amount not to exceed \$120,000, payable from Capital Improvement Fund 450-Finance Department 030-Legal Services 5304-projects; 2013 capital projects, Corporate Tower Public Improvements CP2013-1316b.

Resolution 14-0561 was unanimously adopted.

Approved November 10, 2014

DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth will allow Officer Matt Hendrickson of the city of Duluth police department to purchase the police canine named Loki for \$1,000.

BE IT FURTHER RESOLVED, that the proper city officials are authorized to execute any documents necessary to transfer ownership of Loki to Matt Hendrickson.

Resolution 14-0555 was unanimously adopted.

Approved November 10, 2014

DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 14-0569, by Councilor Gardner, amending Resolution 13-0593, adopting license, permit, fine, penalty and other charges for 2014, to reduce the conversion fee for multi tenant rental housing from \$3,500 to \$2,500, was introduced for discussion.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Barbara Montee commented about her starting the Duluth Landlord Association so that landlords and inspectors could get together to share information and have a positive relationship.

Councilor Gardner moved to table the resolution for it to be considered with other similar resolutions that will be introduced in the near future, which motion was seconded and unanimously carried.

- - -

Resolutions 14-0565 and 14-0566, affirming and reversing, respectively, the decision of the planning commission to grant Steve Stulz and Sprint PCS a special use permit for a wireless telecommunications facility on city property, were introduced by Councilor Russ for discussion.

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

Ann Holtz, Steve Holtz, Betty Christensen and Boyd Christensen expressed at length support for Resolution 14-0566 because: there is a long history of many violations and damage to the property at the current site; the park department is not trained or equipped to deal with the presence of a cell tower in relation to making recreational land use decisions; there are errors on the map as to where the tower would be relative to the designated preservation area; the required site search has not been done; accurate information has not been included in the public record; this should be considered a new tower, not a replacement; the plans and design keep changing and Sprint is okay with the tower being out of the park, but the city wants it in a city park.

Councilors discussed at great length the issues and history on of this.

Resolution 14-0565, affirming the planning commission decision, was adopted as follows:

RESOLVED that the city council finds as follows:

(a) On August 12, 2014, Steve Stulz, on behalf of Sprint PCS, submitted an application for a special use permit for a wireless telecommunication facility on city property in Chester Park;

(b) Sprint PCS had an existing wireless telecommunications facility since approximately 2000. This facility consisted of several antennas mounted on the 115 foot tall Big Chester Ski Jump;

(c) The entire Chester Park is zoned R-1 (Residential Traditional). A wireless telecommunications facility is a special use in most zone districts, including both R-1 and P-1 (parks and open space). The 2006 city of Duluth comprehensive plan future land use designation identifies Chester Park as a mix of recreation and preservation future land uses;

(d) In 2010, the city council adopted a telecommunications ordinance revising the standards and process for approval of wireless telecommunication facilities. Prior to the ordinance, a special use permit was only required for towers over 50 feet in height. Facilities less than 50 feet in height, or those located on roof tops, water towers, or similar structures, did not need a special use permit. A special use permit was not required for this specific type of telecommunication facility at the time it was legally constructed in 2000 at Chester Park;

(e) The city informed Sprint PCS that the ski jump would be demolished and the antennas would need to be relocated;

(f) The city council approved a lease contract with Sprint PCS for a replacement site in Chester Park on July 21, 2014 (14-0392). One of the conditions of the contract was that the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

proposed replacement facility conforms to the city's zoning code;

(g) The special use permit application that was submitted on August 12, 2014, was for a 75 foot tall monopole with four internal antenna arrays located on the ski hill, with exterior downcast lighting to provide illumination for city ski trails. Staff from the Center for Municipal Services assisted in reviewing the application for conformance the standards of the Unified Development Chapter and to federal standards for radio frequencies (RF) emissions;

(h) The planning commission considered the request at its September 9, 2014, meeting. The public hearing was opened, public comments were received, and the public hearing was closed. The item was tabled in order to get additional information from the parks and recreation commission on their preference for a proposed location of the replacement telecommunications facility;

(i) At the September 10, 2014, parks and recreation commission meeting, the commission made a motion to recommend that the replacement monopole be located adjacent to the Big Chester Ski Jump, and not on the ski hill as requested in the application submitted;

(j) The planning commission continued review of the request at a special meeting on September 23, 2014. The applicant revised the request to locate the replacement wireless telecommunication facility adjacent to the Big Chester Ski Jump, with two internal antenna arrays instead of four, and additional landscaping and screening. The item was tabled due to a tie 3-3 vote (two members absent and one member abstaining);

(k) The planning commission continued review of the request at a regular meeting on October 14, 2014, and voted to approve the request with a 4-2 vote (two members absent and one member abstaining). 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 be limited to, constructed, and maintained according to construction drawings titled "Duluth Chester Park Ski Jump Relo MS25XC156" dated 7/19/14, and as revised as shown in the revised construction drawings dated 9/16/14;

(2) Applicant complies with requirements of items identified in the August 19, 2014, document from Center for Municipal Solutions, including submitting temporary relief items prior to applying for a building permit (including a \$25,000 removal bond, insurance with the city listed as an additional insured, indemnification, geotechnical report, and certified structural analysis);

(3) 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 approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50;

(4) The project is to be constructed at the old Chester Park Ski Jump (current location of the temporary facility) with the revised landscape plan;

(5) Applicant to do post-construction testing of the new facility to document that the site is in compliance with the FCC requirements;

(6) The monopole be designed to appear similar to a coniferous tree (also known as a monopine);

(l) On October 24, 2014, the city received an appeal from a coalition of Chester Park residents, asking that the city council overturn the special use permit. The appeal asserts 12 objections;

(m) The city council heard the appeal at its November 10, 2014, meeting.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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.

Resolution 14-0565 was unanimously adopted.

Approved November 10, 2014

DON NESS, Mayor

- - -

Resolution 14-0566, reversing the planning commission decision, failed upon a unanimous vote (Public Document No. 14-1110-21):

- - -

Resolution 14-0567, granting approval and implementation of the Chester Park mini-master plan, was introduced by President Larson.

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

Dave Schaeffer, incoming executive director of the Chester Park Improvement Club, requested support for the resolution noting that it has been worked on for over two years by city staff and residents of the Chester Park community.

Resolution 14-0567 was adopted as follows:

RESOLVED, that the city council hereby approves the Chester Park mini-master plan and authorizes implementation of the plan, in partnership with the Chester Bowl Improvement Club (CBIC), as funding becomes available.

Resolution 14-0567 was unanimously adopted.

Approved November 10, 2014

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR JULSRUD

14-051 - AN ORDINANCE AMENDING SECTION 48-28 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING EXCESS PILOT FUNDS.

- - -

INTRODUCED BY COUNCILOR JULSRUD

14-074 - AN ORDINANCE ESTABLISHING A FUNDING FRAMEWORK THAT USES BOTH ANNUAL APPROPRIATIONS AND THE OPEB TRUST FUND TO PAY THE COST OF OTHER POST-EMPLOYMENT BENEFITS.

- - -

INTRODUCED BY COUNCILOR RUSS

14-066 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING CHANGES RELATED TO R-1 ZONE DISTRICT AND IMPROVEMENT OF STREET FRONTAGE.

- - -

INTRODUCED BY COUNCILOR RUSS

14-067 - AN ORDINANCE AMENDING SECTIONS 50-27.1, 50-27.4, 50-27.7, 50-41.4, 50-41.16, 50-41.18, AND 50-41.19 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING CHANGES MADE TO SIGNS AND DEFINITIONS.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- - -

INTRODUCED BY COUNCILOR RUSS

14-068 - AN ORDINANCE AMENDING SECTION 50-37.7 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING CHANGES RELATED TO CONCURRENT USE PERMITS.

- - -

INTRODUCED BY COUNCILOR RUSS

14-069 - AN ORDINANCE AMENDING SECTIONS 50-24.2, 50-24.7, AND 50-37.9 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING CHANGES MADE TO REQUIRED OFF STREET PARKING SPACES AND VARIANCES.

- - -

INTRODUCED BY COUNCILOR RUSS

14-070 - AN ORDINANCE AMENDING SECTIONS 50-18.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING CHANGES MADE TO STORMWATER MANAGEMENT AND EROSION CONTROL.

- - -

INTRODUCED BY COUNCILOR RUSS

14-073 - AN ORDINANCE GRANTING TO UNIVERSITY OF MINNESOTA DULUTH A CONCURRENT USE PERMIT FOR THE INSTALLATION OF SIX UNDERGROUND CONDUITS AND ONE SANITARY SEWER UNDER WEST SAINT MARIE STREET.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR HANSON

14-064 (10331) - AN ORDINANCE AMENDING CHAPTER 29A-27(G) OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO RENTAL LICENSING CORRECTING INCORRECT CODE REFERENCE.

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

- - -

INTRODUCED BY COUNCILOR RUSS

14-071 (10332) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM THE INDUSTRIAL-WATERFRONT (I-W) TO RESIDENTIAL-TRADITIONAL (R-1) THE PROPERTY LOCATED BETWEEN MINNESOTA AVENUE AND ST. LOUIS AVENUE FROM 13TH STREET TO 15TH STREET SOUTH.

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

- - -

INTRODUCED BY COUNCILOR RUSS

14-072 (10333) - AN INTERIM ORDINANCE PURSUANT TO MINN. STAT. § 462.355, SUBD. 4, IMPOSING A MORATORIUM ON MEDICAL CANNABIS MANUFACTURING AND DISTRIBUTION FACILITIES PENDING COMPLETION OF A PLANNING STUDY WEIGHING THE NEED FOR ANY AMENDMENT TO OFFICIAL CONTROLS.

Councilors Gardner and Sipress expressed concerns of: if there is a hypersensitivity due to the recent synthetic drug situation; this is legal and an entirely different form of synthetic

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

drugs and if there was a drug company manufacturing legal drugs, we would not single out this particular industry with an ordinance like this.

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

Yeas: Councilors Filipovich, Hanson, Julsrud, Krug, Russ and President Larson -- 6

Nays: Councilors Fosle, Gardner and Sipress -- 3

- - -

INTRODUCED BY COUNCILOR FILIPOVICH

14-065 (10334) - AN ORDINANCE DEDICATING EASEMENTS FOR STREET RIGHT-OF-WAY PURPOSES ON CITY-OWNED PROPERTIES ADJACENT TO GRAND AVENUE IN WEST DULUTH.

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

- - -

COUNCILOR QUESTIONS AND COMMENTS

The council discussed the situation of the vacant vice president position and the options, especially with the current year coming to an end and that there will be the normal annual election after the first of the year.

- - -

The meeting was adjourned at 9:54 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10331

AN ORDINANCE AMENDING CHAPTER 29A-27(G) OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO RENTAL LICENSING CORRECTING INCORRECT CODE REFERENCE.

The city of Duluth does ordain:

Section 1. That Section 29A-27 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 29A-27. Definitions.

(a) The definitions contained in Sections 201 and 202 of the year 2000 edition of the IPMC, as adopted by Section 29A-1 of this Chapter, shall apply to this Article;

(b) For purposes of this Article, the phrase "one-family dwelling" shall have the meaning ascribed by Chapter 50, Article VI;

(c) For purposes of this Article, the phrase "two-family dwelling" shall have the meaning ascribed by Chapter 50, Article VI;

(d) For purposes of this Article, the phrase "multiple-family dwelling" shall have the meaning ascribed by Chapter 50, Article VI;

(e) Rental unit means any dwelling that is occupied by any tenants. For purposes of any fees under this Article, each bedroom in a multi-tenant single-family and multi-tenant two-family dwelling constitutes a rental unit;

(f) Residence means the primary dwelling where an individual lives and usually sleeps;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(g) Except as otherwise provided in Section 29A-27(g)(1)-(2), tenant means any adult person or emancipated minor who is occupying a dwelling under any agreement, lease or contract, whether oral or written, and for a period of seven or more consecutive or nonconsecutive days in any month, whether or not such occupancy requires the payment of rent, the payment of utilities or the provision of services, for the use of the dwelling;

(1) A tenant shall not include any owner of record and an owner's natural children, adopted children, foster children, spouse, other blood relations, any significant other and any other dependent minors, residing with that owner as a family unit; significant other means romantic partner;

(2) A tenant shall not include a tenant's natural children, adopted children, foster children, spouse, other blood relations, any significant other and any other dependent minors, residing with the tenant as a family unit; significant other means romantic partner;

(h) For purposes of this Article, and except as otherwise provided herein, "protection zone" means any parcel of land, lot or part thereof within or abutting the area described as follows: a point beginning at the point of intersection of the centerline of North Sixth Avenue East and the centerline of East Fifth Street, thence northwesterly along the centerline of North Sixth Avenue East to its point of intersection with Central Entrance Drive, thence westerly along the centerline of Central Entrance Drive to its point of intersection with the centerline of Rice Lake Road, thence northerly along the centerline of Rice Lake Road to its point of intersection with the centerline of West Arrowhead Road, thence easterly along the centerline of West Arrowhead Road to its point of intersection with the centerline of Blackman Avenue, thence northerly along the centerline of Blackman Avenue to its point of intersection with the centerline of MacFarlane Road, thence easterly along the centerline of MacFarlane Road to its point of intersection with the centerline of Howard Gnesen Road, thence southeasterly along the centerline of Howard Gnesen Road to its point of intersection with the centerline of Old Howard Gnesen Road, thence north/northeasterly along the centerline of Old Howard Gnesen Road to its point of intersection with the centerline of South Road, thence easterly along the centerline of South Road in a straight line to its point of intersection with the northwest corner of the Third Glen Avon Division of Duluth, thence north in a straight line to its point of intersection with the centerline of Anoka Street, thence easterly along the centerline of Anoka Street to its point of intersection with the centerline of St. Paul Avenue, thence south along the centerline of St. Paul Avenue to its point of intersection with the centerline of Carlisle Avenue, thence easterly along the centerline of Carlisle Avenue to its point of intersection with the centerline of Grove Street, thence northeasterly along the centerline of Grove Street to its point of intersection with the centerline of Princeton Place, thence northeasterly along the centerline of Princeton Place to its point of intersection with the southerly boundary of Park Hill Cemetery, thence easterly along the southern boundary of Park Hill Cemetery until its point of intersection with the western easement line of Livingston Avenue, thence easterly in a straight line to its point of intersection with the centerline of Livingston Avenue, thence northerly along the centerline of Livingston Avenue to its point of intersection with the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

centerline of Everett Street, thence easterly along the centerline of Everett Street to its point of intersection with the centerline of Jean Duluth Road, thence southwesterly along the centerline of Jean Duluth Road to its point of intersection with the centerline of Lakeview Drive, thence southwesterly along the centerline of Lakeview Drive to its point of intersection with the centerline of Vermilion Road, thence southerly along the centerline of Vermilion Road to its point of intersection with the centerline of Congdon Park Drive, thence southeasterly along the centerline of Congdon Park Drive to its point of intersection with the centerline of South 32nd Avenue East, thence southeasterly along the centerline of South 32nd Avenue East to its point of intersection with the centerline of Jefferson Street, thence southeasterly along the centerline of Jefferson Street to its point of intersection with the centerline of North 21st Avenue East, thence, northwesterly along the centerline of North 21st Avenue East to its intersection with the centerline of East Fifth Street, thence southeasterly along the centerline of East Fifth Street to the point of beginning, and as depicted on the map on file with the city clerk as Public Document No. 11-0214-30;

(1) The following described area located within the protection zone defined in Section 29A-27(h) is excluded from the zone: any parcel of land, lot or part thereof within or abutting the area described as follows: a point beginning at the point of intersection of the centerline of Carver Avenue and the centerline West St. Marie Street, thence south in a straight line to its point of intersection with a straight line extending west from the point of intersection of Woodland Avenue and Elizabeth Street, thence east in a straight line to its point of intersection with the centerline of Woodland Avenue and the centerline of Elizabeth Street, thence northeasterly along the centerline of Woodland Avenue to its point of intersection with the centerline of West St. Marie Street, thence westerly along the centerline of West St. Marie street to the point of beginning, and as depicted on the map on file with the city clerk as Public Document No. 11-0214-30.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: December 13, 2014)

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 November 10, 2014
Approved November 10, 2014
DON NESS, Mayor

- - -

ORDINANCE NO. 10332

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM THE INDUSTRIAL-WATERFRONT (I-W) TO RESIDENTIAL-TRADITIONAL (R-1) THE PROPERTY

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

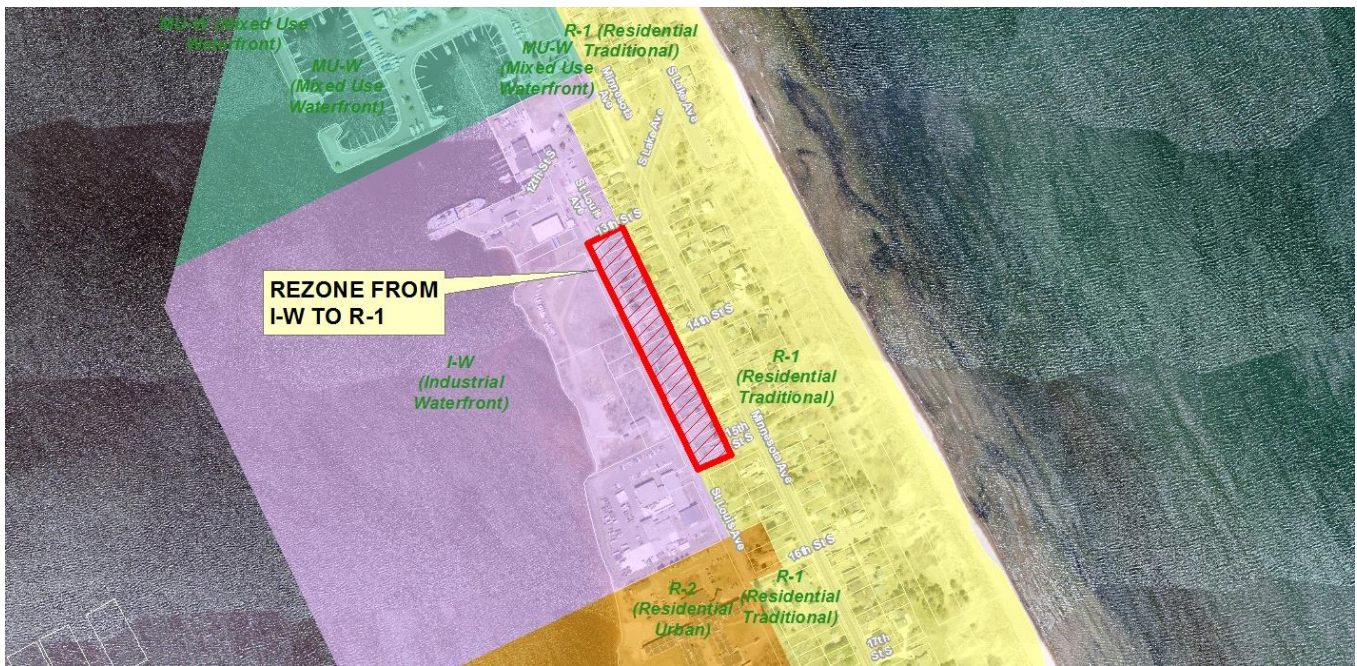
LOCATED BETWEEN MINNESOTA AVENUE AND ST. LOUIS AVENUE FROM 13TH STREET TO 15TH STREET SOUTH.

The city of Duluth does ordain:

Section 1. That the subject property located between Minnesota Avenue and St. Louis Avenue, from 13th Street South to 15th Street South and as more particularly described in Exhibit A:

Lots 81, 83, 85, 87, 89, 91, 93, 95, 97, 99, 101, 103, 105, 107, 109, 111, 113, 115, 117 and 119 of Upper Duluth Minnesota Avenue according to the recorded plat thereof in St. Louis County, Minnesota;

be reclassified from Industrial-Waterfront (I-W), 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. 14-124)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: December 13, 2014)

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 November 10, 2014
Approved November 10, 2014
DON NESS, Mayor

- - -

ORDINANCE NO. 10333

AN INTERIM ORDINANCE PURSUANT TO MINN. STAT. § 462.355, SUBD. 4, IMPOSING A MORATORIUM ON MEDICAL CANNABIS MANUFACTURING AND DISTRIBUTION FACILITIES PENDING COMPLETION OF A PLANNING STUDY WEIGHING THE NEED FOR ANY AMENDMENT TO OFFICIAL CONTROLS.

The city of Duluth does ordain:

Section 1. Statement of legislative intent.

The council of the city of Duluth finds that it is necessary to temporarily preserve the status quo regarding the city's regulation of land uses through its zoning ordinances codified in Chapter 50 of the Legislative Code following passage of 2014 Minnesota Session Laws Chapter 311, §§ 1-22 (the "act"), Minnesota's first law regulating the use, manufacturing, and distribution of medical cannabis, pending completion of a planning study considering the need for any additions or amendments to the city's official controls.

The council finds that the city has been approached by entities interested in operating medical cannabis manufacturing or distribution facilities within its jurisdiction.

The council finds that the medical cannabis manufacturing facilities authorized by the act will conduct all medical cannabis cultivation, harvesting, manufacturing, packaging and processing at one location, and may also, at the manufacturer's discretion, operate a medical cannabis distribution facility at the same location.

The council finds that medical cannabis manufacturing and distribution facilities represent new land uses that are not presently regulated by the city's official controls and have never previously been studied by city staff for purposes of determining whether amendments or additions to the city's official controls may be necessary to protect the health, safety or welfare of city residents.

Accordingly, the council finds that an interim ordinance proscribing new medical cannabis manufacturing and distribution facilities within the boundaries of the city for a period of six months, 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.

Notwithstanding the normal time periods for interim ordinances allowed under Minn. Stat. §462.355, subd. 4, it is the sense of the council, and the intent of the administration and city planning staff, that the city work to complete the planning study and proposals for any additions or amendments to official controls deemed necessary as a result of the study within six months from the effective date of this ordinance.

Section 2. Moratorium imposed.

The city of Duluth hereby imposes on any parcel of land, lot, or part thereof within the boundaries of the city a prohibition on the construction or operation of any medical cannabis manufacturing or distribution facilities, as defined in 2014 Minn. Session Laws Chapter 311, §§ 1-22, pending completion of the planning study and any related zoning enactments described in Section 1. This moratorium shall be effective until the expiration of six months - not to exceed 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 3. Extension of moratorium.

The council may, by resolution, and pursuant to the requirements of Minn. Stat. § 466.355, subd. 4, extend the moratorium for an additional period of time, but in no event may

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

the moratorium extend beyond 18 months from the effective date of this ordinance by operation of state law.

Section 4. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: December 13, 2014)

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

Yeas: Councilors Filipovich, Hanson, Julsrud, Krug, Russ and President Larson -- 6

Nays: Councilors Fosle, Gardner and Sipress -- 3

Passed November 10, 2014
Approved November 10, 2014
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10334

**AN ORDINANCE DEDICATING EASEMENTS FOR STREET
RIGHT-OF-WAY PURPOSES ON CITY-OWNED PROPERTIES
ADJACENT TO GRAND AVENUE 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 street and utility right-of-way purposes over city-owned property occupied by the access road from Grand Avenue to the Fairmont Park Zoo, which property in St. Louis County, Minnesota, is legally described on Public Document No. 14-1110-22(a) on file in the office of the city clerk.

Section 2. That the city of Duluth does hereby dedicate to the general public a perpetual easement for street and utility right-of-way purposes over city-owned property occupied by the access road from Grand Avenue to the new Spirit Mountain lower chalet, which property in St. Louis County, Minnesota, is legally described on Public Document No. 14-1110-22(b) on file in the office of the city clerk.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: December 13, 2014)

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 November 10, 2014
Approved November 10, 2014
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, November 24, 2014, 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

14-1124-02 Todd Signs, LLC, communication regarding the proposed amendments to sign regulations and definitions (14-067-O). -- Received

- - -

REPORTS FROM OTHER OFFICERS

14-1124-01 Treasurer amended assessment roll of delinquent garbage assessments for 2014. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

14-1124-04 Duluth economic development authority minutes of October 22, 2014, meeting. -- Received

14-1124-05 Duluth human rights commission communication requesting that homelessness/housing status be included in the Human Rights Chapter of the City Code. -- Received

14-1124-03 Duluth public utilities commission minutes of October 21, 2014, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Rebecca Domagala, chairperson of the Duluth human rights commission, commented on the Homeless Bill of Rights and the Duluth human rights commission, stating that the commission recently voted to include homeless persons as a protected class of persons from discrimination in Chapter 29C of the Duluth City Code and requested that the council support this addition to the Duluth Human Rights Ordinance.

- - -

Keir Plachter, representing the Duluth Youth in Government Delegation, spoke regarding the youth in government program, providing a description of the program including what events and activities the group is involved in.

- - -

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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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

North 43rd Avenue West sanitary sewer extension for North 43rd Avenue West (Contract 2014002 - total assessable amount of \$76,650);
to be deposited in Fund 530.

Resolution 14-0572 was unanimously adopted.

Approved November 24, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Visit Duluth, substantially in the form on file in the office of the city clerk as Public Document No. 14-1124-06, for advertising and promotion services to the city during the years 2015-2017 at a cost to the city not to exceed \$1,750,000 in 2015, \$1,775,000 in 2016 and \$1,800,000 in 2017, payable from Fund 258, Agency 030, Object 5436-02 (tourism taxes, finance, tourism tax allocation Visit Duluth).

Resolution 14-0592 was unanimously adopted.

Approved November 24, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Radotich, Inc., for the 40th Avenue West Toolhouse heating, ventilation and lighting replacement, located at 105 North 40th Avenue West, in accordance with plans and specifications prepared by Architectural Resources, Inc., the consultant, dated October 2, 2014, and the contractor's low bid of \$265,326, payable as follows:

\$144,351 - Capital Improvements 450, Finance 030, Buildings and Structures 5520, Project: CP2014-1416B - 2014 capital projects, ventilation 40th and 42nd Avenue West toolhouses;

\$29,950 - Capital Improvements 450, Finance 030, Buildings and Structures 5520, Project: CP2013-1304B - 2013 capital projects, buildings city-wide furnace/boiler replacement;

\$31,000 - Capital Improvements 450, Finance 030, Buildings and Structures 5520, Project: CP2014-1404B - 2014 capital projects, furnace/boiler replacement - citywide;

\$60,025 - Capital Improvements 450, Finance 030, Buildings and Structures 5520, Project: CP2014-1403B - 2014 capital projects, energy measures - citywide.

Resolution 14-0571 was unanimously adopted.

Approved November 24, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Cardno JFNew for professional services in the stream restoration of Kingsbury Creek, located at the Lake Superior Zoo, 7210 Fremont Street, for an amount not to exceed \$69,400, payable from: Disaster Recovery Fund 225; Finance 125; Parks, Recreation and Other 1807; Other Professional Services 5319; and Project: FLOOD-327-Flood-June 2012, zoo.

Resolution 14-0580 was unanimously adopted.

Approved November 24, 2014

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Cardno JFNew for professional services in the stream restoration of Miller Creek, located at Lincoln Park, Lincoln Park Drive, for an amount not to exceed \$76,600, payable from: Disaster Recovery Fund 225; Finance 125; Parks, Recreation and Other 1807; Other Professional Services 5319; and Project: FLOOD-307-Flood-June 2012, Lincoln Park.

Resolution 14-0581 was unanimously adopted.

Approved November 24, 2014

DON NESS, Mayor

- - -

RESOLVED, that the Duluth City Council hereby issues the following on sale intoxicating liquor license and additional bar license for the period September 1, 2014, through August 31, 2015, subject to departmental approvals and the payment of sales and property taxes, and further pursuant to Minnesota Statutes Section 340A.404, Subd. 14:

Aramark Educational Services, LLC (The College of St. Scholastica), 1200 Kenwood Avenue.

Resolution 14-0585 was unanimously adopted.

Approved November 24, 2014

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council hereby approves the permanent expansion of the designated serving area of the following on sale intoxicating liquor license for the period ending August 31, 2015, subject to departmental approvals:

Black at Blue, LLC (Tavern on the Hill), 1102 Woodland Avenue, to include the fenced patio with seating for approximately 250 patrons.

Resolution 14-0587 was unanimously adopted.

Approved November 24, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Hoisington Koegler Group, Inc., (HKGi) for professional services in the development of a comprehensive, long term plan to create a cohesive corridor running from the Wheeler Athletic Complex to Wade Stadium Complex to the Heritage Sports Center, and connecting city trails to the complexes, for an amount not to exceed \$54,680, payable from the following: Capital Improvements 450, Finance 030, Other Professional Services 5319, Project CP2015-1501b.

Resolution 14-0589 was unanimously adopted.

Approved November 24, 2014

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness of Robert C. Pearson to the joint airport zoning board for a term expiring on March 31, 2017, replacing Michael Ramsey who resigned, is confirmed.

Resolution 14-0576 was unanimously adopted.

Approved November 24, 2014

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 street easement is useless for all purposes; and

(c) The city planning commission, at its Monday, November 10, 2014, special meeting, recommended approval of the vacation petition with the condition that a new roadway easement be accepted; 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. 14-1124-07, with the condition that a new easement be accepted that connects Red Wing Street with Faribault Street in the location of the existing developed drive adjacent to Ridgeview Country Club.

VACATION LEGAL DESCRIPTION:

All that part of Alden Avenue, lying north of the north line of Faribault Street and south of the south line of Red Wing Street, all in Colman's Second Acre Tract Addition to Duluth, City of Duluth, St. Louis County, Minnesota.

PUBLIC UTILITY EASEMENT:

The west ten (10) feet of Alden Avenue, lying north of the north line of Faribault Street and south of the south line of Red Wing Street, all in Colman's Second Acre Tract Addition to Duluth, City of Duluth, 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. 14-1124-07 showing the platted easement to be vacated.

Resolution 14-0583 was unanimously adopted.

Approved November 24, 2014

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

(c) The city planning commission, at its Monday, November 10, 2014; special 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. 14-1124-08:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

VACATION LEGAL DESCRIPTION:

That portion of the 20' wide alley platted and dedicated to the public on the recorded plat of CLEARVIEW PARK, St. Louis County, Minnesota, beginning at the east line of Blackman Avenue, between Lots 10 and 11, Block 3, thence running easterly between said Lots 10 and 11 to the easterly line of said Lots 10 and 11 and there terminating. Said terminus being 225' westerly of the west line of platted Madison Avenue and also being the terminus of the alley vacation recorded as Document Number 374776. Excepting and reserving to the public an easement for water, sewer, and utilities on the most easterly 8' of that portion of the alley being vacated; 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. 14-1124-08 showing the platted easement to be vacated.

Resolution 14-0584 was unanimously adopted.

Approved November 24, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to the professional services agreement with Barr Engineering Company, substantially in the form of that on file in the office of the city clerk as Public Document No. 14-1124-09, for professional consulting services related to the environmental site investigation of the former DWP Railroad site redevelopment increasing the amount by \$3,143.98 for a total amount payable not to exceed \$64,143.98, payable from Fund 255-020-5319 (economic development, planning, other professional services).

Resolution 14-0588 was unanimously adopted.

Approved November 24, 2014

DON NESS, Mayor

- - -

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. Findings.

1.01 The board of commissioners (the "board") of the Duluth economic development authority, St. Louis County, Minnesota (the "authority") and the city council of the city, have for many years encouraged development and redevelopment within the city.

1.02 In furtherance of those objectives, the authority and the city established in June 2014, Tax Increment Financing District No. 27 (Pier B development) (the "TIF district") and adopted a tax increment financing plan therefor (the "TIF plan"), all pursuant to Minnesota Statutes, Section 469.174 to 469.179 (the "TIF act").

1.03 Due to a delay in the developer's project, the request for certification of the TIF district was not made prior to June 30, 2014. Further, while the TIF plan documents stated that increment would be collected for 26 years with the first year of receipt of increment expected to be 2017, Appendix D of the TIF plan and a summary of the TIF plan stated the first year of increment was to be in 2016.

1.04 The authority and the city desire to modify the TIF plan, including Appendix D and Appendix G, to clarify the certification date for the TIF district, the year of the first receipt of tax increment and the findings for the but/for qualifications.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

1.05 Under Section 469.175, Subdivision 4 of the TIF act, the city may, without notice and hearing procedures, modify the TIF plan if: (1) there is no increase in bonded indebtedness to be incurred, (2) there is no modification to capitalized interest, (3) there is no increase in captured net tax capacity to be retained by the authority, (4) there is no increase in estimated tax increment expenditures, and (5) there is no additional property designated to be acquired by the authority or the city.

1.06 None of the information provided to the St. Louis County auditor and the clerk of the school board for Independent School District 709 with regard to the authority's estimate of the fiscal and economic implications of the TIF district has changed.

1.07 The city hereby determines that it is in the best interest of the city and the authority to modify the TIF plan to clarify and make consistent with the city's intent in adopting the TIF plan and, such modifications include amending Appendix D and Appendix G and clarifying that the first year of increment is expected to be received in 2017 and not 2016, all as set forth in the modification to development program for Development District No. 17 and the administrative modification to the tax increment financing plan for Tax Increment Financing District No. 27 presented to the city council and on file with the city clerk (the "modification").

Section 2. Statutory findings relative to the but/for qualifications for the TIF district.

A. It is the opinion of the city council, based on discussions with representatives of the developer and information contained in the TIF plan that, and the city council hereby finds, development and redevelopment within the TIF district would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future, that the increased market value of the site to be included in the TIF district 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 redevelopment in the TIF district after subtracting the present value of the projected tax increments for the maximum duration of the TIF district permitted by the TIF plan; and that the use of tax increment financing is necessary. (See the modification for the reasons and supporting facts which are incorporated herein by reference.) Due to the cost of site improvements, the developer's project would not have been feasible and would not have occurred without the help of tax increment financing;

B. The increased market value of the site to be included in the TIF district 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 redevelopment in the TIF District after subtracting the present value of the projected tax increments for the maximum duration of the TIF district permitted by the TIF plan, as modified:

(i) The city and the city council estimate that the amount by which the market value of the entire TIF district would increase without the use of tax increment financing is in an amount from \$0 to some modest amount of land value appreciation;

(ii) If the developer's project is constructed in the TIF district, the total increase in market value is estimated to be \$10,033,920 from its current market value of \$1,605,800 to an estimated market value of \$11,639,720 upon completion of the developer's project;

(iii) The present value of the tax increments from the TIF district for the maximum duration of the TIF district permitted by the TIF plan, as modified and the act is estimated to be \$4,662,972;

(iv) Even if some development other than the proposed development were to occur, the city council finds that no alternative would occur that would produce a market value

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

increase greater than \$5,370,948 (the amount of Clause (ii) less the amount of Clause (iii) above) without tax increment assistance.

Section 3. Approval. The modification is hereby approved.

Section 4. Election for first year of tax increment receipts. The city hereby elects to receive tax increment beginning in the tax year payable in 2017.

Resolution 14-0590 was unanimously adopted.

Approved November 24, 2014

DON NESS, Mayor

- - -

THE CITY COUNCIL FINDS:

(a) That the city of Duluth is undertaking a project to construct a shared use path through Kitchi Gammi Recreation Site (Brighton Beach) from the existing terminus of the Lakewalk to Congdon Boulevard in 2019; and

(b) The estimated cost for design and construction of this project is \$608,030. Federal transportation alternative funds are currently programmed for construction in 2019. 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.

RESOLVED, that the proper city officials are hereby authorized to submit an application to the Minnesota department of transportation for funding of the shared 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 \$352,482, and is available on an 80 percent/20 percent local matching basis, 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.

Resolution 14-0562 was unanimously adopted.

Approved November 24, 2014

DON NESS, Mayor

- - -

THE CITY COUNCIL FINDS:

(a) That the city of Duluth is undertaking a project to realign College Street from Fay Avenue to Woodland Avenue in 2016; and

(b) Local road improvement grants are currently available for construction in 2016. Projects selected through this solicitation must meet the requirements of the routes of regional significance account; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

(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 College Street reconstruction.

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 \$750,000, 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.

Resolution 14-0586 was unanimously adopted.

Approved November 24, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept the grant of a street easement, at no cost to the city, from Shaina Connolly and Wyatt Knight in the form of Public Document No. 14-1124-10(a) on file in the office of the city clerk and attached hereto as Exhibit 1 granting to the general public a street easement over the property described in Exhibit 1 in Colman's Second Acre Tract Addition to Duluth, providing public access to Alden Avenue; said acceptance is subject to the execution and recordation in the St. Louis County recorder's office of the Subordination Agreement in the form of Public Document No. 14-1124-10(b) on file in the office of the city clerk and attached hereto as Exhibit 2.

Resolution 14-0577 was unanimously adopted.

Approved November 24, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept the grant of a street easement, at no cost to the city, from Ridgeview Country Club in the form of Public Document No. 14-1124-11 on file in the office of the city clerk and attached hereto as Exhibit 1 granting to the general public a 40 foot wide street easement over a portion of the property described in Exhibit 1 in Colman's Second Acre Tract Addition to Duluth, running from Faribault Road to Redwing Road providing public access to Alden Avenue.

Resolution 14-0578 was unanimously adopted.

Approved November 24, 2014

DON NESS, Mayor

- - -

WHEREAS, the Northland Veterans Service Committee ("Northland Veterans") desires to donate a monument honoring Tuskegee Airman Joe Gomer (the "monument") to the city of Duluth pursuant to the resolution of Northland Veterans on file in the office of the city clerk as Public Document No. 14-1124-12.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

NOW, THEREFORE, BE IT RESOLVED, that the city of Duluth does hereby accept the donation of the Joe Gomer monument from Northland Veterans.

FURTHER RESOLVED, that the city hereby thanks the Northland Veterans for its generous donation and civic contribution.

Resolution 14-0550 was unanimously adopted.

Approved November 24, 2014

DON NESS, Mayor

- - -

The following resolution was also considered:

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 that on file in the office of the city clerk as Public Document No. 14-1124-13, 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	Program Name	Rec Amt
Chester Bowl Improvement Club	Chairlift seat replacement	\$4,400
COGGS	Trail maintenance and construction	\$5,000
COGGS	Trail signage	\$5,000
DXC	Snowmobile for Spirit Mountain XC trail grooming	\$5,000
DXC	Lester-Amity (Lakeview) chalet heating equipment	\$5,000
Friends of Dog Parks	Observation dog park	\$5,000
GND Development Alliance	Recreation center siding and installation	\$5,000
Lake Superior Zoological Society	Snowblower attachment purchase	\$5,000
Valley Youth Center	Memorial ice rink 2014-2015	\$5,000
Wheels on Trails Organization (ARC)	Upgrading Grassy Point boardwalk accessibility upgrades	\$4,400
Woodland Amateur Hockey Association (WAHA)	Woodland ice skating rink maintenance free boards	\$5,000
Total		\$53,800

Resolution 14-0573 was adopted upon the following vote:

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

Nays: None -- 0

Abstention: Councilor Filipovich -- 1

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Absent: Councilor Krug -- 1
Approved November 24, 2014
DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR JULSRUD

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.

- - -

INTRODUCED BY COUNCILOR HANSON

14-075 - AN ORDINANCE AMENDING SECTION 27-18 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO LICENSE PERIODS FOR MOBILE FOOD CARTS AND VEHICLES.

- - -

INTRODUCED BY COUNCILOR RUSS

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

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

David Woodward, chairperson of the heritage preservation commission (HPC), expressed support for the ordinance, stating St. Peter's Church is the hub of Italian American heritage in the community and is therefore being nominated by the HPC for a local landmark designation. He added that the designation provides many benefits and is part of the National Historic Preservation Act and the commission is acting within its authority to nominate the church for this designation.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR JULSRUD

14-051 (10335) - AN ORDINANCE AMENDING SECTION 48-28 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING EXCESS PILOT FUNDS.

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

- - -

INTRODUCED BY COUNCILOR JULSRUD

14-074 (10336) - AN ORDINANCE ESTABLISHING A FUNDING FRAMEWORK THAT USES BOTH ANNUAL APPROPRIATIONS AND THE OPEB TRUST FUND TO PAY THE COST OF OTHER POST-EMPLOYMENT BENEFITS.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- - -

INTRODUCED BY COUNCILOR RUSS

14-066 (10337) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING CHANGES RELATED TO R-1 ZONE DISTRICT AND IMPROVEMENT OF STREET FRONTAGE.

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

- - -

INTRODUCED BY COUNCILOR RUSS

14-067 (10338) - AN ORDINANCE AMENDING SECTIONS 50-27.1, 50-27.4, 50-27.7, 50-41.4, 50-41.16, 50-41.18, AND 50-41.19 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING CHANGES MADE TO SIGNS AND DEFINITIONS.

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

- - -

INTRODUCED BY COUNCILOR RUSS

14-068 (10339) - AN ORDINANCE AMENDING SECTION 50-37.7 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING CHANGES RELATED TO CONCURRENT USE PERMITS.

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

- - -

INTRODUCED BY COUNCILOR RUSS

14-069 (10340) - AN ORDINANCE AMENDING SECTIONS 50-24.2, 50-24.7, AND 50-37.9 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING CHANGES MADE TO REQUIRED OFF STREET PARKING SPACES AND VARIANCES.

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

- - -

INTRODUCED BY COUNCILOR RUSS

14-070 (10341) - AN ORDINANCE AMENDING SECTION 50-18.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING CHANGES MADE TO STORMWATER MANAGEMENT AND EROSION CONTROL.

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

- - -

INTRODUCED BY COUNCILOR RUSS

14-073 (10342) - AN ORDINANCE GRANTING TO UNIVERSITY OF MINNESOTA DULUTH A CONCURRENT USE PERMIT FOR THE INSTALLATION OF SIX UNDERGROUND CONDUITS AND ONE SANITARY SEWER UNDER WEST SAINT MARIE STREET.

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

- - -

The meeting was adjourned at 7:34 p.m.

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

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

ORDINANCE NO. 10335

AN ORDINANCE AMENDING SECTION 48-28 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING EXCESS PILOT FUNDS.

The city of Duluth does ordain:

Section 1. That Section 48-28 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 48-28. Disposition of money collected under chapter.

(a) Except as provided for in subsections (b), (c) and (d) below, all money collected or recovered under the provisions of this Chapter shall be paid into the water and gas fund for the benefit and use of the department or by resolution of the city council for the benefit and use of the city;

(b) For the purposes of this Section, the following terms shall have the meanings hereinafter ascribed to them:

(1) PILOT shall mean those funds authorized to be transferred out of the gas division account in any year pursuant to the authority of Minnesota Session Laws, 1951, Chapter 507, Section 1, as amended by Minnesota Session Laws, 1993, Chapter 148, Section 1;

(2) Base PILOT shall mean \$3,600,000 beginning in 2014 and increased annually thereafter by the preceding year change in consumer price index for all consumers (CPI-U), for U.S. city average issued by the bureau of labor statistics of the U.S. department of labor or its successor index;

(3) Current PILOT shall mean the PILOT for the year then current;

(4) Incremental PILOT shall mean the difference between the base PILOT and the current PILOT in any year;

(c) The base PILOT shall be deposited in the general fund;

(d) The incremental PILOT shall be deposited in the street system utility fund.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: January 3, 2015)

Councilor Julsrud 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

Passed November 24, 2014

Approved November 24, 2014

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10336

AN ORDINANCE ESTABLISHING A FUNDING FRAMEWORK THAT USES BOTH ANNUAL APPROPRIATIONS AND THE OPEB

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

TRUST FUND TO PAY THE COST OF OTHER POST-EMPLOYMENT BENEFITS.

The city of Duluth does ordain:

Section 1. That Chapter 20 of the Duluth City Code 1959, as amended, is hereby amended by adding a new Article IV thereto which reads as follows:

Article IV. Funding Retiree Healthcare Costs.

Sec. 20-36. Policy and purpose.

Minnesota Statutes, Section 353.95, provides for the establishment of an irrevocable other post-employment benefits ("OPEB") trust fund to finance payments owed by the city on behalf of retired employees for health insurance costs. Since the establishment of the city's OPEB trust fund in 2007, the city has accumulated significant assets from the investment of annual contributions made into the fund.

In order to provide budgetary certainty, predictability and stability, while ensuring the viability and sustainability of the retiree healthcare benefits, the city is seeking to provide a long term funding framework.

Sec. 20-37. Definitions.

(a) OPEB trust fund. An irrevocable trust fund established pursuant to Minn. Stat. Sec. 353.95 to fund and pay for post-employment benefits;

(b) Pooled portfolio. All city cash balances that are pooled and invested to maximize investment income. The pooled portfolio excludes special purpose portfolios such as the community investment trust fund.

Sec. 20-38. Payment of retiree healthcare costs.

The city shall pay the lesser of the city's total retiree healthcare costs or \$9,000,000 of the city's annual retiree healthcare costs through its appropriation process. The city's annual retiree healthcare costs that exceeds \$9,000,000, if any, may be paid from the OPEB trust fund.

Sec. 20-39. Investment of funds.

In order to maintain the financial sustainability of the OPEB trust fund and ensure adequate funding for retiree healthcare costs, the city shall transfer all earning from the city's investments in the pooled portfolio to the OPEB trust fund with the following exceptions:

(a) Investment income from deposits made by the Duluth airport authority, the Spirit Mountain authority, the Duluth transit authority, the Duluth entertainment and convention center authority, and the Duluth economic development authority;

(b) Investment income from the deposit of bond proceeds; and

(c) Investment income legally restricted for other purposes.

Section 2. That this ordinance shall take effect on January 1, 2015, or 30 days after its passage and publication, whichever is later. (Effective date: January 3, 2015)

Councilor Julsrud 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

Passed November 24, 2014

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

ATTEST:
JEFFREY J. COX, City Clerk

Approved November 24, 2014
DON NESS, Mayor

- - -

ORDINANCE NO. 10337

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING CHANGES RELATED TO R-1 ZONE DISTRICT AND IMPROVEMENT OF STREET FRONTAGE.

The city of Duluth does ordain:

Section 1. That Section 50-14.5 of Chapter 50 be amended as follows:

50-14.5 Residential-Traditional (R-1).

W. 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.

TABLE 50-14.5-1 R-1 DISTRICT DIMENSIONAL STANDARDS		
LOT STANDARDS		
Minimum lot area per family (One-family) ^[1] ^[2]	The smaller of 4,000 sq. ft. or average of developed 1-family lots on the block face	
Minimum lot area per family (Two-family) ^[1] ^[2] ^[3]	The smaller of 3,000 sq. ft. or average of developed 2-family lots on the block face	
Minimum lot area per family (Townhouse) ^[1]	2,500 sq. ft.	
Minimum lot frontage (one-family, two-family, and townhouses) ^[1]	The smaller of 40 ft. or average of developed lots with similar uses on the block face	
STRUCTURE SETBACKS		
Minimum depth of front yard	The smaller of 25 ft. or average of adjacent developed lots facing the same street	
Minimum width of side yard (one- and two-family)	General	6 ft.
	Lots with less than 50 ft. frontage and garage	Combined width of side yards must be at least 12 ft.
Minimum width of side yard (Townhouse)	10 ft. if adjacent to another lot	
	25 ft. if adjacent to platted street	
Corner Lot: width of front side yard	Dwelling	15 ft.
	Detached accessory structure	20 ft.
	Permitted non-residential structure	25 ft.
Minimum depth of rear yard	25 ft.	
STRUCTURE HEIGHT		
Maximum height of structure	30 ft.	

^[1] Determined using "Lots on the Block Face" definition. When doing this calculation, exclude the subject lot from the calculation.

^[2] Lots without municipal sewer must also meet requirements of 50-21.2

^[3] Existing structures that have a change of use from one-family to two-family must meet minimum lot area and frontage, but not setbacks.

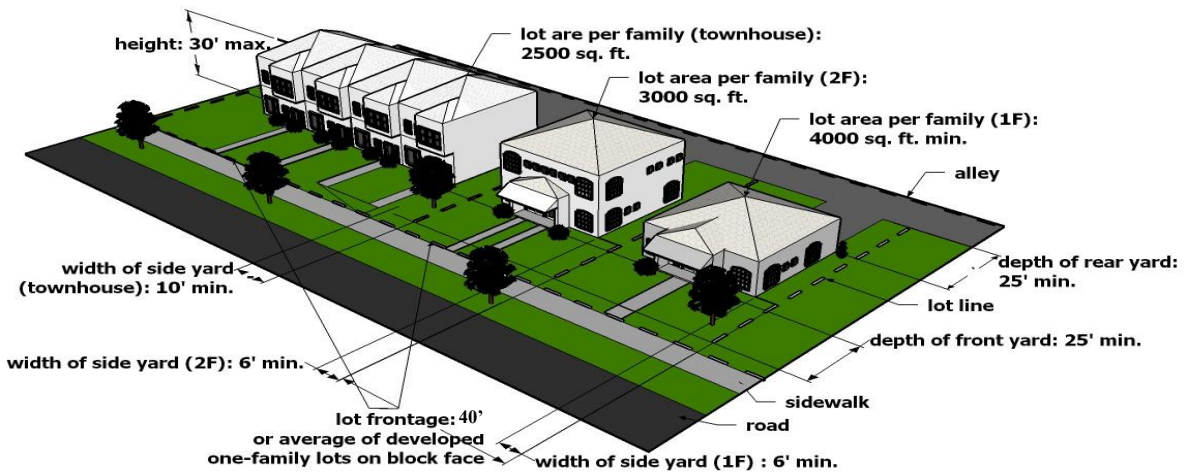
X. Example.

R-1 Example Building Forms



C. Illustration.

R-1 Example Lot Layout



Section 2. That Section 50-21.2 of Chapter 50 be amended as follows:

50-21.2 Special dimensional standards.

A. Lot without municipal sewer.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Lot areas for properties not provided with municipal sewer shall be at least two acres in size or the minimum lot area for the zone district, whichever is larger, and shall be subject to county ordinances and standards regulating individual sewage treatment systems. Lots with large wetlands or shallow bedrock may be required to be larger than two acres, and shall be determined on a case-by-case basis based on the area needed to fit a sewage treatment system on the site. Lots smaller than two acres may be allowed in areas zoned R-P based on soil and site conditions;

B. Front yards on double frontage lots.

On lots having double frontage and where the first and second frontages are on opposite lot lines, the required front yard shall be provided on the frontage that is the generally established frontage on the block, as determined by the building official;

C. Side yards.

1. Dwelling units above commercial uses.

In all residential and mixed use districts, where dwelling units are erected above commercial establishments, no residential side yard is required, except for any side yard required for the commercial building on the side of a lot adjoining a residential district. In form districts, no side yard is required even if the lot adjoins a residential district;

2. Attached and multi-family dwellings.

For the purpose of side yard regulations, a two-family dwelling, townhouse, or multi-family dwelling shall be considered as one building occupying one lot;

3. Driveways.

Where no garage facilities are provided and the alley is not developed for access at the time the dwelling is constructed in an R-1 or R-2 district, there shall be provided one side yard of a minimum of nine feet for a driveway and the other side yard shall have a minimum width of five feet;

D. Rear yards.

An accessory structure cannot exceed 20 feet in height, and may not occupy more than 30 percent of the rear yard area. All accessory structures on a lot may not occupy more than 60 percent of the rear yard area;

E. Street improvements.

Except as provided in Section 50-37.1.L, for lots without a principle structure:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

1. The street shall be improved to the most current standards on file in the office of the city engineer and shall be designed for the road classification within the zone in which the property is located;
2. The street shall be improved across the entire frontage of the lot proposed to be developed and all other contiguous property owned by the owner of the subject lot;
3. Any street improvements that results in a dead end street that is greater than 150 feet in length shall require construction of a turn-around for emergency and maintenance vehicles approved by the city fire marshal.

For lots developed with an existing legal principle structure, the street improvement requirements need not be met when the landowner proposes an expansion of the existing legally constructed structure or a replacement principle structure, if the landowner provides evidence of a perpetual easement to access the property from an improved street of a distance not greater than 150 feet, and such access shall be improved to meet Fire Code standards.

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

Councilor Russ 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

Passed November 24, 2014

Approved November 24, 2014

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10338

AN ORDINANCE AMENDING SECTIONS 50-27.1, 50-27.4, 50-27.7, 50-41.4, 50-41.16, 50-41.18, and 50-41.19 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING CHANGES MADE TO SIGNS AND DEFINITIONS.

The city of Duluth does ordain:

Section 1. That Section 50-27.1 of the Duluth City Code, 1959, as amended, be amended as follows:

50-27.1 Permit required.

- A. All signs that require a permit, as described in Section 50-27.7, must obtain a zoning permit as described in Section 50-37.13 (Zoning Permit) of this Unified Development Chapter;
- B. When submitting a zoning permit application for a sign, the applicant must submit photographs and dimensions of all signs existing on the lot, including all signs that will be removed. The city may request that the applicant submit photographs of all new signs erected on the lot after permit issuance;
- C. The applicant must sign the zoning permit application attesting to the accuracy of the information provided. The city may revoke any sign permit where there has

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

been a violation of the provisions of this section or misrepresentation of fact on the zoning permit application;

- D. All freestanding signs over seven feet in height must submit construction plans prepared by a design professional licensed in Minnesota that comply with the requirements of the Minnesota State Building Code.

Section 2. That Section 50-27.4 of the Duluth City Code, 1959, as amended, be amended as follows:

50-27.4 Illumination standards.

The following illumination standards apply to on-premises signs. Illumination of billboards (off-premises) are regulated separately in Section 50-27.7. Additional illumination requirements for electronic message signs are found in Section 50-27.7.

- A Any sign illumination, including gooseneck reflectors, external illumination and internal illumination, must be designed, located, shielded and directed to prevent the casting of glare or direct light upon roadways and surrounding properties, or the distraction of motor vehicle operators or pedestrians in the public right-of-way;
- B The sign face of internally illuminated signs must function as a filter to diffuse illumination. The sign face must cover all internal illumination components so that no exposed bulbs are visible;
- C All external illumination of a sign must concentrate the illumination upon the printed area of the sign face;
- D No sign illumination may exceed one footcandle of illumination at the property line;
- E The use of neon lighting as a sign material or sign accent is permitted for signs within the mixed-use, form-based and special purpose districts, with the exception of the MU-N and MU-B districts where it is prohibited. Neon lighting is subject to the following:
 - 4. When lit, neon lighting must be continuously illuminated. Flashing neon is prohibited;
 - 5. Neon lighting cannot be combined with any reflective materials (e.g., mirrors, polished metal, highly-glazed tiles, or other similar materials) that would cause glare and increase the spread of light;
 - 6. Neon lighting to outline doors and windows is prohibited;
- F The use of LED lighting as a sign accent is permitted, subject to the following:
 - 1. LED lighting as an accent is only permitted for non-residential uses in the mixed-use, form-based and special purpose districts where electronic message center signs are permitted. LED accent lighting is prohibited in any residential district;
 - 2. LED lighting as an accent must comply with all illumination requirements of an electronic message center sign;
 - 3. The addition of LED lighting as an accent to an existing sign requires a zoning permit;
 - 4. When lit, LED lighting must be continuously illuminated. Flashing LED is prohibited;
 - 5. LED lighting cannot be combined with any reflective materials (e.g., mirrors, polished metal, highly-glazed tiles, or other similar materials) that would cause glare and increase the spread of light;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

6. LED lighting to billboards, free standing monument signs, outline doors, windows, any part of a structure, and automobile and filling station gas canopies is prohibited;
7. LED lighting to outline free standing pole signs is allowed but lighting must conform to the same brightness standards as electronic message centers as identified in UDC Section 50-27.7.G.

Section 3. That Section 50-27.7 of the Duluth City Code, 1959, as amended, be amended as follows:

50-27.7 Sign types.

A. General regulation.

The following types of signs require a zoning permit before they can be erected on a site. Table 50-27-4: Sign Types – Permit Required: District and Use Permissions describes which sign types are permitted in each district. In many districts, multiple sign types for the same development may be permitted.

TABLE 50-27-4: SIGN TYPES – PERMIT REQUIRED: DISTRICT AND USE PERMISSIONS																								
KEY (REFERENCE TABLE 50-19.8 FOR USES)																								
1 : Residential Uses											3: Commercial Uses													
1A: Multi-Family Dwelling Only											4: Industrial Uses													
2 : Public, Institutional and Civic Uses																								
<i>NOTE: Accessory uses are subject to the home occupation sign standards</i>																								
	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
A-Frame Sign							3	3			3	3	3	3	3	3	3	3	3	3	3			2
Awning	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	2
Banner - Exhibition	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Billboard ¹								3 4		3 4		3 4										3 4		
Canopy	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	2
Electronic Message Sign ²	2	2	2	2	2	2	2	2 3 4	2 3 4	2 3 4	2	2 3 4	2	2	2	2	2	2	2	2 3 4	2 3 4	4	2	2
Freestanding Signs – Pole	2	2	2	2	2	2	2 3 4	2 3 4	2 3 4	2	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2
Freestanding Signs – Monument	1 2	1 2	1 2	1 2	1 2	1 2	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	2
Marquee							3	3			3	3					3		3	3				
Projecting Sign							3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4
Scoreboard	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Wall Sign	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2

¹ Billboards are permitted on any lot within the noted districts, whether developed or undeveloped, unless such lot is developed for a one-family or two-family dwelling.

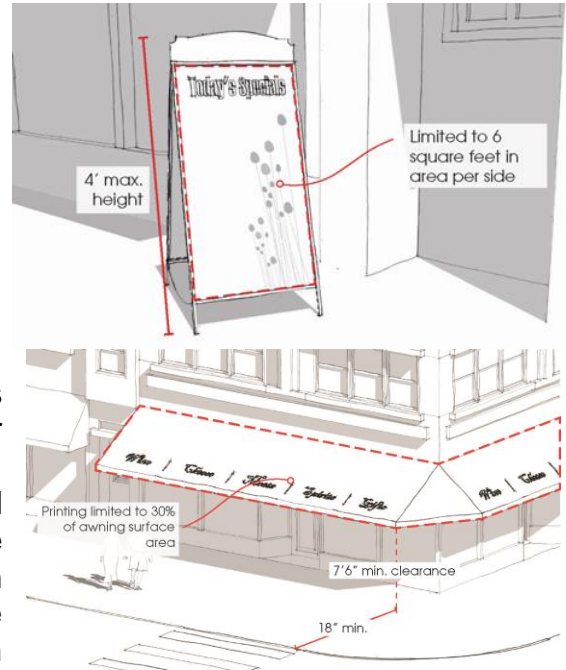
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2 Filling station uses in any district are permitted to display fuel prices by an electronic message component, and are subject to the restrictions of that section. Electronic message signs are not allowed in the Historic Canal Park area as identified in UDC Section 50-27.8.C. Electronic message signs are allowed in the Entertainment District area as identified in UDC Section 50-27.8.B.

B. A-frame signs.

A-frame signs are permitted as indicated in Table 50-27-4, subject to the following regulations.

1. A-frame signs are limited to six square feet in area per side and four feet in height. The use of A-frame signs is limited to business hours only and may not be displayed for more than 16 hours in a 24 hour period. Signs must be stored indoors at all other times;
2. An A-frame sign must be placed on the property where the business is located and within ten feet of the primary entrance of the business or on the right-of-way in front of property. A-frame signs must provide an unobstructed sidewalk width of at least five feet for pedestrian passage and must not interfere with pedestrian traffic or violate standards of accessibility as required by the ADA or other accessibility codes;
3. The permit applicant must provide and maintain in force a certificate of insurance, in a form approved by the city, that evidences that the applicant has in force insurance in the minimum amounts required by the city for bodily injuries or property damage in any one year protecting such person or organization and the City against liability for injuries or damages resulting from the placement of such objects or materials in the public right-of-way. Proof of insurance must be renewed on an annual basis;



C. Awning.

Awnings without printing, with the exception of a street address number (number only), are considered an architectural feature and are not regulated by this Section. This

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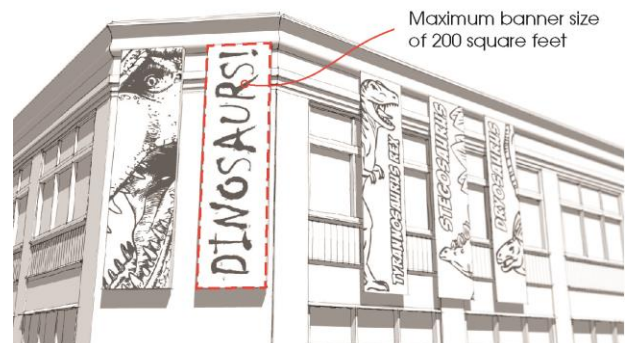
Section regulates awning signs, which are used to identify a use by name or logo, the goods or services offered on-site, and similar sign information. Awning signs are permitted as indicated in Table 50-27-4, subject to the following regulations:

1. Awning signs must maintain a minimum vertical clearance of seven feet six inches (7' 6");
2. Awning signs must be located a minimum of 18 inches from the back of curb;
3. Awning signs must comply with Minnesota State Building and Fire codes, including provisions for encroachment into the public right-of-way, structural requirements, sprinkler protections and similar regulations;
4. Awning signs must be made of a durable, weather-resistant material like canvas, canvas-like material, nylon, vinyl-coated fabric or metal. Solid, flat-roofed awnings may also be made out of finished wood, wood and plastic composites, metal or metal cladding, stucco or EIFS;
5. Printing on any awning sign is limited to 30 percent of the surface area;
6. Awning signs are permitted lettering attached to and located above the top of a solid awning to a maximum height of 24 inches. Signs mounted to solid, flat roofed awnings are limited to individually-mounted letters with internal illumination (if illuminated) or a sign board with external illumination – no internally illuminated cabinet signs;
7. Awning signs may illuminate the printed area of the awning with gooseneck or similar external illumination. Back-lit awnings are prohibited;
8. Under-awning signs are permitted subject to the following:
 - (a) Under-awning signs must be attached to the underside of an awning. Under-awning signs must not project beyond the awning;
 - (b) Under-awning signs must maintain a minimum vertical clearance of seven feet;
 - (c) A maximum of one under-awning sign is permitted per business establishment with frontage on the street where the awning is mounted;
 - (d) Each under awning sign is limited to a maximum of six square feet;
 - (e) Under-awning signs must be securely fixed to the awning with metal supports;
 - (f) Under-awning signs must be made of wood, metal or plastic;
9. A sign permit is required for recovering or resurfacing an existing awning;

D. Exhibition banners.

Exhibition banners are intended to be used in conjunction with a special exhibit for an educational facility, government building, museum, library or art gallery, or religious assembly. Exhibition banners are permitted for events and exhibitions as indicated in Table 50-27-4, subject to the following regulations:

1. Each use is permitted up to six exhibition banners during one display period. The



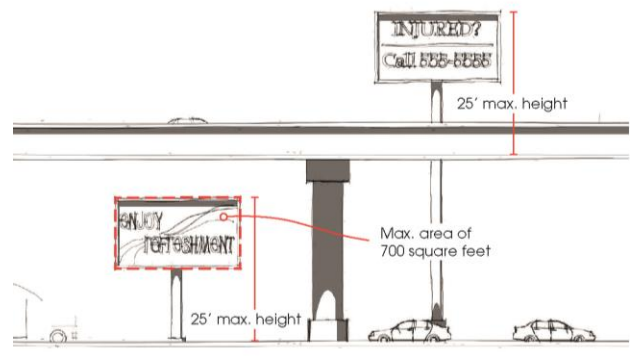
display period is defined as the combined period of 30 days prior to the opening of the exhibit, the run of the exhibit, and for 14 days following the close of the exhibit. In no event may the display of exhibition banners exceed four months in any calendar year;

2. Exhibition banners must be made of a durable, weather-resistant material like canvas, nylon or vinyl-coated fabric;
3. Each exhibition banner is limited to a maximum sign area of 200 square feet;
4. Exhibition banners must be securely and tautly attached to the wall of the structure and no exhibition banner may be located higher than the roofline;

E. Billboard.

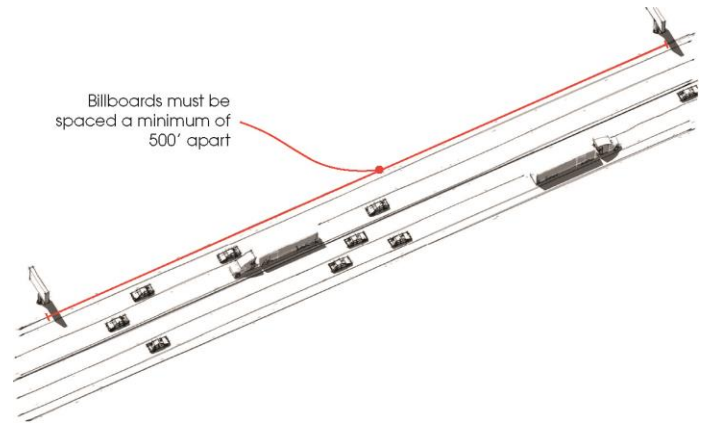
The following types of signs require a zoning permit before they can be erected on a site;

1. Billboards are permitted as indicated in Table 50-27-4 subject to the following regulations. However, billboards are only permitted in the MU-B and I-G districts with the use of an exception credit (Section 50-38.7). Billboards are also further restricted by the requirements of Minnesota State Statute Section 173.08, Subdivision 2, as amended from time to time;
2. The maximum sign area for a billboard is 700 square feet;
3. Billboards adjacent to on-grade roadways are limited to a maximum height of 25 feet. Billboards adjacent to grade separated/elevated roadways are permitted to measure the 25 foot height from the roadbed crown to the tallest projection of the structure. This measurement is taken at a perpendicular angle between the grade separated/elevated roadway and the sign location;
4. Billboards may only be mounted as freestanding pole signs. However, when an exception credit is used, billboards may be wall-mounted and are limited to the wall sign area allowed for that district;
5. Billboards are required to be spaced 500 feet apart, subject to the following:
 - (a) Billboards located along Interstate Highway No. 35 and Interstate Highway No. 535 must be spaced 800 feet apart, unless erected under an exception credit in which case only the 500 foot spacing is required;
 - (b) Spacing is measured along the nearest edge of the right-of-way pavement to which the billboard is displayed and between points directly opposite the center of the billboard;



(c) Spacing requirements apply only to billboards located on the same side of the same highway.

(d) Multi-faced or back-to-back billboards, up to a maximum of a five foot separation between sign faces, are considered one billboard;



6. Electronic billboards are permitted only in the MU-C, MU-B, and I-G districts. Electronic billboards are subject to the following regulations:

(a) An electronic billboard may only be erected if one of the following criteria is met:

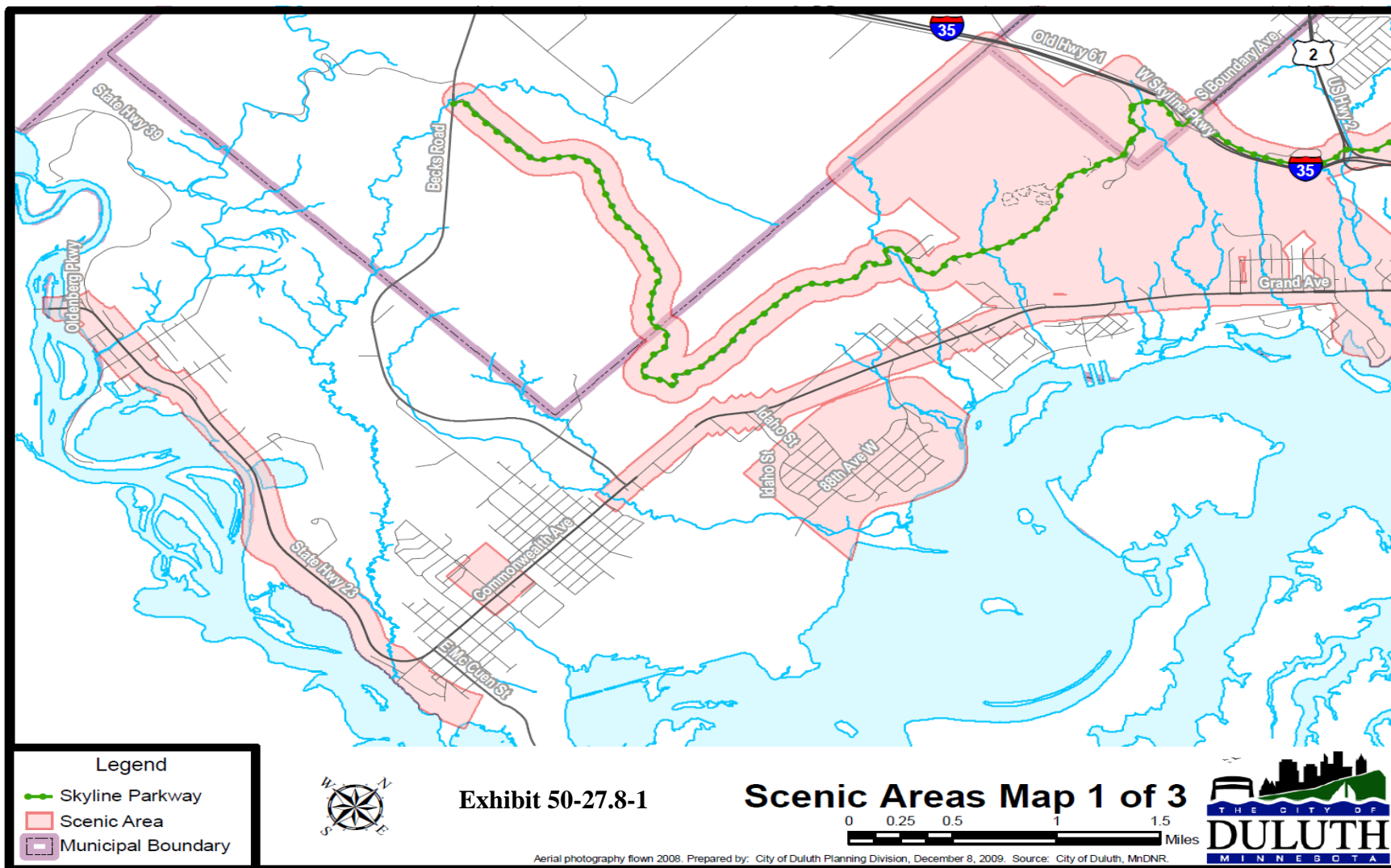
(i) The electronic billboard is constructed using exception credits. The number of exception credits, in square footage, must equal three times the square footage of the electronic billboard to be constructed;

(ii) Nonconforming billboards of a total square footage are removed in an amount equal to three times the square footage of the electronic billboard to be constructed;

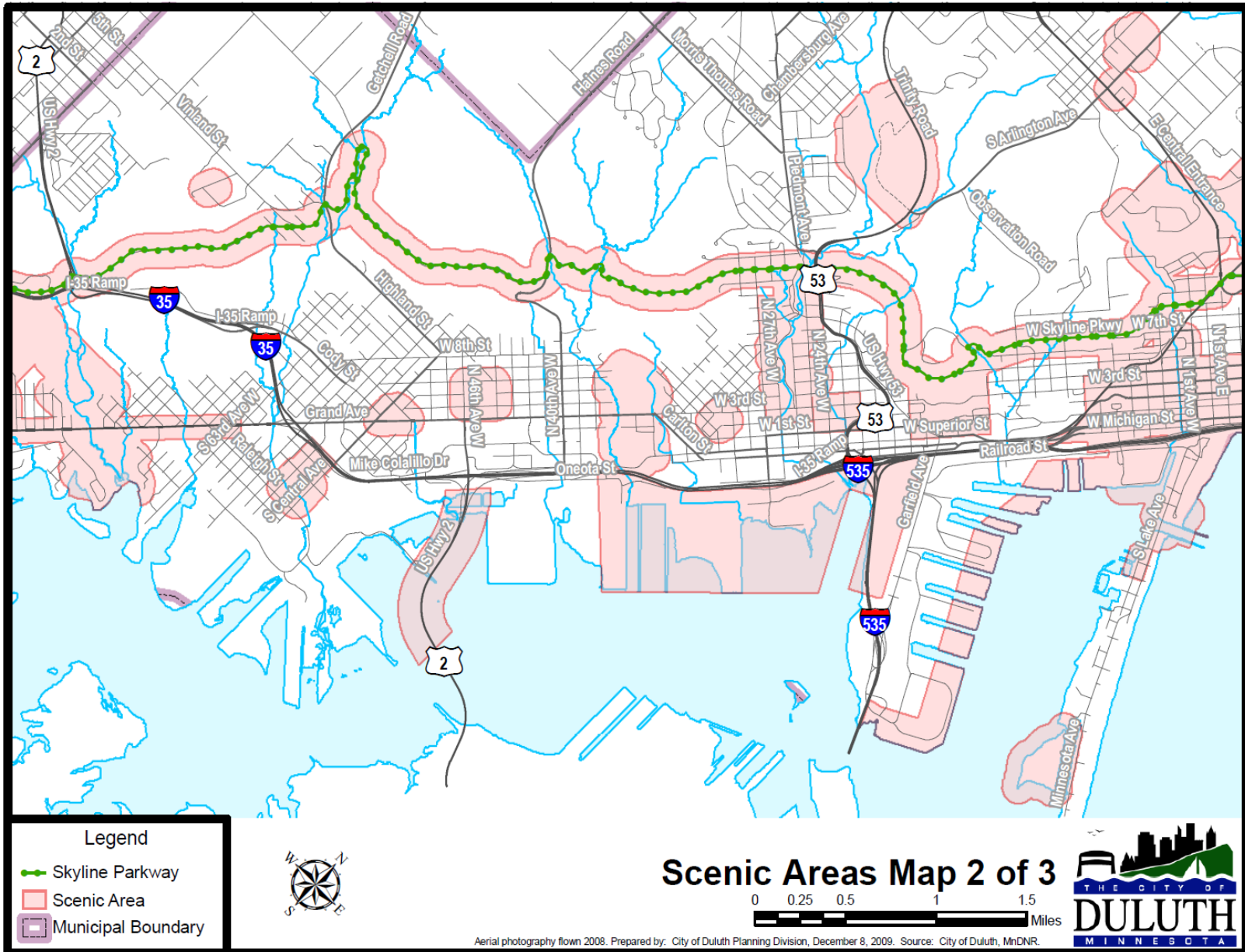
(b) Each message displayed on an electronic billboard must be static or depicted for a minimum of eight seconds. Any scrolling, flashing or movement of the message is prohibited;

(c) The maximum brightness of an electronic billboard is limited to 5,000 nits or 464 candelas per square foot during daylight hours, and 500 nits or 46 candelas per square foot between dusk to dawn. The billboard must have an automatic dimmer control that produces a distinct illumination change from a higher allowed illumination level to a lower allowed level for the time period between one-half hour before sunset and one-half hour after sunrise;

7. No off-premises sign or billboard in excess of 60 square feet shall be erected or maintained in any area shown on the maps in Exhibit 50-27.8-1;



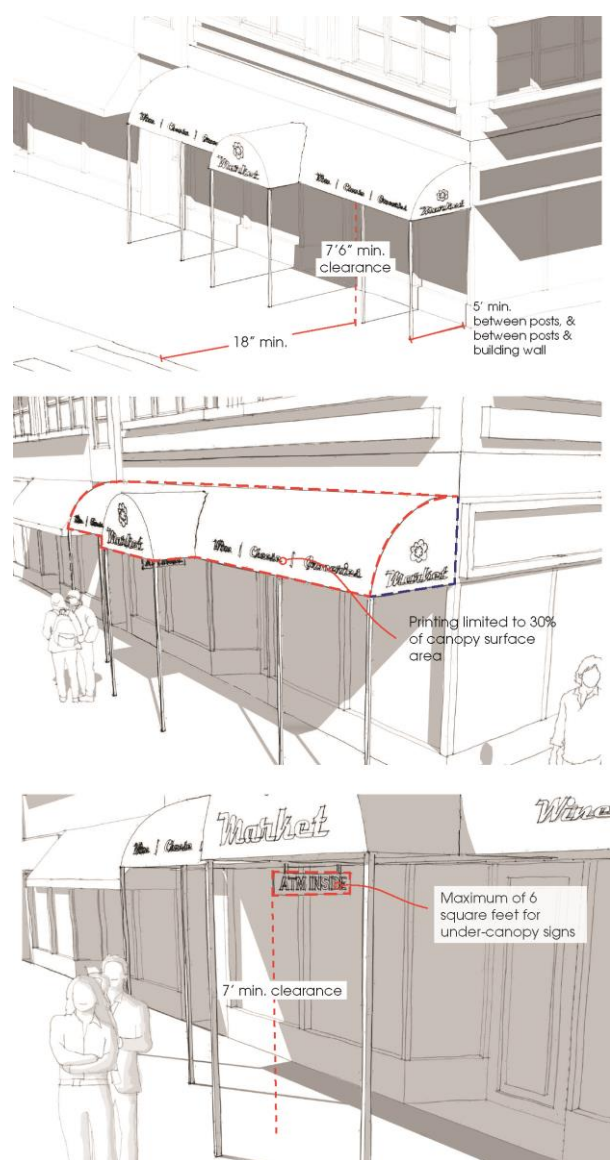
PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014



F. Canopy.

Canopies without printing, with the exception of a street address number (number only), are considered an architectural feature and are not regulated by this Section. This Section regulates canopy signs, which are used to identify a use by name or logo, the goods or services offered on-site, and similar sign information. Canopy signs are permitted as indicated in Table 50-27-4 subject to the following regulations:

1. Canopy signs must maintain a minimum vertical clearance of seven feet six inches (7' 6");
2. Canopy signs must be located at least 18 inches from the back of curb. Support posts must maintain a minimum separation of five feet between posts and between the posts and any building wall. No obstructions are permitted within this area;
3. Canopy signs must comply with Minnesota State Building and Fire codes, including provisions for encroachment into the public right-of-way, structural requirements, sprinkler protections and similar regulations;
4. Canopy signs must be made of a durable, weather-resistant material like canvas, canvas-like material, nylon, vinyl-coated fabric or metal. Solid, flat-roofed canopies may also be made out of finished wood, wood and plastic composites, metal or metal cladding, stucco or EIFS;
5. Printing on any canopy sign is limited to 30 percent of the surface area. Signs mounted to solid, flat roofed canopy are limited to individually-mounted letters with internal illumination (if illuminated) or a sign board with external illumination – no internally illuminated cabinet signs;
6. Canopies may include underside, external illumination;
7. Under-canopy signs are permitted subject to the following:
 - (a) Under-canopy signs must be attached to the underside of a canopy. Under-canopy signs must not project beyond the canopy;
 - (b) Under-awning signs must maintain a minimum vertical clearance of seven feet;



- (c) A maximum of one under-canopy sign is permitted;
- (d) Each under-canopy sign is limited to a maximum of six square feet;
- (e) Under-canopy signs must be securely fixed to the awning with metal supports;
- (f) Under-awning canopy must be made of wood, metal or plastic;

G. Electronic message sign.

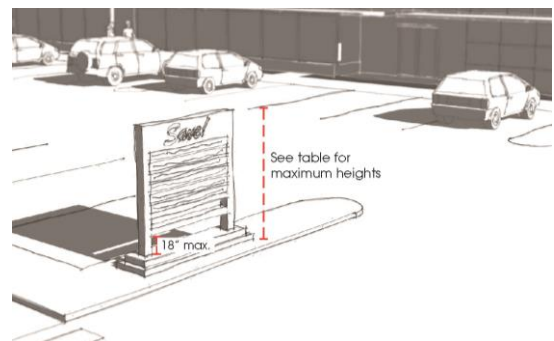
Electronic message signs are permitted as indicated in Table 50-27-4 subject to the following regulations. However, all filling stations in any district are permitted to display fuel prices by an electronic message component. Such component must only display numerical fuel prices and must be static.

- 1. Only one electronic message sign per lot is permitted;
- 2. Each message or image displayed on an electronic message sign must be static or depicted for a minimum of eight seconds. Any scrolling, flashing or movement of the message is prohibited;
- 3. The maximum brightness of an electronic message sign is limited to 5,000 nits or 464 candelas per square foot during daylight hours, and 500 nits or 46 candelas per square foot between dusk to dawn. The sign must have an automatic dimmer control that produces a distinct illumination change from a higher allowed illumination level to a lower allowed level for the time period between one-half hour before sunset and one-half hour after sunrise;
- 4. Electronic message signs are permitted as part of a freestanding sign, wall sign or marquee and, in addition, are subject to the requirements for those sign types;
- 5. Electronic message signs must be integrated into the larger sign structure and must include the name of the use as a non-electronic component as part of the sign structure. Electronic message signs are limited to a maximum of 60 percent of the sign area of the freestanding or wall sign with which it is integrated;
- 6. Electronic message signs cannot display any off-premises commercial advertising;
- 7. Electronic display screens are prohibited;

H. Freestanding signs-pole and monument.

Freestanding signs are permitted as indicated in Table 50-27-4, subject to the following regulations:

- 1. Freestanding sign maximum height and sign areas are as indicated in Table 50-27-5. Freestanding signs must be constructed of solid or composite finished wood, metal, masonry, neon, glass or nonwoven plastic;



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

2. Only one freestanding sign, either pole or monument, is permitted per street frontage of a lot. For each additional 200 feet of street frontage, above an initial 200 feet of frontage, an additional freestanding sign, either pole or monument, is permitted, up to a maximum of three freestanding signs;
3. All freestanding signs over seven feet in height must submit construction plans prepared by a design professional licensed in Minnesota that comply with the requirements of the Minnesota State Building Code;
4. No part of a freestanding sign may project into, over or otherwise encroach on a public right-of-way;
5. A freestanding pole sign must maintain a minimum vertical clearance of eight feet. When the pole structure of a freestanding pole sign is wrapped in any decorative material, the decorative pole wrapping must be permanently installed. Decorative wrapping shall not be closer than three feet to the property line, and shall not be wider than 25 percent of the sign face. No temporary signs may be attached to the pole of a freestanding pole sign;
6. Freestanding monument signs may be internally or externally illuminated. If externally illuminated, all light must be directed onto the sign face. Freestanding pole signs may only be internally illuminated;

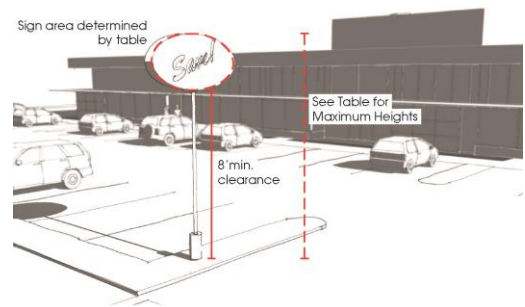


TABLE 50-27-5: FREESTANDING SIGN REGULATIONS

DISTRICT	SIGN AREA	POLE SIGN	MONUMENT SIGN
	Maximum Sign Area (Square Feet)	Maximum Sign Height (Feet)	Maximum Sign Height (Feet)
R-C	42 sf	17	6
RR-1	42 sf	17	6
RR-2	42 sf	17	6
R-1	42 sf	17	6
R-2	42 sf	17	6
R-P	42 sf	17	6
MU-N	42 sf	17	6
MU-C*	60 sf	25	8
MU-I*	50 sf	25	8
MU-B*	50 sf (Monument)	Prohibited	8
MU-W*	50 sf	20	6
MU-P*	60 sf	25	8
F-1	42 sf	17	6
F-2	42 sf	17	6
F-3	42 sf	17	6

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

F-4	42 sf	17	6
F-5	42 sf	17	6
F-6	42 sf	17	6
F-7	42 sf	17	6
F-8	42 sf	15	6
F-9	60 sf	25	8
I-G*	60 sf	25	8
I-W*	60 sf	25	8
P-1	42 sf	17	6

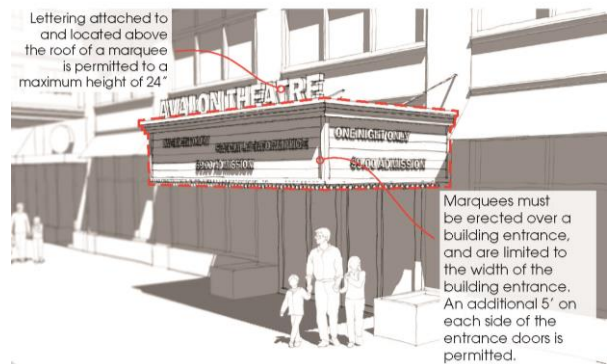
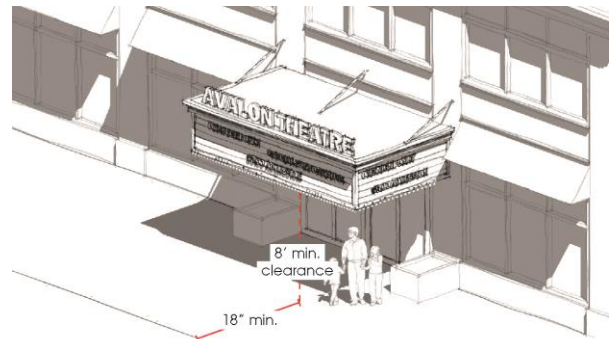
*Freestanding Pole and Monuments Signs in the MU-I, MU-B and MU-W zones are allowed a maximum of 50 square feet. However, for sites with lot frontage that exceeds 250 lineal feet, the maximum size area of the sign may equal up to 20 percent of the lineal street frontage on the street nearest the sign, up to a maximum sign area of 100 square feet.

*Freestanding Pole and Monument Signs in the MU-C, MU-P, I-G, and I-W zones are allowed a maximum of 60 square feet. However, for sites with lot frontage that exceeds 300 lineal feet, the maximum size area of the sign may equal up to 20 percent of the lineal street frontage on the street nearest the sign, up to a maximum sign area of 150 square feet.

I. Marquee.

Marquees are permitted as indicated in Table 50-27-4, subject to the following regulations:

1. Marquees must be supported solely by the building to which they are attached. No exterior columns or posts are permitted as supports;
2. No marquee may be erected on any building or other structure of wood frame construction;
3. The roof of a marquee may not be used for any purpose other than to form and constitute a roof and must be constructed of noncombustible material;
4. Water from the roofs of a marquee may not drain, drip or flow onto the surface of a public sidewalk. Sufficient downspouts, drains and gutters must be installed as part of each marquee to prevent water from the roof of the marquee from flowing onto the surface of a public sidewalk;
5. Marquees must be erected over a building entrance and are limited to the width of the building entrance. An additional five feet on each side of the



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- 6. entrance doors covered by the marquee is permitted;
- 6. All marquees must maintain a minimum vertical clearance of eight feet and the roof of the marquee structure must be erected below the second floor window sill. Marquees may encroach up to 18 inches from the back of curb;
- 7. Marquees are permitted lettering attached to and located above the roof of a marquee to a maximum height of 24 inches;
- 8. Marquees may be internally illuminated. External Illumination is prohibited;

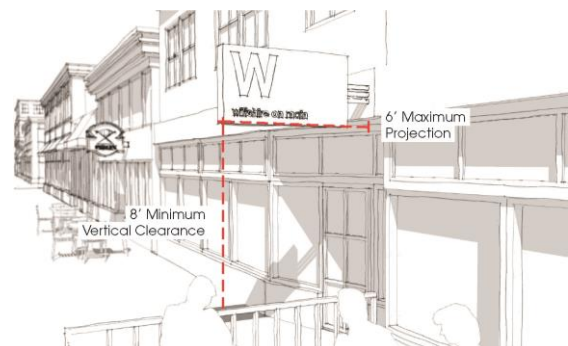
J. Projecting signs.

Projecting signs are permitted as indicated in Table 50-27-4, subject to the following regulations:

- 1. Projecting sign maximum area is as indicated in Table 50-27-6;
- 2. One projecting sign is permitted per establishment with frontage on a street. For a corner lot, one projecting sign is permitted for each street frontage. Projecting signs must be above or adjacent to the building entrance or, if a corner lot, the corner of the building;
- 3. Projecting signs may not project more than six feet from the face of the building to which they are attached, including the area between the sign and the face of the building;
- 4. Projecting signs must maintain a minimum vertical clearance of eight feet. No projecting sign affixed to a building may project higher than the building height, including the sign support structure;
- 5. Projecting signs, including frames, braces, and supports, must be designed by a licensed structural engineer or manufacturer. No projecting sign may be secured with wire, chains, strips of wood or nails nor may any projecting sign be hung or secured to any other sign. Any movable part of a projecting sign, such as the cover of a service opening, must

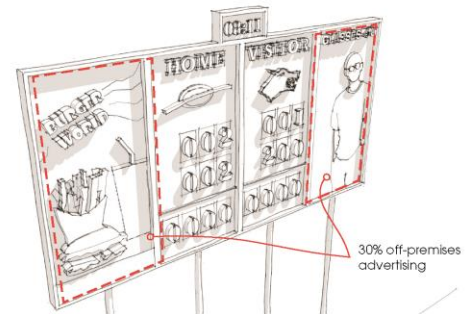
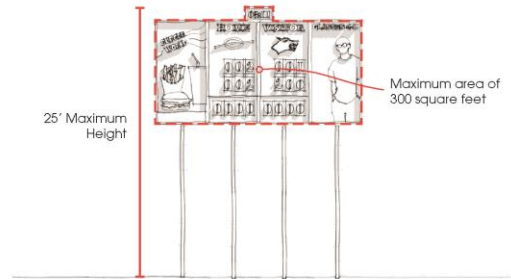
TABLE 50-27-6: PROJECTING SIGN REGULATIONS

DISTRICT	MAXIMUM AREA
R-C	Prohibited
RR-1	Prohibited
RR-2	Prohibited
R-1	Prohibited
R-2	Prohibited
R-P	Prohibited
MU-N	36sf
MU-C	48sf
MU-I	48sf
MU-B	48sf
MU-W	36sf
MU-P	48sf
F-1	36sf
F-2	36sf
F-3	36sf
F-4	36sf
F-5	36sf
F-6	36sf
F-7	36sf
F-8	48sf
F-9	48sf
I-G	48sf
I-W	48sf
P-1	Prohibited



be securely fastened by chains or hinges;

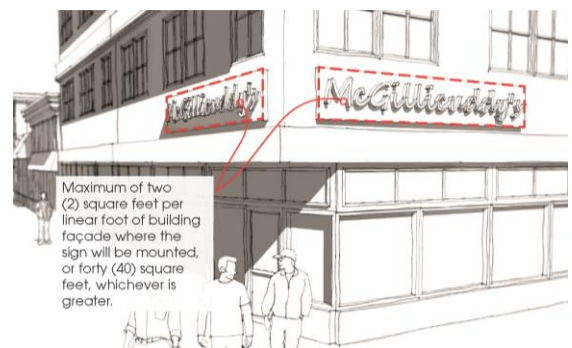
6. Projecting signs must be constructed of wood, metal, durable, weather-resistant material like canvas, canvas-like material, nylon or vinyl-coated fabric, or plastic. Projecting signs constructed of material must be mounted so that they are held taut between support posts;
7. Projecting signs may be internally or externally illuminated. If externally illuminated, all lighting must be directed onto the sign face from above;



8. Maximum projecting sign areas are provided in Table 50-27-6: *Projecting Sign Regulations*;
9. Projecting signs erected on properties within the Entertainment District and Historical Canal Park are subject to additional requirements as provided in 50-27.8;

K. Scoreboard and outfield signs.

1. Scoreboards and outfield signs are permitted as indicated in Table 50-27-4, subject to the following regulations. Such signs are further restricted to recreational playing fields only;
2. Scoreboards must be constructed as a freestanding pole sign, no more than 300 square feet in sign area and 25 feet in height;
3. The score-keeping portion of the scoreboard may utilize an electronic message component;
4. If the scoreboard cannot be viewed from any adjacent right-of-way as measured along 500 foot sight lines from the scoreboard, up to 30 percent of the sign area may be used for off-premises advertising. If the scoreboard can be viewed from any adjacent right-of-way, up to 25 percent of the sign area may be used for off-premises advertising;
5. There is no limit on the number of outfield advertising signs so long as no such signs are visible from an adjacent right-of-way. No permit is required for outfield advertising signs;
6. Scoreboards and outfield signs that are part of a sports stadium as a principal use are considered part of the structure and not subject to these



standards;

L. Wall signs.

Wall signs are permitted as indicated in Table 50-27-4, subject to the following regulations.

1. The maximum size of a wall sign is established at two square feet per linear foot of building façade where the wall sign will be mounted or 40 square feet, whichever is greater;
2. In addition, any structure over seven stories in height is permitted one additional wall sign per façade to identify the building, that must be placed within the top 20 feet of the structure and cannot cover any fenestration or architectural features. The maximum size is established at two square feet per linear foot of building façade, measured at the roof line, where the wall sign will be mounted;
3. Wall signs may be internally or externally illuminated. If externally illuminated, all light must be directed onto the sign face from above;
4. Wall signs must be safely and securely attached to the building wall. Wall signs must be affixed flat against the wall and must not project more than 18 inches from the building wall;
5. If a wall sign projects more than two inches from the surface, a minimum vertical clearance of eight feet is required;
6. No wall sign mounted on a structure may project above the roof of the structure to which it is attached, including the sign support structure. Wall signs may be mounted on a parapet wall when such parapet is consistent with the architectural design of the structure and/or the larger development, and such parapet wall is constructed of the same primary building materials as the structure, excluding any accent materials. When attached to a parapet wall, wall signs may not project more than eight feet above the roof of the structure, or 15 feet above the roof of the structure on properties zoned MU-C;
7. Wall signs must be constructed of wood, brick, metal or plastic. Wall signs of durable, weather-resistant material like canvas, canvas-like material, nylon or vinyl-coated fabric are also permitted but the signs must be held taught to the building with no sags or wrinkles and the mounting devices must be concealed by a frame that covers the entire perimeter of the banner;
8. Wall signs must not cover windows, doors or architectural features. However, wall signs are permitted on architectural appurtenances, such as chimneys or penthouses, which are part of the original structure;
9. Ghost signs are considered wall signs. Existing ghost signs are exempt from these requirements and deemed conforming. Ghost signs may be maintained and repainted but no new information or images may be added to the existing sign. No new wall signs may be painted over ghost signs.



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Section 4. That Section 50-41.4 of the Duluth City Code, 1959, as amended, be amended as follows:

50-41.4. Definitions: D.

Data center. An establishment primarily involved in the compiling, storage, conversion or analysis and maintenance of documents, records, and other types of information in digital form.

Daycare facility. A facility that provides accommodations for persons of any age who receive custodial care for less than 24 hours by individual other than parents or guardians, relatives by blood, marriage, or adoption, and in a place other than the home of the person cared for.

Decorative fence. A powder coated steel fence, solid core ornamental fence, decorative wood fence, or fence of similar construction or appearance, but not including a snow fence, chain link or highway guard rail.

Demolition debris. Solid waste resulting from the demolition of buildings, roads and other man-made structures including concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock and plastic building parts. It does not include asbestos wastes, appliances, furniture or household refuse.

Dense urban screen. Continuous screening wall, berm, fence, or row of planting at least six feet tall, with screening material designed to provide 75 percent opacity one year after planting along the full required height and length of the screening buffer.

Design storm. A rainfall event used in the analysis and design of drainage facilities. See the engineering guidelines for the current rainfall data.

Detention. The temporary storage of drainage water.

Deteriorated. A building or component of a building shall be deemed to have deteriorated when its function has been so impaired by natural forces including but not limited to weathering or decay that it needs to be replaced to restore its functionality.

Developable area. All land within a zone district not occupied by streets and public rights-of-way.

Development. The construction of a building or structure, any clearing, grading, excavation or other movement of land, or the division of a parcel of land into two or more parcels. Within flood plain districts, development is defined as any manmade change to improved or unimproved real estate, including but not limited to: buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Diameter at breast height (DBH). The primary method of measuring the diameter of a tree trunk. Diameter is measured in inches 54 inches above the ground. If the tree splits into multiple trunks at a height below 54 inches, but above the ground, the diameter is measured at the highest point beneath the split.

Direct illumination. Illumination by light sources that are effectively visible, either directly or through a translucent material, as a part of the sign and illuminating outward.

Discharge. The discharge of any pollutant into the waters of the state from any point source.

Discharge rate. The rate at which drainage water is released from a specific site and expressed as a volume per unit of time, such as cubic feet per second.

Discharge volume. The volume of drainage water discharged from a site from a single rainfall event, expressed as cubic feet or acre-feet.

District. Any section of the city within which the zoning regulations are uniform.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

DNR. Minnesota department of natural resources.

Drainage basin. The tributary area through which drainage water is collected, regulated, transported and discharged to receiving waters.

Drainage system. Any system that conveys stormwater or surface water including sewers culverts, ditches, and swales.

Drainage water. Stormwater, snow melt, surface and irrigation water, water from footing drains and sump pumps or other drains approved by the city.

Drip line. A vertical line extending from the outermost edge of a tree's canopy to the ground.

Dry cleaning or laundry plant. An establishment where laundry or dry cleaning is performed in bulk and primarily for commercial and institutional customers. This use does not include facilities where the public drops off or picks up dry cleaning or laundry that is cleaned off-site.

Dwelling. Any building or portion of a building that is designed for or used for residential purposes and that either (a) has a minimum width of 20 feet, or (b) has a principal entrance facing the front lot line.

Dwelling unit. A habitable unit in a dwelling providing sleeping, cooking, eating, living and sanitation facilities designed for and occupied by one family only, occupied by the owner or by another family for periods of occupancy exceeding one week, and that is physically separated from any other habitable unit that may be located in the same building.

Dwelling unit, efficiency. A dwelling unit consisting of one principal room, exclusive of bathroom, kitchen, hallway, closets or dining alcove directly off the principal room, providing that such dining alcove does not exceed 125 square feet in area.

Dwelling, live-work. A dwelling unit containing an integrated living and working space that is intended to function predominately as business workspace with incidental residential use. The unit typically has a store-front, with the workspace, public display area, or showroom on the ground floor of the unit and the majority of the residence located either on the upper floor if there are two floors, or the back of the unit if there is only one floor.

Dwelling, multi-family. A building containing three or more dwelling units that is not a townhouse.

Dwelling, one-family. A building containing one dwelling unit designed for exclusive occupancy by one family and occupied exclusively by one family, having a minimum outside width of 20 feet measured at its narrowest point and placed on a permanent foundation that complies with the State Building Code. This definition includes a manufactured or modular home that meets this definition and the requirements of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sections 5401 et. seq.).

Dwelling, townhouse. A structure containing three to eight dwelling units each sharing two vertical party or division walls, except that each end unit will have a single party or division wall, with no dwelling units sharing a common horizontal surface.

Dwelling, two-family. A building containing two dwelling units designed for exclusive occupancy by two families and occupied exclusively by two families. A twin home is a two-family dwelling where each unit shares a common vertical wall and where a side lot line exists on the common wall extending to the front and rear lot lines, but is on two separate lots.

Section 5. That Section 50-41.16 of the Duluth City Code, 1959, as amended, be amended as follows:

50-41.16. Definitions: P.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Park, playground or forest reserve. A facility or area for recreational, cultural, or aesthetic use owned or operated by a public or quasi-public agency and available to the general public. This definition may include but is not limited to: parks, public lawns, active and passive recreation areas, playgrounds, water courses and wooded areas. Facilities may also include fountains, swimming pools, pavilions and similar public facilities within their boundaries.

Parking area. An open unoccupied space used or required for use for parking of motor vehicles exclusively and in which no gasoline or vehicular accessories are sold or no other business is conducted and no fees are charged.

Parking lot. An off-street area used for the temporary storage of operable and street legal motor vehicles. Includes parking spaces, aisles, drives and landscaped areas, and provides vehicular access to public street.

Parking space. An off-street space available for the parking of one motor vehicle.

Parking structure. A structure designed to accommodate vehicular parking spaces that are fully or partially enclosed or located on the deck surface of a building. This definition includes parking garages, deck parking, and underground or under-building parking areas.

Patterned wall. Walls with a patterned or textured look to mimic stone or similar design or patterned to create reveals and shadow lines. No blank concrete or wood timber walls shall be permitted.

Permanent stormwater best management practice (BMP). A stormwater best management practice (BMP) that will be operational after the construction phase of a project and that is designed to become a permanent part of the site for the purposes of managing stormwater runoff.

Personal services and repair (small). An establishment containing less than 10,000 square feet of gross floor area and generally having no more than ten employees on site at one time, that is engaged in the provision of informational, instructional, personal improvement, personal care, and similar services. Examples include but are not limited to: catering establishments, custom dressmaking, film processing, garment printing and embroidering, licensed massage salons, optical and optician services, real estate sign placement service, service and repair establishments, sun tan centers, bicycle rental, small craft rental, tailor shops, and laundromats.

Personal services and repair (large). An establishment, containing 10,000 square feet of gross floor area and generally having more than 10 employees on site at one time, that is engaged in the provision of informational, instructional, personal improvement, personal care, and similar services.

Personal wireless facility. See wireless telecommunications facilities.

Personal wireless service or PWS. This term, which is sometimes also referred to as "personal telecommunications service" or "PCS," shall have the same meaning as defined and used in the 1996 Federal Telecommunications Act.

Place. An open, unoccupied space or thoroughfare other than a street or alley permanently reserved as a principal means of access to abutting property.

Place of public or semi-public assembly. A place of public or semi-public assembly is defined as a building or portions of a building used for the gathering of persons for such purposes as deliberation, education, instruction, worship, entertainment, amusement, drinking, dining or awaiting transportation.

Planned future airport improvement. As used in Section 50-18.2, Airport Overlay, those proposed future airport developments that are indicated on a planning document having the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

approval of the federal aviation administration, Minnesota department of transportation, office of aeronautics, and Duluth airport authority.

Power transmission line. A conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of more than 46 kilovolts and less than 200 kilovolts. Associated facilities shall include insulators, towers and terminals operating at a nominal voltage greater than 46 kilovolts and less than 200 kilovolts.

Precision instrument runway. A runway having an existing instrument approach procedure utilizing an instrument landing system (ILS) or a precision approach radar (PAR), or a runway for which a precision instrument approach system is planned and is so indicated on an approved planning document.

Premises. A lot together with all buildings and structures existing on the lot.

Preschool. An establishment licensed by the state to provide a systematic organization or arrangement of activities, personnel, materials, and equipment in a facility to promote the physical, intellectual, social, and emotional development of a child, who is at least 33 months old but who has not yet attended the first day of kindergarten, in the absence of the parent for a period of less than 24 hours a day.

Principle use or structure. All uses or structures that are not accessory uses or structures.

Pylon. A decorative extension above the roof line of a building that is designed as an integral part of the building and that is constructed of masonry or is completely enclosed by the same material as the main exterior walls of the building.

Section 6. That Section 50-37.18 of the Duluth City Code, 1959, as amended, be amended as follows:

50-41.18. Definitions: R.

R-district parking area. The area on a lot in a residential district where vehicles may be parked, unless a front yard parking variance has been approved pursuant to Section 50-37.9. The parking area shall be limited to an area that may include one side yard, the rear yard, and the following additional areas of the lot:

A. On a lot, other than a corner lot, containing a dwelling unit without garage, the parking area also includes the area between one side lot line and the nearest wall of the dwelling unit and its extension to the improved street abutting the front yard;

B. On a lot, other than a corner lot, containing a dwelling unit with a detached garage, the parking area also includes the area between the closest side lot line to the side wall of the dwelling unit nearest the garage and its extension to the improved street abutting the front yard;

C. On a lot, other than a corner lot, containing a dwelling unit with attached garage, the parking area also includes the area between the closest side lot line and the common wall separating the dwelling unit and the garage and its extension to the improved street abutting the front yard;

D. On any corner lot, any parking area in addition to the rear yard and one side yard may be granted by variance as provided in Section 50-37.9.

Radio or television broadcasting tower. A structure that is designed and constructed primarily for the purpose of supporting one or more antennae that transmit information (audio, video, data, but not personal wireless communications) in the form of electromagnetic signals to one or more receivers without the use of a physical connection between the transmitting and receiving source. The term includes but is not limited to: lattice towers, guyed towers, and monopole towers. The term does not include a wireless communication tower, clock tower,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

bell tower, steeple, light pole, power pole, water tower, or similar structure that incidentally supports antennae.

Railroad yard or shipyard and related facilities. An area of land, a portion of which is covered by a system of tracks, that provides for the making up of trains by one or more railroads or private industry concerns including roadhouses and repair and overhaul shops. Necessary functions of a railroad yard include but are not limited to the classifying, switching, storing, assembling, distributing, consolidating, repairing, weighing, or transferring of cars, trains, engines, locomotives, and rolling stock. In addition, this use includes a facility or area containing wharves, docks, or other facilities used in connection with water transportation or navigation, and for the repair, service, sales or storage of boats.

Rainfall events. See the engineering guidelines for the current rainfall data.

Reach. As used in the context of flood prevention, the hydraulic engineering term used to describe longitudinal segments of a stream or river influenced by a natural or manmade obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would typically constitute a reach.

Receiving stream or channel. The body of water or conveyance into which stormwater runoff is discharged.

Receiving waters. Lake Superior, St. Louis River, St. Louis Bay and the 16 trout streams, which are the major receivers of city drainage.

Recharge. The replenishment of underground water reserves.

Recreational vehicle. A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this chapter, the term recreational vehicle shall be synonymous with the term "travel trailer/travel vehicle."

Recycling collection point (primary use). 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. This definition does not include processing except for can banks that crush cans as they are deposited.

Redevelopment. A change to previously existing, improved property, including but not limited to the demolition or building of structures, filling, grading, paving or excavating, but excluding ordinary maintenance activities. For purposes of the erosion and stormwater controls in Section 50-18.1.E, redevelopment does not include remodeling of buildings on the existing footprint, resurfacing of paved areas, and exterior changes or improvements that do not result in the disturbance of equal to or greater than one acre of land.

Regional flood. A flood that is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of a one percent chance or 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in a flood insurance study.

Regional stormwater. Stormwater BMPs designed to control stormwater runoff from multiple properties or a particular land use district, and where the owners or developers of the individual properties may participate in the provision of land, financing, design, construction or maintenance of the facility.

Regulatory flood protection elevation. An elevation corresponding with a point not less than two feet above the water surface profile associated with the regional flood plus any increases in flood stages attributable to encroachments on the flood plain. Within an A-O

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

zone, as shown on the flood insurance rate map adopted in Section 18.1.A.2(b), an elevation above the highest adjacent grade of an existing or proposed structure equivalent to two feet plus the depth number in feet specified on the flood insurance rate map.

Religious assembly. A facility or area for people to gather together for public worship, religious training or other religious activities including a church, temple, mosque, synagogue, convent, monastery or other structure, together with its accessory structures, including a parsonage or rectory. This use does not include home meetings or other religious activities conducted in a privately occupied residence. Accessory uses may include meeting rooms and childcare provided for persons while they are attending assembly functions.

Repairs and maintenance. When used in the context of wireless telecommunications, 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 the addition, removal or change of any of the physical or visually discernable components or aspects of a wireless facility that will add to the visible appearance of the facility as originally permitted. When used in the context of repairing or reconstructing damaged or deteriorated non-conforming structures, the proposed repair or reconstruction must be of the same volume or smaller as the original structure, be located in the same footprint as the original structure, and have fewer adverse impacts on the surrounding properties as the original structure.

Research laboratory. A facility or area for conducting scientific research, investigation, testing, or experimentation, but not including facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory. This definition also includes labs for the manufacture of dentures and prostheses.

Residential care facility/assisted living facility. A building that houses persons, on a 24 hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment which provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. This classification shall include, but not be limited to, the following; residential board and care facilities, assisted living facilities, halfway houses, group homes, congregate care facilities, social rehabilitation facilities, alcohol and drug abuse centers, and convalescent facilities.

Responsible party. In the context of stormwater regulations, any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity or their legal representatives, agents or assigns, that is named on a stormwater maintenance agreement as responsible for long-term operation and maintenance of one or more stormwater BMPs.

Restaurant (no drive-in/drive-through). A commercial establishment, including but not limited to taverns and brewpubs, where food and beverages are prepared, served, and consumed primarily within the principal building.

Restaurant (with drive-in/drive-through). A commercial establishment, including but not limited to taverns and brewpubs, where customers order and are served their food and beverages at a walk-up counter or in a motor vehicle to be consumed on or off the site.

Retail store. A facility or area for the retail sale of general merchandise or food to the general public for direct consumption and not for wholesale. Typical general merchandise includes clothing and other apparel, equipment for hobbies or sports, gifts, flowers and household plants, dry goods, convenience and specialty foods, toys, furniture, books and stationery, pets, drugs, hardware and similar consumer goods. This definition does not include retail uses defined elsewhere in this Chapter.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

A. A small retail store is one that contains less than 15,000 square feet of gross floor area;

B. A large retail store is one that contains 15,000 square feet or more of gross floor area.

Riding stable. An establishment or area for keeping horses or other domestic animals other than for the property owner's personal use, for compensation, hire, boarding, riding or show.

Rooming house. A building containing habitable units and that provide sleeping or living accommodations by prior arrangements, regardless of whether those accommodations are offered for compensation or not, and for definite time periods. Some or all bathroom and/or kitchen facilities, where provided, are for use on a communal basis. Individual habitable units are not owned by occupants, except that a habitable unit may be occupied by the owner of the building.

Runway. Any existing or planned paved surface or turf covered area of the airport that is specifically designated and used or planned to be used for the landing or taking off of aircraft.

Section 7. That Section 50-37.19 of the Duluth City Code, 1959, as amended, be amended as follows:

50-41.19. Definitions: S.

School, elementary. An public or private establishment providing educational services from kindergarten or Grade 1 through Grade 5, or from kindergarten or first grade through Grade 8, or some combination of those included years, together with incidental sports and outdoor activity areas.

School, middle or high. A public or private establishment providing educational services from Grade 6 through Grade 12, or from Grade 6 through 8, or from Grade 9 through Grade 12, or some combination of those included years, together with incidental sports and outdoor activity areas.

Seasonal camp or cabin. A facility containing one or more tent sites or cabins that is offered for use on short-term during defined seasons of the year, for compensation, and that may include accessory facilities such as showers, laundries or cooking and dining facilities.

Sediment. Solid mineral or organic material that, in suspension, is being transported, or has been moved from its original site by air, water, gravity or ice and has been deposited at another location.

Sedimentation. The process or action of depositing sediment that is determined to have been caused by erosion.

Setback. The minimum horizontal distance between a lot line and a building or structure required by this Chapter.

Shore impact zone. Land located between the ordinary high water level of public waters and a line parallel to it at a setback of 50 percent of the required structure setback, but not less than 50 feet.

Shoreland. Lands within 1,000 feet of a lake or within 300 feet of a river and its floodplain, as shown on the NR-O map. The limits of shorelands may be less than the above limits whenever the waters involved are bounded by topographic divides that extend landward from the waters for lesser distances and when approved by the commissioner.

Sidewalk. A paved surface located in the public right of way and used as a pedestrian walkway.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Sidewalk café. An outdoor dining area located within the public right of way in front or adjoining a restaurant or other eating and drinking establishment.

Sign. Any letter, word, symbol, model, printed, projected or affixed device, poster, picture, reading matter or representation in the nature of an advertisement, announcement, direction or informative device including its structure or component parts, which is more than one square foot in area and is located outdoors or is affixed to the interior or exterior of a window or door, or is displayed within 12 inches of a window intended for viewing from the exterior of the building. A sign shall not include (a) temporary parks and recreation signs permitted pursuant to Chapter 35 of the City Code, or (b) overhead banners and devices regulated under Article III of Chapter 45 of the City Code, or (c) any street name sign, public directional, utility or transportation sign, or motor vehicle traffic signs of any kind when officially placed, or to advertising or other information affixed to any motor vehicle, provided that such vehicle's primary use is not as a stationary advertising device, or (d) any inscription on any publicly owned building when the inscription is incorporated into the architectural design as a permanent feature.

Sign, A-frame. A sign ordinarily in the shape of the letter "A," or some variation thereof, that is displayed on the ground, not permanently attached, and usually two-sided.

Sign, agricultural identification. A sign describing an agricultural use that includes the name of the farm and/or the products grown on-site.

Sign, animated. A sign that uses movement or change of lighting to depict action or to create a special effect or scene. Animated signs do not include electronic message signs.

Sign, attention getting. Flags, pennants, streamers and similar devices or ornamentations designated for the purpose of attracting attention. Flags of nations, states, and cities, or fraternal, religious and civic organizations, permanent commercial flags, or temporary holiday decorations are not considered attention getting devices.

Sign, awning. A sign that is printed or displayed upon an awning. An awning is a roof-like cover designed for protection from the weather or as a decorative embellishment, which projects from a wall or roof of a structure over a window, walkway or door, with no supports that extend to the ground.

Sign, balloons. Balloons or inflated devices used as a means of directing attention to a business or service offered.

Sign, banner. A sign that is printed or displayed upon flexible material with or without frames.

Sign, banner-exhibition. A sign that is printed or displayed upon flexible material with or without frames in conjunction with a special exhibit for an educational facility, government building, museum, library or art gallery, or religious assembly.

Sign, billboard. A sign that directs attention to a business, commodity, service, event or other activity that is sold, offered or conducted other than on the premises where the sign is located.

Sign, building directory. A sign that serves as common or collective classification for a group of persons or businesses operating in the same building or on the same lot. A building directory sign may name the persons or businesses included, but carry no other advertising matter.

Sign, canopy. A sign that is printed or displayed upon a canopy. A canopy is a roofed structure constructed of fabric or other material placed to extend outward from the building and supported both by the structure and by supports that extend to the ground directly under the canopy.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Sign, construction. A temporary sign that identifies an architect, contractor, subcontractor and/or material supplier participating in construction on the property on which the sign is located and which may identify the proposed use for the property.

Sign, community event. Temporary signs that announce community events and activities, including the activities of religious assemblies, social clubs or similar groups, or special events such as fairs, rummage sales and garage sales.

Sign, directional-parking lot. A sign that identifies parking lot entrances and exits, driveway intersections, drive-through lanes, and features of a similar nature.

Sign, electronic display screen. A sign, or portion of a sign, that displays electronic video via television screens, plasma screens, digital screens, flat screens, LED screens, video boards, and holographic displays.

Sign, electronic message. Any sign, or portion of a sign, that uses changing lights to form a sign message or messages in text or image form where the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes. Time/temperature signs are not considered electronic message signs.

Sign, flashing. A sign which contains an intermittent or sequential flashing light source used primarily to attract attention. Flashing signs do not include electronic message signs.

Sign, freestanding. A sign that is placed on or supported by the ground, independent of the principal structure on the lot. Freestanding signs may be either pole or monument signs.

Sign, freestanding monument. A freestanding sign where the base of the sign structure is on the ground or up to a maximum of 24 inches above ground. The monument base must be designed as an integral part of the sign structure. The width of the top of the sign structure can be no more than 120 percent of the width of the base.

Sign, freestanding pole. A freestanding sign that is affixed, attached or erected on one or two poles that is not itself an integral part of the sign.

Sign, ghost. A painted wall sign that remains from an earlier time or advertises the use of a building that provides evidence of the history of the use of the building or activities of the community. A ghost sign is not considered an off-premises sign.

Sign, government information sign. Traffic signs, legal notices, railroad crossing signs, signs regulating vehicular or pedestrian traffic, or designating or giving direction to streets, schools, historic sites or public buildings, and temporary emergency signs.

Sign, home occupation. A sign identifying a home occupation or permitted accessory use on the premises.

Sign, illumination types.

A. Gooseneck reflector. Lighting designed for mounting above or to the side of signs with a long, shepherd hook-shaped arm to hold fixtures at a distance from the area of illumination;

B. Illumination, external. Lighting of a sign where lighting components are outside the sign structure and light is directed at the sign face;

C. Illumination, internal. Lighting of a sign constructed so that all lighting components are internal and illumination occurs as lighting is diffused through the sign face surfaces.

Sign, marquee. A permanent roof-like sign structure constructed over a building entry, with no supports extending to the ground, where a changeable message area is part of the vertical sign fascia.

Sign, memorial plaque. A sign, tablet or plaque memorializing a historic person, event, structure or site.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Sign, menuboard. A device that lists items for sale at an establishment with drive-through facilities.

Sign, moving. A sign that, in whole or in part, rotates, elevates or in any way alters position or geometry. Moving signs do not include clocks.

Sign, nameplate. A sign that is affixed flat against a wall of a building or imprinted into the wall of a building that designates the name of the building or the name and profession of one who resides or occupies space in the building.

Sign, noncommercial. A sign advocating action on a public issue or recommending a candidate for public office.

Sign, off-premises. A sign that directs attention to a business, product, service or entertainment not conducted, sold or offered upon the premises where the sign is located.

Sign, on-premises. A sign that directs attention to the name of the building or the name of the building management firm or to a business, principal product, service or entertainment conducted, sold or offered upon the premises where such sign is located.

Sign, parking lot information. Signs that provide information on the operation of a parking lot, such as "No Parking" or "Unauthorized users shall be towed."

Sign, political. Any sign that directs attention to an issue in an election or to either the name of a candidate running for election to a public office or the name of the office for which he is a candidate, or both.

Sign, portable. A sign whose principal supporting structure is intended, by design and construction, to rest upon the ground for support and may be easily moved or relocated for reuse. Portable signs include, but are not limited to, signs mounted upon a trailer, wheeled carrier or other non-motorized mobile structure, with wheels or with wheels removed. Portable signs do not include A-frame signs.

Sign, projecting. A sign that is attached to a structure that extends beyond the surface of the structure to which it is attached.

Sign, property identification/management. An accessory sign containing only messages related to the identification or management of the property where the sign is located, including but not limited to signs identifying entrances, exits, parking areas or hazardous areas, prohibiting trespassing, or information about limits on property use.

Sign, property identification. A sign identifying the property management company or apartment complex name of a multi-family dwelling.

Sign, public information. Signs within an educational facility, cemetery or mausoleum, museum, library or art gallery, and park, playground or forest reserve property that provide information on the use of the facility, such as directional signs, trailhead locations and information kiosks.

Sign, public assembly bulletin board. A bulletin board accessory to and located on the same property as a religious assembly or educational use listed in Table 50-19.8 that identifies the name of the institution and the dates and times of events related to that institution to which some or all of the public are invited. These signs are allowed where electronic message signs are allowed, and are subject to the same regulations and standards.

Sign, readerboard. A sign or portion of a sign face that allows for the creation of messages by physical manipulation of simple block letters, but not including an electronic message sign or electronic billboard. These signs are allowed where electronic message signs are allowed, and are subject to the same regulations and standards.

Sign, real estate. A sign advertising the real estate upon which the sign is located as being for rent, lease or sale. A real estate sign can also advertise an open house.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Sign, roof. A sign that is wholly erected, constructed or maintained above the roof structure or parapet of any building with the principal support attached to the roof structure.

Sign, scoreboard. A sign that records and displays the score of a game and may include such information as the name of the field or home team and advertising.

Sign, snipe. An off-premises sign painted, pasted or otherwise affixed to any tree, rock, retaining wall, fence, utility pole, hydrant, bridge, sidewalk, curb or street, bench or trash receptacle. Logos and labels located on mechanical equipment, recycling bins, trash containers or dumpsters, which are part of the equipment as manufactured and/or installed, are not snipe signs.

Sign, temporary off-premises. A temporary sign that advertises a business, commodity, service, event or other activity that is sold, offered or conducted other than on the premises where the sign is located, or is sold, offered or conducted on the premises only incidentally, if at all.

Sign, under-awning. A sign that is attached to and mounted under an awning.

Sign, under-canopy. A sign that is attached to and mounted under a canopy.

Sign, wall. A sign that is mounted flat against or painted on a wall, and projects no more than 12 inches from the wall of a structure with the exposed face of the sign in a plane parallel to the face of the wall. Wall sign does not include window sign. For the purposes of this definition, a fence is not considered a wall and wall signs are prohibited mounted on fences.

Sign, window. A sign that is attached to, placed upon, printed on the interior or exterior of a window or door of a building, or displayed within 12 inches of a window intended for viewing from the exterior of such a building. A window sign may be either permanent or temporary. Window clings are considered a window sign and subject to all window sign regulations.

Significant tree. All trees of more than ten inches DBH, and all special tree species of more than six inches DBH shall be considered significant, unless they are under power lines or deemed hazardous by a certified arborist or landscape architect or professional forester. In addition, any replacement tree planted as part of a tree replacement plan shall be considered significant, even if it does not meet the size definition above.

Site. A parcel or several adjoining parcels of land under common ownership. For purposes of the natural resources overlay district, this definition is limited to apply to any parcel of land upon which work requiring a permit under this Chapter is to be performed, and includes any adjacent lands owned by the owner of the subject parcel on the date of application for any permit and any lands adjacent to the subject parcel that were owned by the same person owning the subject parcel as of January 1, 1980.

Site plan. An accurate scale drawing that indicates the major features of a proposed development in sufficient detail to allow the evaluation of the land planning, building design and other aspects of the development, and meeting all requirements of the UDC application manual.

Slope. An incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude (e.g., slope = 3:1 = 3 feet horizontal to 1 feet vertical).

Solar, geothermal or biomass power facility (primary use). Uses and structures 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: solar panels (photovoltaic and hot water), heat exchanges, biomass firing equipment, piping, and other transfer mechanisms, controls and related structural

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

support for transporting and storing collected energy from solar, geothermal, or biomass energy systems. These structures and uses 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.

Solid land. Any land that is neither a wetland nor located in a floodway.

Solid waste. As defined in MSA 116.06, Subd. 22, and also including medical wastes and petroleum contaminated soils.

Solid waste disposal or processing facility. Any tract or parcel of land, including any constructed facility that is designed or operated for the purpose of disposing of solid waste on or in the land, at which solid waste is disposed of in or on the land or processed for disposal or reuse, together with any appurtenant facilities needed to process solid waste for disposal or for transfer to another solid waste facility, and that is not listed as a separate use in this Chapter.

Special tree species. White pines, red (Norway) pines, white cedars, white spruces, eastern hemlocks, sugar maples, American basswoods, American elms, yellow birches and all oak species.

Special use. A specific type of structure or land use listed in Table 50-19.8 that may be allowed only after review and evaluation of potential impacts on surrounding properties and the attachment of any conditions necessary to mitigate those impacts.

Stealth or stealth technology. When used in the context of wireless telecommunications, 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.

Steep slope. Land having average slopes over 12 percent, as measured over horizontal distances 50 feet or more, and that are not bluffs.

Storage warehouse. A structure containing an area available for storing raw materials, produce, goods or property, but not including mini-storage facilities.

Stormwater. Stormwater runoff, snowmelt runoff, surface runoff and drainage.

Stormwater management. The use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

Stormwater pollution prevention plan. A plan, usually required by a permit, to manage stormwater associated with industrial, commercial, public, institutional, civic or other land use activities, including construction. The plan commonly describes and ensures the implementation of practices that are to be used to reduce pollutants in stormwater and non-stormwater discharges

Stormwater pollution prevention program (MS4 program). A compilation of best management practices (BMPs) to address the six minimum control measures and other provisions of the MS4 permit, that is designed and managed to reduce the discharge of pollutants from your MS4 to the maximum extent practicable as appropriate to the community.

Stormwater best management practice (BMP). A measure, either structural or nonstructural, that is determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies. Non-structural BMPs are those practices that require modified or additional operational or behavioral practices, such as sweeping or having spill response equipment on

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

site. Structural BMPs are those that require the construction of a structure or other physical modification on the site.

Stormwater retrofit. A stormwater BMP designed for an existing development site that previously had either no stormwater BMP in place or a practice inadequate to meet the stormwater management requirements of the site.

Stormwater runoff. Flow on the surface of the ground resulting from precipitation.

Story. That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

Story, half. A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story, except that any partial story used for residence purposes, other than for a janitor or caretaker or his family, or by a family occupying the floor immediately below it, shall be deemed a full story.

Stream buffer. An area of land at or near a stream bank, wetland or water body that has intrinsic water quality value due to the ecological and biological processes it performs or is otherwise sensitive to changes that may result in significant degradation to water quality.

Street. A public dedicated right-of-way, other than an alley, which affords the principal means of access to abutting property.

Street line. The established side line of a street easement or right-of-way.

Structure. Anything constructed or erected, the use of which requires a location on the ground, or attached to something having a location on the ground. Examples include but are not limited to: backstops for tennis courts, fences or pergolas.

Structural alteration. Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial changes in the roofs or exterior walls but not including openings in bearing walls as permitted by existing ordinances.

Subdivision. The division of a lot, tract or parcel of land into three or more lots, plats, sites or other divisions of land of one acre or less in area, for the purpose, whether immediate or future, of sale or of building development. This term also includes the division of a lot, tract or parcel of land into two or more lots, plat, sites or other divisions of land of more than one acre and less than ten acres in area, if the division provides or there is shown on a plat of the division a new street or highway. The term also includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

Substantial damage. Damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 60 percent of the assessed market value of the structure as determined by the city assessor before the damage occurred. For flood plain management and flood hazard purposes, substantial damage shall occur when damage of any origin sustained by a structure, where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the assessed market value of the structure as determined by the city assessor before the damage occurred.

Substantial improvement. Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition or other improvement of a structure, the cost of which equals or exceeds 60 percent of the assessed market value of the structure as determined by the city assessor before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. For flood plain management and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

flood hazard purposes, substantial improvement shall be within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the assessed market value of the structure as determined by the city assessor before the "start of construction" of the improvement.

The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions;

(b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure." For the purpose of this Chapter, "historic structure" shall be as defined in 44 Code of Federal Regulations, Part 59.1.

Sustainable development. Development that maintains or enhances economic opportunity and community wellbeing while protecting and restoring the natural environment upon which people and economies depend. Sustainable development meets the needs of the present without compromising the ability of future generations to meet their own needs.

Section 8. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: January 3, 2015)

Councilor Russ 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

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

ATTEST:
JEFFREY J. COX, City Clerk

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ORDINANCE NO. 10339

AN ORDINANCE AMENDING SECTION 50-37.7 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING CHANGES RELATED TO CONCURRENT USE PERMITS.

The city of Duluth does ordain:

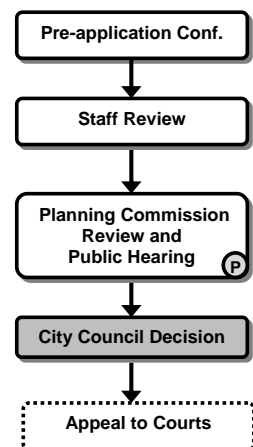
Section 1. That Section 50-37.7 of the Duluth City Code, 1959, as amended, be amended as follows:

50-37.7 Concurrent use of streets permit.

This Section applies to all applications for construction of a skywalk and to any other application requesting that the city approve the concurrent use of the street surface, right-of-way, or the air rights above the street or the land beneath the street, but shall not apply to the following:

- 1. Use of a portion of a public sidewalk for a café, eating area, transit shelter or bench, bicycle parking area, or
2. An awning, canopy, marquee or wall sign extending not more than 18 inches into the public street right of way, or an awning or canopy of canvas, canvas-like material, nylon or vinyl-coated fabric

Concurrent Use of Street Permit



(P) Indicates Public Hearing Required

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

extending into the public street right of way, up to the limits established by Sec. 50-27;

A. Application.

An application for concurrent use of streets shall be filed pursuant to Section 50-37.1.B;

B. Procedure.

1. Review and recommendation.

The planning commission shall review the petition, conduct a public hearing on the application pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H and make a recommendation to council based on whether the application meets the criteria in subsection C below;

2. Council decision.

Upon receipt of the planning commission recommendation, the council shall make a decision to approve, approve with modifications or deny the application, in whole or part, based on the criteria in subsection C below. The council action shall be by ordinance;

C. Criteria.

The planning commission shall review the application, and council shall approve the application or approve it with modifications, if it determines that:

1. The proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city;
2. Any proposed skywalk will significantly improve the circulation of pedestrians in the city without exposure to weather conditions;
3. No portion of a public easement proposed for use is being physically used or occupied by the public.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: January 3, 2015)

Councilor Russ 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

Passed November 24, 2014

Approved November 24, 2014

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

ORDINANCE NO. 10340

AN ORDINANCE AMENDING SECTIONS 50-24.2, 50-24.7, AND 50-37.9 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING CHANGES MADE TO REQUIRED OFF-STREET PARKING SPACES AND VARIANCES.

The city of Duluth does ordain:

Section 1. That Section 50-24.2 of the Duluth City Code, 1959, as amended, be amended as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

50-24.2 Required parking spaces.

In all districts there shall be provided, at the time any building or structure is erected, except as provided in Section 50-24.5, *Calculation of parking spaces*, the number of off-street parking spaces shown in Table 50-24-1, unless an exemption from or variation of this requirement is provided in another section of this Chapter.

Table 50-24-1: Off-Street parking Spaces Required	
Use	Requirement* (May Be Adjusted to 30% Less or 50% More)
RESIDENTIAL USES	
Dwelling, one-family	1 space per dwelling unit
Dwelling, two-family	
Dwelling, townhouse	
Dwelling, live-work	
Co-housing facility	
Manufactured home park	
Dwelling, multi-family	1.25 space per dwelling unit
Assisted living facility (elderly)	1 space per 3 habitable units
Residential care facility	1 space per 9 residential care beds, but not less than 2 spaces
Rooming house	1 space per habitable unit
PUBLIC, INSTITUTIONAL AND CIVIC USES	
Bus or rail transit station	No requirement
Business, art, or vocational school	1 parking space for each 8 seats in the main auditorium or 3 spaces for each classroom, whichever is greater
Cemetery or mausoleum	No requirement
Club or lodge (private)	2.5 spaces per 1,000 sq. ft. of floor area
Government building or public safety facility	As determined by land use supervisor based on anticipated use and neighborhood impacts
Hospital	2 spaces per 1,000 sq. ft.
Medical or dental clinic	4 spaces per 1,000 sq. ft. of gross floor area
Museum, library or art gallery	1 space per 1,000 sq. ft. of gross floor area
Nursing home	1 space per 6 beds
Park, playground or forest reserve	No requirement
Religious assembly	1 space per 4 seats or per 100 sq. ft. in main auditorium, whichever is greater
School, elementary	1 parking space for each 10 seats in the auditorium or main assembly room or 1 space for each classroom, whichever is greater
School, middle or high	1 parking space for each 8 seats in the main auditorium or 3 spaces for each classroom, whichever is greater
University or college	2 spaces per 1,000 sq. ft. of office, research and library area plus 1 space per 125 sq. ft. of auditorium space.
Other community facility or institutional support uses not listed	As determined by land use supervisor based on anticipated use and neighborhood impacts
COMMERCIAL USES	
Adult bookstore	2.5 spaces per 1,000 sq. ft. of gross floor area
Adult entertainment establishment	5 spaces per 1,000 sq. ft. of gross floor area
Agriculture	No requirement
Automobile and light vehicle repair and service	2 spaces per 1,000 sq. ft. of gross floor area
Automobile and light vehicle sales, rental or storage	2 spaces per 1,000 sq. ft. of gross floor area
Bank	3.5 spaces per 1,000 sq. ft. of gross floor area
Bed and breakfast	1 space for manager plus 1 space per habitable unit
Building material sales	1 space per 1,000 sq. ft. of gross floor area
Business park support activities	2 spaces per 1,000 sq. ft. of gross floor area
Convention and event center	1 space per 4 seats or per 100 sq. ft. in main auditorium, whichever is greater
Daycare facility	1 space per 5 persons care capacity
Data center	1 space per 1,000 sq. ft. of gross floor area
Filling station	4 spaces per 1,000 sq. ft. gross floor area plus 1 per service stall

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Table 50-24-1: Off-Street parking Spaces Required	
Use	Requirement* (May Be Adjusted to 30% Less or 50% More)
Funeral home or crematorium	1 space per 50 square feet of floor space in slumber rooms, parlors or individual funeral service rooms
Garden material sales	1 space per 1,000 sq. ft. of gross floor area
Grocery store	3 spaces per 1,000 sq. ft. of gross floor area
Golf course	2.5 spaces per 1,000 square feet of clubhouse area
Hotel or motel	2 spaces per 3 guest rooms plus 1 per 200 sq. ft. of gross floor area in all accessory uses including restaurants and meeting rooms
Indoor entertainment facility	2.5 spaces per 1,000 sq. ft. of gross floor area.
Kennel	1 space per 1,000 sq. ft. of gross floor area
Marina or yacht club	2.5 spaces per 1,000 sq. ft. of clubhouse area, plus 1 per 10 boat slips
Mini-storage facility	1 space per 20 storage units
Office	2.5 spaces per 1,000 sq. ft. of gross floor area
Parking lot or parking structure (primary use)	No requirement
Personal service or repair	2.5 spaces per 1,000 sq. ft. of gross floor area
Preschool	1 space per 5 persons care capacity
Restaurant	6.5 spaces per 1,000 sq. ft. of gross floor area
Retail store	3 spaces per 1,000 sq. ft. of gross floor area
Riding stable	No requirement
Seasonal camp or cabin	1 space for every two beds, or for each cabin or sleeping unit, whichever is greater
Theater	1 space per 6 seats or per 100 sq. ft. in main auditorium, whichever is greater
Tourist or trailer camp	2 spaces per 3 sleeping rooms, suites, or trailer spaces
Truck or heavy vehicle sales, rental, repair or storage	1 space per 1,000 sq ft. of gross floor area
Vacation dwelling unit	1 space for 1-2 bedrooms, 2 spaces for 3-4 bedrooms, 3 spaces for 5+ bedrooms
Veterinarian or animal hospital	2.5 spaces per 1,000 sq. ft. of gross floor area
Other commercial use not listed	As determined by land use supervisor based on anticipated use and neighborhood impacts
INDUSTRIAL USES	
Airport and related facilities	As determined by airport management
<ul style="list-style-type: none"> • Electric power or heat generation plant • Electric power transmission line • Junk and salvage services • Major utility or wireless communication tower • Radio or television broadcasting tower • Railroad or shipyard and related facilities • Solar or geothermal power facility (primary use) • Truck freight or transfer terminal • Water or sewer works • Wind power facility (primary use) • Bulk storage not listed 	No requirement
<ul style="list-style-type: none"> • Contractor's shop and storage yard • Dry cleaning or laundry plant • Recycling collection point (primary use) • Solid waste disposal or processing facility 	1 per 1,000 sq. ft. of gross floor area
<ul style="list-style-type: none"> • Manufacturing, light manufacturing, heavy manufacturing, hazardous or special • Storage warehouse • Water-dependent manufacturing, light or heavy • Wholesaling 	1 per 1,000 sq. ft. of gross floor area
Research laboratory	As determined by land use supervisor based on anticipated use and neighborhood impacts
Other industrial uses not listed	As determined by land use supervisor based on anticipated use and neighborhood impacts
ACCESSORY USES	
Accessory bed and breakfast	1 space for primary use dwelling; plus

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Table 50-24-1: Off-Street parking Spaces Required

Use	Requirement* (May Be Adjusted to 30% Less or 50% More)
	1 space per habitable unit
Accessory caretaker quarters	1 space
All other accessory uses	No requirement
TEMPORARY USES	
Temporary real estate sales office	2 spaces
All other temporary uses	No requirement

*The parking space requirement may be modified by Section 50-18.5 (Higher Education Overlay District), Section 50-24.3 (Adjustment to required off-street parking) and Section 50-24.4 (Maximum parking spaces).

Section 2. That Section 50-24.7 of the Duluth City Code, 1959, as amended, be amended as follows:

50-24.7 Parking lot design standards.

A. General standards.

The design of required off street parking areas and spaces shall meet the standards shown in Table 50-24-4;

Table 50-24-4: Parking Design Standards		
Parking Space Size*		
Size of Car	Minimum Size of Parking Space	
Small	8.5 ft. x 15 ft.	
Standard	9 ft. x 17 ft.	
Aisle Widths		
Angle of Parking	Minimum Width of Aisle	
	One-Way	Two-Way
Parallel/no parking	11 ft.	21 ft.
30 degree	11 ft.	21 ft.
45 degree	13 ft.	23 ft.
60 degree	18 ft.	24 ft.
75 degree	20 ft.	24 ft.
90 degree	20 ft.	24 ft.
Permitted Percentage of Small Car Spaces (Applies to lots with more than 5 spaces)		
Size of Parking Lot	Maximum Percentage of Small Cars	
6 to 100 spaces	40%	
100 to 149 spaces	45%	
150 or more spaces	50%	
Required Surface Treatment/Paving		
Zone District	Requirement	
All residential district parking areas not in lawful existence on June 1, 2009.	Surfaced in a dust free, hard surface material such as concrete or bituminous, or pervious paving materials, except for rear yards, which may be surfaced in aggregate materials, compressed aggregates or similar surfaces.	
All mixed use and special purpose districts	All parking areas shall be surfaced in a dust free, hard surface material such as concrete or bituminous. Pervious paving material shall be approved by the city engineer.	

*The area set aside for a parking space may encroach beyond the face of a curb a maximum of 1.5 ft., provided that (a) it does not include trees, posts, or other obstructions that would prevent a vehicle from fully utilizing the space, and (b) it is not included in required open space, landscape area requirements, or required pedestrian walkways.

B. Parking lot and driveway entrances.

All parking lot and driveway entrances must conform to the design specification regulations of the city engineer;

C. Snow storage areas.

A portion of the each accessory surface parking area shall be designated for snow storage. The areas required to meet the minimum parking requirements of this

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Section 50-24 shall not be used for snow storage. Snow storage areas may be landscaped if the vegetation is selected and installed so as not to be harmed by snow storage. Snow storage areas shall not count towards those landscape areas required by Section 50-25 unless it they are integrated with a side or rear buffer required by Section 50-25;

D. Parking lot walkways.

Each surface parking area that (a) serves a multi-family residential, commercial, public, institutional, civic, or mixed use, and (b) contains 50 or more parking spaces, and (c) contains any parking spaces located more than 300 feet from the front façade of the building shall contain at least one pedestrian walkway from allowing pedestrians to pass from the row of parking furthest from the primary building façade to the primary building entrance or a sidewalk allowing the pedestrian to reach the primary building entrance without crossing additional driving spaces or aisles. The required walkway must be at least five feet wide, shall not be located within a driving aisle, and shall be located in a landscaped island running perpendicular to the primary building façade if possible. If located in a landscaped island, the minimum width of the island shall be increased by five feet to accommodate the walkway without reducing the amount of landscaped area. If any parking space in the parking aisle located furthest from the primary structure is more than 200 feet from the walkway, additional similar walkways shall be required within 200 feet of those spaces. If there is a public sidewalk along the street frontage located within 50 feet of any required walkway, the walkway shall connect to that sidewalk;

E. Tandem or In-Line Parking.

Tandem or in-line parking, or other similar arrangements that involve the placement of two or more parking spaces in a row directly behind one another so that one parking space is blocking access for other parking spaces, is not allowed for required off-street parking spaces. This provision does not apply to required off-street parking spaces within enclosed structures, such as garages or parking structures.

Section 3. That Section 50-37.9 of the Duluth City Code, 1959, as amended, be amended as follows:

50-37.9 Variance.

This Section applies to applications for a variance from the terms and provisions of this Chapter. Different types of variances are subject to differing criteria for approval, and in many cases are also subject to limitations on the types of variances that can be granted.

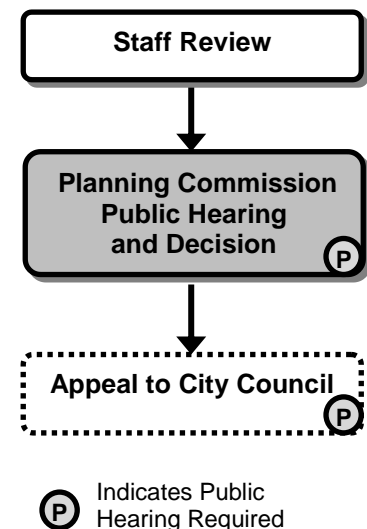
A. Application.

An application for a variance shall be filed pursuant to Section 50-37.1.B;

B. Procedure.

The planning commission shall review the application, conduct a public hearing on the application pursuant to Section 50-37.1.I, with public notice as required by

Variance



Section 50-37.1.H, and shall make a decision on the application based on the criteria in subsections C through M below, as applicable to the specific type of variance being requested. The planning commission may grant a different variance or different form of relief than that requested by the applicant if it determines that the alternative relief better meets the criteria in subsections C through M below. The commission may impose appropriate conditions and safeguards to protect adjacent properties and the public interest, including but not limited to financial security pursuant to Section 50-37.2.P or a development agreement regarding the design, construction and operation of the project, to protect the comprehensive land use plan, to conserve and protect property and property values in the neighborhood and to ensure that all conditions of the variance will continue to be met. Constructing any improvement or beginning any activity authorized by the variance shall constitute the applicant's agreement to conform to all terms and conditions of the permit;

C. General variance criteria.

Unless different or inconsistent criteria or limitations are stated in subsections D through M below for the specific type of variance being requested, the planning commission shall approve an application for a variance, or approve it with conditions, if it finds that the proposed variance meets the following criteria. If there is a direct conflict between a provision or criteria in subsections D through M below and the general criteria in this subsection C, the provisions in subsections D through M shall govern:

1. Because of the exceptional narrowness, shallowness or shape of the applicant's property, or because of exceptional topographic or other conditions related to the property, the strict application of the requirements of this Chapter would result in peculiar and practical difficulties or exceptional or undue hardship to the property owner;
2. The special circumstances or conditions that create the need for relief were not directly or indirectly created by the action or inaction of the property owner or applicant;
3. The special circumstances or conditions applying to the building or land in question are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity;
4. The relief is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant;
5. The relief will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety or public welfare of the inhabitants of the city;
6. The relief may be granted without substantially impairing the intent of this Chapter and the official zoning map;
7. The relief does not allow any type of sign that is not allowed in the zone district where the property is located, pursuant to Section 50-27;
8. The relief complies with any additional limitations or criteria applicable to that variance in subsections D through M below;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

D. No use variances.

No variance may be permitted to allow any use that is not listed in Table 50-19.8 as a permitted or special use in the zone district where the property is located, or Table 50-27.4 for a permitted sign in the district where the property is located;

E. Variances to lot size in unsewered areas.

A variance from the minimum lot size in unsewered area shall not be granted without presentation of a permit or letter of intent to issue a permit for onsite sewerage treatment from the county.

F. Variances for two-family dwellings in the R-1 district.

The commission shall not grant any variance from the requirements for the allowance of two-family dwellings within the R-1 zone district except:

1. A variance from the required front yard setback;
2. A variance reducing the minimum dimensional requirements by up to ten percent;

G. Variances from parking and loading regulations.

1. Residential districts.

(a) A variance may be granted to allow parking on a portion of a lot in an R zone where parking is not permitted by Section 50-24.6.B in the following two cases:

- (i) On any non-corner lot in an R district where the permitted parking area as shown in Table 50-24-3 is of insufficient size or configuration to allow for compliance with the off street parking requirements of this Chapter, and the applicant demonstrates hardship;
- (ii) On any corner lot in an R district where the R district parking area is of insufficient size or configuration to allow for compliance with the off street parking requirements of this Chapter, without a showing of hardship;

(b) The variance shall be subject to the following conditions, and any other conditions determined by the commission to be reasonable and necessary to protect the interests of the abutting property owners and the residential character of the surrounding neighborhood:

- (i) On a non-corner lot with frontage of less than 50 feet, only one parking area may be located outside the R district parking area;
- (ii) On a corner lot with frontage of less than 50 feet, the variance may allow for compliance with the off street parking requirements of this Chapter;
- (iii) On a corner or non-corner lot with frontage of 50 feet or greater, no variance may allow a parking area, including any driveway area leading to it, to exceed an additional 30 percent of the front yard;
- (iv) The proposed parking area shall be entirely located on the applicant's lot and shall not encroach across any abutting lot line unless such abutting lot and the subject lot are under the same ownership and the abutting lot is not occupied by a dwelling unit;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- (v) Where the proposed parking area will encroach into any unimproved area of a street, the variance shall expire upon improvement of the street;
 - (vi) Economic considerations, in whole or part, shall not constitute a hardship;
2. Reducing required parking spaces.
Except as provided in 50-37.9.G, variances from the minimum amount of off-street parking required may be approved if a smaller amount of off-site parking will be adequate to meet the needs of the facility because the facility is restricted to occupancy or use by populations with documented lower vehicle uses, such as the elderly or disabled;
 3. Exceeding required parking spaces.
Variances from the maximum parking limits provided in 50-24.4 shall not exceed 200 percent of the minimum requirement provided in Table 50-24.1;

H. Variances to reduce setbacks;

When the application is for the reduction of a required front, rear or side yard setback, the commission may require the submission of a landscaping and buffering plan, and may require that all required landscaping or buffering, or landscaping and buffering of equal effectiveness, be installed within the reduced setback area. Decorative fencing and decorative wall structures may be proposed where more intense vegetated landscaping will not provide adequate mitigation of impacts on adjacent properties. The commission shall only approve the variance if the landscaping and buffering will mitigate impacts on adjacent properties as effectively as those required by Sections 50-25 and 50-26 of this Chapter;

I. Variances in the MU-C district.

1. Within the MU-C district, the only variances that may be approved are variations in any dimensional standard in Sections 50-15.3 and 50-21 by no more than ten percent. However, if the need for a variance is the result of a government taking pursuant to eminent domain powers, then (a) the limits of this subsection I.1 shall not apply and (b) all or part of the required landscaping and buffering may be placed in the public right-of-way if the property owner executes a perpetual maintenance agreement with the owner of the right-of-way;
2. In the case of a setback reduction variance, the landscaping and buffering in any reduced setback area shall be at least four feet in height and screen out at least 50 percent of the view of any parking area, unless the setback is reduced to less than five feet, in which case it shall screen out at least 75 percent of the view of the parking area;

J. Variances in A-O airport overlay district.

Variances 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;

K. Variances from flood plain regulations.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Variances to the flood plain regulations in Section 50-18.1.C shall only be granted in compliance with the limitations in this subsection K.

1. In a floodway:
 - (a) No variance shall be granted that would result in any increase in flood levels during the base flood discharge;
 - (b) No variance shall authorize the placement of a manufactured home, dwelling unit or any structure designed for human habitation;
 - (c) No variance shall be granted authorizing a lesser degree of floodproofing or flood protection than is required by Section 50-18.1.C;
 - (d) Variances shall be limited to giving the applicant a minimal reasonable use of the site;
2. In a flood fringe:
 - (a) No variance shall authorize a lesser degree of floodproofing or flood protection than is required by Section 50-18.1.C;
 - (b) Variances shall not produce any adverse effects to the flood capacity or efficiency of the watercourse;
3. Flood insurance notice and recordkeeping.

The building official shall notify the applicant for a variance that:

 - (a) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 - (b) Construction below the 100 year or regional flood level increases risks to life and property. Such copy notification shall be maintained with a record of all variance actions. The building official shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the administrator of the national flood insurance program;
4. General considerations.

The city shall consider the following factors in granting variances and imposing conditions on permits and variances in flood plains:

 - (a) The potential danger to life and property due to increased flood heights or velocities caused by encroachments;
 - (b) The danger that materials may be swept onto other lands or downstream to the injury of others;
 - (c) The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;
 - (d) The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;
 - (e) The importance of the services to be provided by the proposed use to the community;
 - (f) The requirements of the facility for a waterfront location;
 - (g) The availability of viable alternative locations for the proposed use that are not subject to flooding;
 - (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- (i) The relationship of the proposed use to the comprehensive land use plan and flood plain management program for the area;
 - (j) The safety of access to the property in times of flood for ordinary and emergency vehicles; and
 - (k) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site;
5. Submittal of hearing and decision notices to the DNR.
- (a) The planning commission shall submit to the commissioner of the DNR a copy of the application for proposed variance sufficiently in advance so that the commissioner will receive at least ten days' notice of the hearing. Such notice shall specify the time, place, and subject matter of the hearing and shall be accompanied by such supporting information as is necessary to indicate the nature and effect of the proposed use. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist;
 - (b) A copy of all decisions granting variances shall be forwarded to the commissioner of the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist;
6. Additional federal emergency management agency conditions.
The following additional conditions of FEMA must be satisfied:
- (a) Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
 - (b) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
7. Conditions attached to variances,
Upon consideration of the factors listed above and the purpose of this Section, the planning commission may attach such conditions to the granting of variances and permits as it deems necessary to fulfill the purposes of this Section. Such conditions may include, but are not limited to, the following:
- (a) Modification of waste treatment and water supply facilities;
 - (b) Limitations on period of use, occupancy, and operation;
 - (c) Imposition of operational controls, sureties, and deed restrictions;
 - (d) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures; and
 - (e) Floodproofing measures, in accordance with the State Building Code and this chapter. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

L. Standards for variances in shorelands.

No variance shall be granted that compromises the general purposes or intent of Section 50-18.1.D or results in adverse consequences to the environment. Variances shall include a requirement for the applicant to mitigate the impacts of the variance on shoreland areas;

M. Reconstruction of a nonconforming building.

A variance may be granted to permit the reconstruction of a nonconforming building that has been damaged from any cause or has deteriorated to the extent of more than 60 percent of its assessed market value as determined by the city assessor, if the commission determines that it is necessary for the preservation and enjoyment of a substantial property right and is not detrimental to the public welfare of the city.

Section 4. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: January 3, 2015)

Councilor Russ 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

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

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10341

AN ORDINANCE AMENDING SECTION 50-18.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING CHANGES MADE TO STORM WATER MANAGEMENT AND EROSION CONTROL.

The city of Duluth does ordain:

Section 1. That Section 50-18.1 of the Duluth City Code, 1959, as amended, be amended as follows:

50-18.1 Natural Resources Overlay (NR-O).

A. General.

1. Purpose statement.

The purpose of this overlay is to promote, preserve and enhance the water resources and environment within the city and protect them from adverse effects caused by poorly sited or incompatible development. It is intended to implement the Minnesota Wetland Conservation Act (WCA), federal emergency management agency (FEMA) rules, and the Minnesota department of natural resources (DNR) shoreland and flood plain regulations. In accordance with this regulatory framework, wetlands, flood plains and shorelands are protected by regulating developments that would have an adverse or potentially irreversible impact on unique and fragile land, by minimizing conflicts and encouraging compatibility between environmentally sensitive lands, and by requiring detailed review standards and procedures for developments proposed for such areas,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

thereby achieving a balance between urban growth and development and protection of natural areas;

2. NR-O map.

The NR-O map contains data from the following sources:

- (a) For wetlands, there is no official wetlands map. All lands in the city that meet the definition of wetlands in Article VI are considered wetlands for the purposes of this Section;
- (b) For flood plains:
 - (i) The Flood Insurance Study, City of Duluth, Minnesota, St. Louis County, dated August 1979;
 - (ii) Flood Boundary and Floodway Map panels for the City of Duluth Minnesota, dated February 1, 1980, and numbered:
 - (1) 270421 0015 C
 - (2) 270421 0025 C
 - (3) 270421 0030 C
 - (4) 270421 0035 C
 - (5) 270421 0040 C
 - (6) 270421 0045 C
 - (iii) Flood Insurance Rate Map panels for the City of Duluth, Minnesota, dated April 2, 1982, and numbered:
 - (7) 270421 0015 C
 - (8) 270421 0025 C
 - (9) 270421 0030 C
 - (10) 270421 0035 C
 - (11) 270421 0045 C
 - (iv) Flood Insurance Rate Map panel for the City of Duluth, Minnesota, numbered 270421 0040 D and dated November 4, 1992;
 - (v) Flood Insurance Rate Map panels for St. Louis County, Minnesota, unincorporated areas, numbered 270416 1475 C, 270416 1500 C, and 270416 1650 C, all dated February 19, 1992;
 - (vi) The Letter of Map Revision issued by the Federal Emergency Management Agency, Case No. 07-05-3554P, with an effective date of October 17, 2008, including all attached maps, tables and flood profiles; and
 - (vii) The Letter of Map Revision issued by the Federal Emergency Management Agency, Case No. 12-05-3211P, with an effective date of November 26, 2012, including all attached maps, tables and flood profiles.

Copies of the above-listed documents are hereby adopted by reference and declared to be a part of this section. All documents shall be kept on file in the land use supervisor's office;

- (c) For shorelands, boundaries shall be based on (i) waters shown as protected on the map and inventory of protected waters in Duluth prepared by the DNR commissioner pursuant to Chapter 199, Laws of Minnesota, 1979, and (ii) selected waters that the city has added

to the commissioner's survey as being worthy of shoreland protection. All of these waters are shown on the NR-O map as currently revised as of November 19, 2010;

- (d) Where interpretation is needed as to the exact location of any boundary as shown on an official map, the city engineer shall make the necessary interpretation based on available technical data, and, in the case of flood plains, based particularly on elevations on the regional flood profile or hydraulic modeling data;
- (e) The NR-O map may be amended in the future, and any revisions shall become effective upon adoption of the revised NR-O map as an amendment to this Chapter;

B. Wetlands.

This Section 50-18 shall apply to all wetlands within the city. All development in the city shall comply with state statutes and regulations. In addition, any development impacting wetlands requires formal approval by the designated city wetland representative.

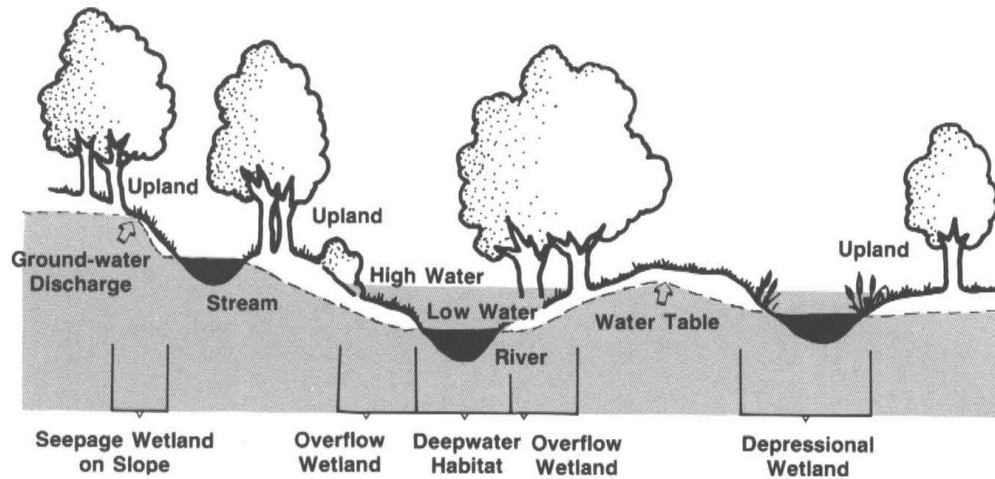


Figure 50-18.1-1: Typical Inland Wetland. Graphic taken from *Floodplain Management in the United States: An Assessment Report*, prepared for the Federal Interagency Floodplain Management Task Force 1992.

1. The building official shall require each permit applicant to specify on the permit application whether or not the proposed site contains wetlands. Regardless of the answer given, if the building official has reasonable grounds to believe the site contains wetlands, the official shall make a determination as to the existence of wetlands. In making that determination, the building official may require any of the following:
 - (a) Require the applicant to submit a complete wetland delineation as outlined in WCA and performed by a professional wetland delineator, including information such as soil analysis, surveys of vegetation and engineering or hydrological data, to aid in the determination;
 - (b) Conduct a site inspection and evaluation;

- (c) Consult with the city engineer, St. Louis County Soil and Water Conservation District, Board of Water and Soil Resources, and other available wetland experts;
- (d) Use any other reasonable method to determine if the site contains wetlands;

C. Flood plains.

This Section shall apply to all lands within the city that are shown as flood plains on the NR-O map. For purposes of relating those districts to plats and lots within the city, the NR-O map shall be used as a working map in the administration of the flood plain controls unless it is clearly shown that there is an inconsistency between the flood insurance rate map, or the flood boundary and floodway map and said NR-O map, in which case the flood insurance rate map or flood boundary and floodway map, as applicable, shall control.

All lands within flood plains shall be divided into floodway districts, flood fringe districts, or general flood plain districts:

- (a) The floodway district shall include those areas designated as floodway on the flood boundary and floodway map identified in Section 50-18.A.2.b;
- (b) The flood fringe district shall include those areas designated as flood fringe on the flood boundary and floodway map;
- (c) The general flood plain district shall include those areas designated as Zone A on the flood insurance rate maps identified in Section 50-18.A.2.b., and those areas designated Zone A1-A30 on the flood insurance rate maps that do not have a corresponding floodway/flood fringe delineation on the flood boundary and floodway map;

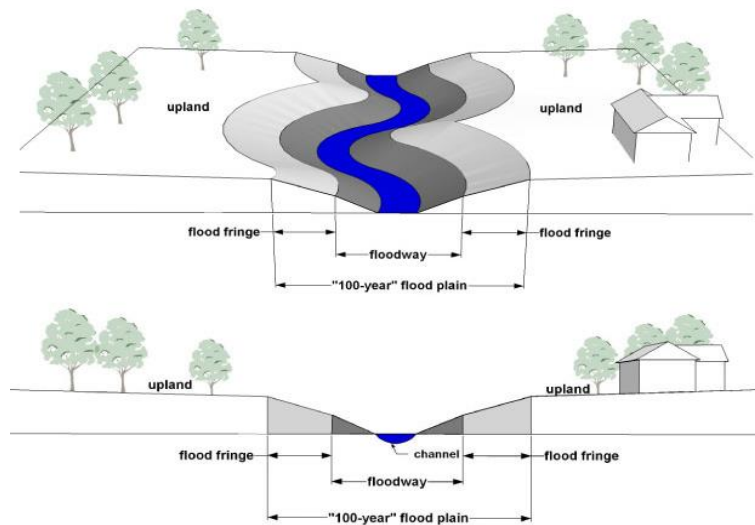


Figure 50-18.1-2: Flood plain, floodway, and flood fringe Graphic taken from *Floodplain Management in the United States: An Assessment Report*, prepared for the Federal Interagency Floodplain Management Task Force 1992.

1. Compliance.

Within the flood plain districts, no new structure or land shall be used and no structure shall be constructed, located, extended, converted or

structurally altered without full compliance with the terms of this Section 50-18.1.C. Within the floodway, flood fringe and general flood plain districts, all uses not listed as permitted uses or special uses are prohibited;

2. Uses and special use permits – floodway.

(a) Permitted uses in floodway.

Only the following uses shall be permitted within the floodway, and only if the land use supervisor determines that (a) the use is shown as a permitted use in the underlying zone district in Table 50-19.8, (b) the use has a low flood damage potential, (c) the use will not obstruct flood flows or increase flood elevations, and (d) the use does not involve structures, fill, obstructions, excavations or storage of materials or equipment:

- (i) Agriculture;
- (ii) Industrial, commercial and mixed use loading areas, parking areas and airport landing strips;
- (iii) Outdoor open space, recreation, and entertainment facilities and structures;
- (iv) Residential lawns, gardens, parking areas and play areas;

(b) Special uses in floodway.

The following uses involving accessory structures or fill or storage of materials or equipment may be permitted only after the issuance of a special use permit pursuant to Article V:

- (i) Structures accessory to a permitted use;
- (ii) Mining, extraction and storage of sand, gravel and other materials;
- (iii) Marina or yacht club or accessory residential boat dock;
- (iv) Railroad yard or shipyard and related facilities, electric power transmission lines, major utilities or wireless communication towers and minor utilities and accessory wireless antennas attached to existing structures;
- (v) Bulk storage not listed elsewhere;
- (vi) Placement of fill or construction of fences;
- (vii) Road-ready recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Section 50-20;
- (viii) Structural works for flood control such as levees, dikes, and floodwalls constructed to any height where the intent is to protect individual structures;

(c) Standards for special use permits in floodway.

A special use permit for uses and structures listed in subsection (b) above shall only be issued if the following standards are met:

- (i) The proposed use or structure will not cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected;

- (ii) Any fill deposited in the floodway shall be no more than the minimum amount necessary to grade or landscape, shall not in any way obstruct the flow of flood waters and shall be protected from erosion by the planting of vegetative ground cover, the use of rip rap or other method approved by the city;
- (iii) Accessory structures:
 - Shall not be designed for human habitation;
 - Shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters;
 - Shall be constructed whenever possible with the longitudinal axis parallel to the direction of flood flow;
 - Shall be placed approximately on the same flood flow lines as those of adjoining structures; and
 - Shall be elevated on fill or floodproofed to the flood protection elevation in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code;
- (iv) All floodproofed accessory structures must meet the following additional standards, if the building official determines that compliance is necessary to carry out the stated purposes of this Section 50-18.1.c:
 - The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;
 - Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed;

As an alternative, an accessory structure may be internally or wet floodproofed to the FP-3 or FP-4 floodproofing classifications in the State Building Code, provided the accessory structure constitutes a minimal investment, does not exceed 576 square feet in size at its largest projection, and for a detached garage, the structure must be used solely for parking of vehicles and limited storage. The structure must meet the following standards:

- To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
- There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings;

- (v) The use will not include the storage or processing of materials that are, in time of flooding, flammable, explosive or injurious to human, animal or plant life. All materials or equipment stored shall be readily removable from the area within the time available after a flood warning;
 - (vi) Any structural works for flood control that will change the course, current, or cross-section of wetlands or public waters shall comply with the provisions of Minnesota Statutes, Chapter 103G.245;
 - (vii) Any levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood, based on technical analysis that assumes equal conveyance or storage loss on both sides of a waterway;
 - (viii) Within an A-O zone, there must be adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures or structure additions;
 - (ix) Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element;
3. Uses and special use permits – flood fringe.
- (a) Permitted uses in flood fringe.

Those uses listed in Table 50-19.8 as permitted uses in the zone district where the property is located, provided that the building official determines that:

 - (i) All structures, including accessory structures, shall be elevated on fill so that a structure's lowest floor is above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one foot below the regulatory flood protection elevation and the fill shall extend at that elevation at least 15 feet beyond the outside limits of the structure. In A-O zones, the finished fill elevation for structures must be a minimum of two feet above the highest adjacent grade. The structure's design and as-built condition in relation to the regulatory flood protection elevation must be certified by a professional engineer or architect licensed in Minnesota;
 - (ii) Any portion of a non-residential structure below the regulatory flood protection elevation will be structurally dry floodproofed in accordance with the FP-1 or FP-2 classification found in the State Building Code;
 - (iii) As an alternative to elevation, accessory structures that constitute a minimal investment and that do not exceed 576 square feet may be internally floodproofed in accordance with Section 50-18.1.C.2(c)(iii) and (iv) above;
 - (iv) Any placement of fill with a cumulative volume in excess of 1,000 cubic yards at any one time may only be used to elevate a structure in accordance with this subsection 3(a)(i);

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- (v) Any stored materials or equipment shall be elevated on fill to the regulatory flood protection elevation;
- (b) Special uses in flood fringe.
The placement of more than 1,000 cubic yards of fill or other similar material, other than for the purpose of elevating a structure to the regulatory flood protection elevation, and the storage of materials and equipment below the regulatory flood protection elevation, may be permitted only after the issuance of a special use permit as provided in Article V. In addition, this use is subject to the limitations on flood plain variances in Article V and the following requirements:
 - (i) Any fill deposited in the flood fringe shall be no more than the minimum amount necessary to grade or landscape, shall not in any way obstruct the flow of flood waters and shall be protected from erosion by the planting of vegetative ground cover, the use of rip rap or other method approved by the city;
 - (ii) The use must not include the storage or processing of materials that are, in time of flooding, flammable, explosive or injurious to human, animal or plant life. All materials or equipment stored shall be readily removable from the area within the time available after a flood warning;
- (c) Standards for all flood fringe uses.
 - (i) All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation. If a variance to this requirement is granted, limitations on the period of use or occupancy of the structure for times of flooding may be specified;
 - (ii) Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the NR-O map;
 - (iii) Accessory land uses such as yards, railroad tracks, and parking lots may be at elevations more than two feet below the regulatory flood protection elevation. Any facility that will be used by employees or the general public must have a flood warning system that provides adequate time for evacuation if the area would be inundated by the regional flood to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four;
 - (iv) Standards for recreational vehicles are contained in Section 50-20;
 - (v) All manufactured homes and those recreational vehicles not meeting the exemption criteria 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 or local anchoring requirements for resisting wind forces;
- (vi) Within an A-O zone, there must be adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures or structure additions;
4. General flood plain district.
- (a) Permitted uses in general flood plain district.
 - (i) The uses listed in subsection C.2(a) above shall be permitted uses;
 - (ii) All other uses shall be subject to the floodway/flood fringe evaluation criteria below and the resulting designation shall be used in determining uses. If the property owner does not complete a floodway/flood fringe evaluation, the land is presumed to be floodway;
 - (iii) Land determined to be in the floodway pursuant to subsection 4.(b) shall have those permitted and special uses listed in Section 50-18.C.2 above;
 - (iv) Land determined to be in the flood fringe pursuant to subsection 4.(b) shall have those permitted and special uses listed in Section 50-18.C.3 above;
 - (b) Procedures for floodway and flood fringe determinations within the general flood plain district:
 - (i) The applicant shall submit appropriate information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the floodway or flood fringe district and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations 1983, parts 6120.5000 – 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective DNR area hydrologist prior to commencing the analysis. The designated engineer or expert shall:
 - (1) Estimate the peak discharge of the regional flood;
 - (2) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas;
 - (3) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 feet. A lesser stage increase than 0.5 feet shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries;
 - (ii) The city engineer shall present the technical evaluation and findings to the city council. The city council must formally accept the technical evaluation and the recommended floodway and/or

flood fringe district boundary and that the proposed use is allowed in the area where it is proposed, or deny the permit application. Prior to official action the city council may submit the application and all supporting data and analyses to FEMA, the DNR or the planning commission for review and comment. Once the floodway and flood fringe district boundaries have been determined, and assuming the proposed use is allowed in the area where it is proposed, the city council shall refer the matter to staff who shall process the permit application consistent with the applicable provisions of this Section 50-18.1.C;

5. Public utilities, railroads, roads and bridges.

- (a) All public utilities and facilities such as gas, electrical, sewer and water supply systems, with the exception of sumps and wet wells, to be located in the floodway or flood fringe shall be floodproofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation;
- (b) Railroad tracks, roads and bridges to be located within the floodway or flood fringe shall comply with subsections 2 and 3 above, as applicable. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety;
- (c) On-site water supply and sewage treatment systems: Where public utilities are not provided: 1) on-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) new or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the state's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section;

6. Subdivisions.

New subdivisions in the flood plain area shall meet the following requirements:

- (a) No land shall be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply, or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this Section;
- (b) All lots within the flood plain districts shall be able to contain a building site outside of the floodway district at or above the regulatory flood protection elevation;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- (c) All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Chapter;
 - (d) All subdivisions shall have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional flood has been approved by the city council. The plan shall be prepared by a registered engineer or other qualified individual, and shall demonstrate that adequate time and personnel exist to carry out the evacuation;
 - (e) The floodway and flood fringe district boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents;
 - (f) In the general flood plain district, applicants shall provide the information required in section 15-18.C.4(b) to determine the regional flood elevation, the floodway and flood fringe district boundaries, and the regulatory flood protection elevation for the subdivision site;
7. Amendments.
- (a) The flood plain designation on the official zoning map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the flood plain. Special exceptions to this requirement may be permitted by the commissioner of the department of natural resources (DNR) if the commissioner determines that, through other measures, lands are adequately protected for the intended use;
 - (b) All amendments to Section 50.18.1.C, including flood plain designation amendments to the official zoning map, must be submitted to and approved by the commissioner of the department of natural resources (DNR) prior to adoption. Changes in the official zoning map must meet the federal emergency management Agency's (FEMA) technical conditions and criteria and must receive prior FEMA approval before adoption. The commissioner of the DNR must approve the amendment prior to community approval;

D. Shorelands.

In furtherance of the policies declared by the state legislature, waters in the city have been classified as general development waters (GD), natural environment waters (NE) or coldwater rivers (CW). The shoreland overlay applies to lands within 1,000 feet of Lake Superior or within 300 feet of rivers, creeks, streams and tributaries and floodplains, as designated on the NR-O map. If a parcel or development lies only partially within a shoreland area, only the portion of the property within the shoreland is subject to these provisions;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

1. Shoreland permit required.
The following activities and structures require a shoreland permit if located within a shoreland:
 - (a) All structures;
 - (b) All grading, filling and excavating;
 - (c) All construction of impervious surfaces, including roads, driveways, parking areas and trails;
 - (d) All removal of natural vegetation;
 - (e) Any construction activity that removes or disturbs natural beach grasses on Park Point;
2. Standards for shoreland permit.
 - (a) Erosion and sediment control measures shall be required for any land disturbing activity;
 - (b) Grading and filling of more than 250 square feet or placement of more than ten cubic yards of material within the shore impact zone shall only be permitted if a plan for erosion control, stormwater management and shoreline buffer restoration is approved by the city and effectively implemented;
 - (c) Impervious surfaces shall be designed and constructed to minimize and control runoff and erosion into the regulated waters;
 - (d) Any removal of natural vegetation shall be designed to prevent erosion into regulated waters and to preserve shoreland aesthetics;
 - (e) Removal of trees or shrubs in a contiguous patch, strip, row or block is prohibited in shore impact zones;
 - (f) The project does not result in the proposed building being located in a shore or bluff impact zone;
 - (g) Natural vegetation buffers shall be restored to the extent feasible after any project is complete;
3. Dimensional standards.
 - (a) No shoreland permit shall be approved unless the standards in Table 50-18.1.D-1 are met or a variance obtained pursuant to Article V;

Table 50-18.1.D-1: Minimum Shoreland Area Standards			
Standards	General Development Waters ^[1]	Natural Environmental Waters	Coldwater River
Minimum setbacks from Ordinary High Water Level or highest known water level, whichever is higher			
<i>Structures</i>	50 ft.	75 ft.	150 ft.
<i>Commercial, mixed use, & industrial structures in the harbor, shown in Figure 50-18.1.- 3</i>	25 ft.	N/A	N/A
<i>Impervious surfaces in the Shore Impact Zone</i>	50 ft.	50 ft.	75 ft.
Lowest floor elevation above Ordinary High Water Level or highest known water level, whichever is higher ^[2]	3 ft.		
Width of naturally vegetative buffer	50 ft.		

^[1] All Lake Superior shoreland is classified as general development waters.
^[2] For a structure located in an area where FEMA has established a base flood elevation, the structure is

Table 50-18.1.D-1: Minimum Shoreland Area Standards			
Standards	General Development Waters ^[1]	Natural Environmental Waters	Coldwater River
exempt from this shoreland elevation requirement, but must meet flood plain regulations.			

- (b) Exceptions to dimensional standards.
- i. Commercial, mixed use, & industrial structures in the harbor, shown in Figure 50-18.1-3: 0 feet setback for grain elevators, cranes, loading bins, and other equipment necessary for loading and unloading, including impervious surface necessary to support these activities;
 - ii. Public trails no more than ten feet wide may be constructed within these setbacks, provided that a minimum amount of natural vegetation is removed and provided that permits are obtained from the DNR and MPCA, if required;
 - iii. Properties in Stormwater Zone B, as defined in Section 50-18.1E.3(f), that have been previously developed with 75 percent or greater impervious surface may use one of the following methods to determine building setback:
 - Use the impervious surface setback for the shoreland classification as the building setback.
 - When principal structures exist on the adjoining lots on both sides of the proposed building site, the structure setbacks can be altered to conform to the adjoining setbacks, provided the proposed building site is not located within the setback required for the naturally vegetative buffer;
 - iv. Park equipment such as playground structures and ball fields (but not including structures such as garages, storage buildings, toilets or warming houses) may be placed closer than the required structure setback provided they lie outside the area required for the native vegetative buffer;

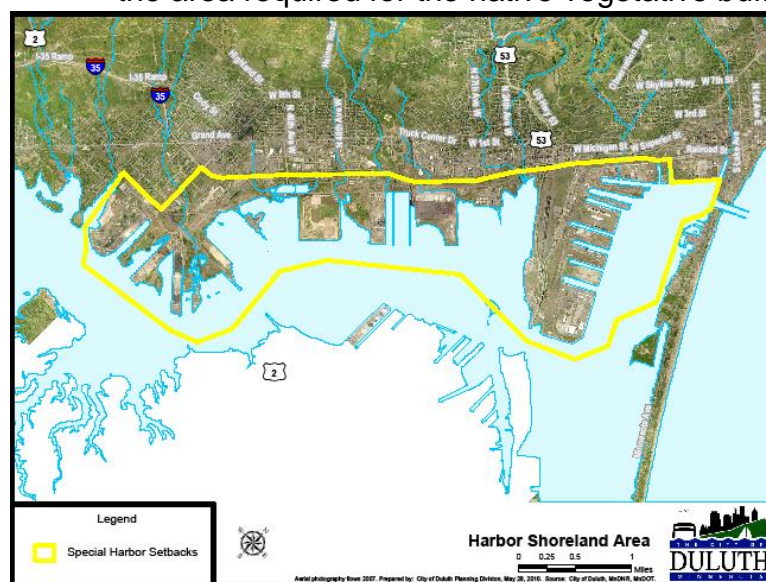


Figure 50-18.1-3

4. Uses and special use permits.

- (a) Those permitted and special uses shown in Table 50.19.8, subject to the issuance of any shoreland permit required by subsection D.1 and compliance with the standards of subsection D.2, except as listed below. Agricultural uses are not permitted in the shore impact zone. Within shoreland areas that are outside of the shore impact zone, agricultural uses are permitted if steep slopes are maintained in permanent vegetation or the land is operated under an approved conservation plan from the St. Louis County Soil and Water Conservation District;
- (b) All industrial uses, including mining, extraction and storage, on coldwater rivers or natural environmental waters require a special use permit pursuant to Article V. The application for a special use permit must include a thorough evaluation of the topographic, vegetation and soils conditions on the site;
- (c) Standards for special use permit:
 - (i) Compliance with all development requirements for shorelands in this Section 50-18.1.D;
 - (ii) Prevention of soil erosion, stormwater runoff or other possible pollution of public waters, both during and after construction or use;
 - (iii) Restoration of the shoreline buffer to a natural state;
 - (iv) Screening of structures and other facilities as viewed from regulated waters, as shown on the NR-O map;

5. Subdivisions.

New subdivisions in the shoreland area shall meet the following requirements:

- (a) The land shall not be subdivided until the land has been rezoned into the R-P zone district, and the concept and detailed development plans required in the R-P districts shall be designed to comply with the provisions of this Section 50-18.1.D;
- (b) A buffer at least 50 feet in width, consisting of trees, shrubs and ground cover of plants and understory in a natural state, is required within a line parallel to the ordinary high water level or highest known water level, whichever is higher, and as close to the ordinary high water level as topography and the health of the plants will permit;
- (c) After construction is completed, the owner of the property shall be responsible for any continued need for erosion and sediment control and restoration on the property;

6. Nonconforming lots of record.

Lots of record in the office of the county recorder on November 19, 2010, may be allowed an exception from the structure setback requirement in subsection D.3. If the lot of record cannot be developed under the setback requirements of subsection D.3, then:

- (a) The lot may be developed without a variance if (1) principal structures exist on the adjoining lots on both sides of a proposed building site, and (2) the proposed structure will be located no closer to the protected shore than the principal structure on either adjoining site, and (3) the resulting adjusted setback does not result in the proposed building being located in a shore impact zone; or
- (b) The lot may be developed if a variance is obtained pursuant to Article V;

E. Stormwater management and erosion control.

1. Goals and purpose.

- (a) The federal Clean Water Act (CWA) requires that municipal stormwater discharges be authorized under the national pollution discharge elimination system (NPDES). The city is allowed to discharge its stormwater under coverage provided by a CWA municipal separate storm sewer system general permit (MS4 permit). As part of the requirements of the permit, the city is required to develop a stormwater pollution prevention program (MS4 program) with specific goals requiring:
 - (i) Non-degradation of all city waters;
 - (ii) Restrictions to special designated waters in the city, including: (a) Lake Superior (which is an MPCA designated outstanding value resource water with both restricted discharge and impaired water designations); (b) St. Louis River (which is an MPCA designated impaired water and area of concern; and (c) 16 trout streams designated by the DNR;
- (b) The goals described in the city's MS4 program pertaining to illicit discharge detection and elimination, construction-site runoff controls, and post-construction runoff treatment are incorporated into this Chapter by reference;
- (c) The purpose of this Section 50-18.1.E is to establish regulations to comply with the federal CWA and the city's MS4 permit and to achieve the goals stated in the city's MS4 program;
- (d) All proposed developments shall follow the requirements in the most recent version of the city of Duluth, engineering guidelines for professional engineering services and developments, and the city of Duluth construction standards were applicable;
- (e) Refer to the Minnesota Stormwater Manual and other stormwater management publications for temporary and permanent low impact development design practices;

2. Temporary erosion and sediment controls.

(a) Applicability.

This Section 50-18.1.E.3 applies to all land disturbing activities within the city, except those specifically exempt in this Section and those subject to a superseding or preemptive state or federal law. This Section shall be deemed to supplement, but not to conflict with, the applicable provisions of the State Building Code;

(b) Requirements.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

All proposed development and redevelopment and all subdivision plats and re-plats shall include drainage system and temporary erosion and sediment best management practices (BMPs) in compliance with the city’s MS4 program and the requirements shown in Table 50-18.1.E-1 below. Plans, engineering analysis and calculations, diagrams, drainage reports and other data shall be submitted, as required by the city engineer or designee with each development proposal or application for permit;

Table 50-18.1.E-1: Temporary Erosion and Sediment Controls			
Land Area Disturbed ►	≤ 3,000 sq. ft. ^[1]	> 3,000 sq. ft. and < 1 acre^[2]	≥ 1 acre
Development Plan Measures Required ▼			
Temporary erosion and sediment controls to prevent any off-site migration of sediment	✓		
Site specific Erosion and Sediment Control Plan (ESCP) and ESCP Permit from city engineer		✓	✓
Site specific Stormwater Pollution Prevention Plan (SWPPP) meeting MPCA NPDES Permit requirements for Construction Activity		✓	✓
MPCA NPDES/State Disposal System Construction Stormwater Permit			✓
MS4 Statement of Compliance from city engineer		✓	✓

(c) Authority to waive.

The city engineer has authority to waive the requirements in Table 50-18.1.E.1 in accordance with the city’s MS4 permit. If stormwater and erosion controls required by this subsection 2 are demonstrated to be technically feasible, provisions of subsection 2 must be met to the maximum extent practicable;

3. Permanent water quality and discharge rate, volume and temperature controls.

(a) Applicability.

(i) This Section 50-18.1.E.3 applies to all land disturbing activities within the city, except those specifically exempt in this Section and those subject to a superseding or preemptive state or federal law. This Section shall be deemed to supplement, but not to conflict with provisions of the State Building Code;

(ii) This Section does not apply to pavement resurfacing and pavement rehabilitation projects that meet all of the following conditions:

- no new impervious surface is created,
- there is no change to the configuration of the site,
- there is no change to the land use.

(b) General requirements.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

All proposed development and redevelopment and all subdivision plats and re-plats shall include a drainage system with stormwater runoff rate, volume and temperature controls and water quality treatment in compliance with the city’s MS4 program and the requirements shown in Table 50-18.1.E-2 below. Plans, engineering analysis and calculations, diagrams, drainage reports and other data shall be submitted, as required by the city engineer with each project (referred to as the “development plan” below);

Table 50-18.1.E-2: Permanent Water Quality and Discharge Rate, Volume and Temperature Controls		
<i>[See additional requirements for land in shorelands below]</i>		
Development Plan Measures required ▼	Total New Impervious Area Created or the Impervious Area Redeveloped^{[1][2]}	
	≤ 3,000 sq. ft.	> 3,000 sq. ft.^{[3] [4]}
Water quality treatment	NONE	✓
Runoff rate controls		✓
Volume Controls		✓
Temperature Controls ^[5]		✓
Drainage report		✓
Site specific SWPPP		✓
BMP Operation and Maintenance Manual		✓
MS4 Statement of Compliance from city engineer		✓

^[1] The total area is the sum of both the new and redeveloped impervious areas that are part of the common plan of development or sale.

^[2] A pavement resurfacing or pavement rehabilitation project is exempt where: (a) no new impervious surface is created; and (b) no change to configuration of the site occurs; and (c) no change to land-use occurs.

^[3] An individual one-family or two-family residence (that is not part of a common plan of development) with less than 10,000 sq. ft. of disturbed area and less than 7,500 sq. ft. of new impervious area is exempt.

^[4] If the site contains an existing impervious surface area greater than one acre, the drainage report must include a determination of the current total suspended solids removal across the entire site. If the current TSS removal is below 50 percent, the drainage report must include an evaluation of the feasibility of increasing the TSS removal to 50 percent on an annual basis across the entire site.

^[5] Temperature controls are required for projects that discharge to, and are within 1 mile from a trout/cold water stream.

(c) Authority to waive.

The city engineer has authority to waive the requirements in Table 50-18.1.E-2 in accordance with the city’s MS4 permit, if the developer demonstrates it to be technically non-feasible AND then mitigates for the non-compliance by increasing the level treatment or control of one of the other requirements;

(d) Shoreland requirements.

(i) In addition to the requirements in subsection 50-18.1.E.3(b) above, no residential development or redevelopment within a shoreland shall result in impervious surface area exceeding 25 percent of the lot area unless the owner (a) submits a development plan including water quality treatment and (b) obtains an MS4 statement of compliance by the city engineer;

(ii) In addition to the requirements in subsection 50-18.1.E.3(b) above, no commercial, mixed use, institutional or industrial

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

development or redevelopment within a shoreland shown on the NR-O map shall create new impervious surface area unless the owner (a) submits a development plan including water quality treatment and (b) obtains an MS4 statement of compliance issued by the city engineer;

- (e) Water quality treatment requirements.
Where subsection 50-18.1.E.3(b) requires that a development plan include water quality treatment, the development or redevelopment must provide at least the minimum treatment shown in Table 50-18.1.E.3;

Table 50-18.1.E-3: Water Quality Treatment Requirements (Total Suspended Solids TSS, Total Phosphorus TP)		
Development Type	New and Existing Impervious surface	Required Treatment
New	> 3,000 S.F.	No net increase of TSS/TP from predevelopment conditions.
Redevelopment	>3,000 S.F. and < 1 acre	10% reduction in impervious surface or 50% TSS removal (TP to be removed via TSS Reduction).
Redevelopment	≥ 1 acre	50% TSS removal. No net increase in TP from pre-project condition.

- (f) Runoff rate control.
 Where subsection 50-18.1.E.3(b) requires that a development plan include runoff rate control, the development or redevelopment must be designed to provide the controls as follows. Runoff rate control is beneficial in the upper, flatter part of the watershed above the bluff line. Below the bluff line, the topography is relatively steep and stormwater flows quickly to Lake Superior and the St. Louis River. This bluff line designation is show on the NR-O map. The stormwater rate control requirements for development and redevelopment are shown in Table 50-18.1.E-4;

Table 50.18.1.E-4: Discharge Rate Limits		
Location ▶	Post-Development Peak Flow Rates at Each Discharge Point Shall Not Exceed	
Type of Activity ▼	Zone A -- Above Bluff Line	Zone B -- Below Bluff Line
New Development	75% of predevelopment peak flow rates for 10 and 100 year events; and 90% of predevelopment peak flow rate for 2 year event	Predevelopment peak flow rates for all storm events
Redevelopment	Predevelopment peak flow rates for all storm events	Predevelopment peak flow rates for all storm events

- (g) Storm water runoff volume control.
Where subsection 50-18.1.E.3(b) requires that a development plan include storm water runoff volume control, the development or redevelopment must be designed to provide the controls so that the

- volume of stormwater runoff discharged from a proposed project shall not exceed the pre-development site conditions;
- (h) Storm water temperature control.
Temperature controls are required for development and redevelopment where subsection 50-18.1.E.3(b) specifies. Temperature controls are beneficial for trout/cold water streams, by minimizing the increase in stream temperatures from stormwater runoff from impervious surfaces that tend to be warmer than natural vegetated surfaces. The potential for the increase in temperature of stormwater runoff discharged from a proposed project shall be minimized through the use of certain BMPs and/or site design methods;
- (i) General design criteria.
- (i) New minor system drainage systems shall be designed to efficiently convey the peak discharge rates for a ten-year flow;
 - (ii) New major system drainage systems shall be designed to efficiently convey the peak discharge rates for a 100-year flow;
 - (iii) The 100-year rainfall event or 100-year peak flow shall be evaluated to ensure that no damage occurs to adjacent properties for all systems;
 - (iv) The stormwater management systems for any new or redevelopment project shall maintain at least two feet of freeboard between the anticipated 100-year high water elevation and the minimum building opening;
 - (v) Consideration may be given for treating existing untreated impervious areas diverted to the site and included in the control area for analysis if it is in the best interest of the city;
 - (vi) All impervious areas shall be considered connected and curve numbers shall not be weighted for impervious areas except under special circumstances;
 - (vii) Ninety-five percent of all newly added impervious surface shall have its runoff directed to the water quality treatment area. If it is impractical to direct 95 percent of the added impervious surface to water quality area, alternate methods may be used in combination so long as 95 percent is treated and all peak flow requirements are fulfilled;
 - (viii) Flow shall not be diverted from one major or minor system to another major or minor system;
 - (ix) When stormwater management plans involve directing runoff from a site, it shall be the responsibility of the applicant to obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water to a point where the stormwater enters a major system;
 - (x) Adequate measures shall be taken to prevent uncontrolled drainage across lot lines;

4. General stormwater restrictions.

City of Duluth has numerous ordinances regarding stormwater runoff and the protection of the area's water resources. Refer to the Duluth, MN - Legislative Code, Chapter 43 Article XI Stormwater Utility System, Chapter 45 Division 2 – Improvements by Private Party and Article VIII – Obstructions to Watercourses, and Illicit Discharge;

5. Ownership and maintenance.

(a) Maintenance of temporary erosion and sediment control practices.

During the period of a land disturbing activity, the person engaging in the construction shall be responsible for installing and maintaining erosion and sediment control practices. After construction is completed, the owner of the property shall be responsible for installing and maintaining erosion and sediment control practices. For the purposes of inspection during construction monitoring, the permittee shall maintain inspection logs and will make them available to the city upon request. The permittee shall retain the inspection logs for three years after the project is complete;

(b) Ownership.

(i) All components of the stormwater management system shall be constructed, owned, operated and maintained by the developer or owner(s) to their confluence with the major system or city owned minor system;

(ii) In the case of developments in which right-of-way is transferred to public ownership, the storm drain system within the city right-of-way shall be owned and maintained by the city. Stormwater treatment facilities and ponds shall be in common space and shall be owned and maintained by the developer or the owners of the development. Stormwater treatment facilities shall not be located in the public right-of-way;

(c) Owner inspection, operation and maintenance.

(i) A stormwater management facilities operation and maintenance manual shall be prepared by an engineer for the development and approved by the city engineer;

(ii) Stormwater management facilities shall be designed to minimize maintenance and provide inspection and maintenance access;

(iii) All facilities shall have a plan of operation and maintenance that assures continued effective removal of runoff pollutants and accumulated sediment;

(iv) The developer or the owner(s) shall be responsible for inspection, maintenance and reporting for all non-publicly owned stormwater management facilities associated with the development. Facilities shall include structural components and all non-structural components (buffer strips, swales and other stormwater management practices that were part of the approved development);

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- (v) An annual inspection and maintenance report shall be submitted to the city engineer. Inspection and maintenance shall be performed on a regular basis so the stormwater management facilities function as designed, but not less than annually. Maintenance work and repairs identified in the annual report shall be completed within three month of the annual inspection;
- (vi) The inspection and maintenance of the stormwater facility shall be performed by a qualified professional and who will prepare and sign the annual inspection/maintenance report.

Copies of the inspection and maintenance records shall be maintained by the developer or owner for a period of six years. Copies of all inspection records shall be provided to the city upon request.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: January 3, 2015)

Councilor Russ 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

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

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10342

AN ORDINANCE GRANTING TO UNIVERSITY OF MINNESOTA DULUTH A CONCURRENT USE PERMIT FOR THE INSTALLATION OF SIX UNDERGROUND CONDUITS AND ONE SANITARY SEWER UNDER WEST SAINT MARIE 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 Regents of the University of Minnesota (the "University of Minnesota Duluth" or "university") and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) Six underground conduits (four electrical and two communication) located in the right-of-way of West Saint Marie Street, with conduits bored in at a minimum depth of two feet and one sanitary sewer located in the right-of-way of West Saint Marie Street, bored in at a minimum depth of seven feet, as shown in Public Document No. 14-1124-14.

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) "Commercial general liability" insurance with limits not less than \$1,500,000 each occurrence/general aggregate. The policy shall be written on an occurrence basis, shall

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

include contractual liability coverage and shall name the city of Duluth as an additional insured; and

(b) Insurance coverage shall include all permittee's activities occurring upon or within public easement occupied pursuant to this ordinance whether said activities are performed by the permittee or its agents or representatives; and

(c) The policy shall contain a condition that it may not be cancelled without 30 days' written notice to the city of Duluth and directed to the attention of the city attorney; and

(d) The city of Duluth shall be named as an additional insured; and

(e) The certificate shall also reference this ordinance by its ordinance number.

Section 3. The university shall remain responsible for the ownership, operation and maintenance of these utilities, including performing utility locates in accordance with the Gopher State One Call rules.

Section 4. As soon as feasible after construction, the university will furnish the city of Duluth with record drawings prepared in accordance with city of Duluth standards. In addition, the university shall furnish digital comma delimited file (CSV) files to provide location data for the improvements.

Section 5. 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 90 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 6. By accepting the terms of this ordinance, the permittee and city agree to save harmless and defend and indemnify the other party against claims or demand which may arise against the indemnified party by reason of the existence of private improvements, or any act or omission of the indemnifying party, 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 except that arising solely from the negligent or willful misconduct of city. 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. Either permittee or city may, to the extent applicable, raise as a defense in any action by a third party to which this indemnification obligation relates statutory limits on the other's liability.

Section 7. 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

any type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

Section 8. 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 9. 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 10. The permittee shall observe the following conditions:

(a) Permittee's use of the public easement shall be limited to the designated area described in Section 1 above and further shown on Public Document No. 14-1124-14; and

(b) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as in no way to 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 11. 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 120 days after this ordinance takes effect.

Section 12. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: January 3, 2015)

Councilor Russ 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 November 24, 2014
Approved November 24, 2014
DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 8, 2014, 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

14-1208-13 John Ramos communication regarding the proposed agreement increase for the library facility alternatives study (14-0606R). -- Received

14-1208-11 The following communications regarding the proposed 2015 budget and levy (14-080-O and 14-081-O): (a) Sister Edith Bogue; (b) Jane Brissett; (c) John M. Glendenning, Jr. -- Received

14-1208-12 The following communications regarding the proposed distribution of the 2015 tourism taxes (14-0598R): (a) Alison Clarke; (b) Mary Mathews; (c) Richard Paulson. -- Received

- - -

REPORTS FROM OTHER OFFICERS

14-1208-01 Clerk application for exempt permit to the Minnesota gambling control board from Catholic Men's Club on December 14, 2014 (bingo). -- Received

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REPORTS OF BOARDS AND COMMISSIONS

14-1208-02 Duluth citizen review board minutes of September 23, 2014, meeting. -- Received

14-1208-03 Spirit Mountain recreation area authority minutes of October 16, 2014, meeting. -- Received

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At this time, 7:05 p.m., the public hearing regarding the 2015 budget and levy began. No one appeared who wished to be heard and the public hearing was declared closed at 7:06 p.m.

- - -

At this time, 7:06 p.m., the public hearing regarding the proposed capital improvement plan amendment began. No one appeared who wished to be heard and the public hearing was declared closed at 7:07 p.m.

- - -

At this time, 7:07 p.m., the public hearing regarding the proposed issuance of general obligation capital improvement bonds in an amount not to exceed \$1,800,000 began. No one appeared who wished to be heard and the public hearing was declared closed at 7:08 p.m.

- - -

At this time, 7:08 p.m., the public hearing regarding the proposed reallocation of proceeds of capital improvement bonds proceeds began. No one appeared who wished to be heard.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

At this time, 7:09 p.m., the public hearing was declared closed and the regular order of business was resumed.

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Cameron Bloom Kruger introduced himself as the new president and CEO of the Duluth Children's Museum and commented on events and attractions that are occurring at the museum.

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Judy Hubbard expressed concerns about an opinion editorial that was written about Councilor Fosle and expressed respect and support for Councilor Fosle.

- - -

John Paschek expressed concern about increased taxes in the city of Duluth.

- - -

RESOLUTION TABLED

Councilor Gardner moved to remove Resolution 14-0569, amending Resolution 13-0593, adopting license, permit, fine, penalty and other charges for 2014, to reduce the conversion fee for multi tenant rental housing from \$3,500 to \$2,500, from the table, which motion was seconded and carried unanimously.

Resolution 14-0569 was adopted as follows:

BY COUNCILOR GARDNER:

RESOLVED, that Resolution 13-0593 adopting license, permit, fine, penalty and other charges for 2014, be amended by reducing the conversion fee for multi tenant rental housing from \$3,500 to \$2,500, effective immediately.

Fire		
Fee Name	Previous Fee	New 2014 Fee
Rental Housing - Conversion Fee - Multi Tenant License (when dwelling that has not been licensed for rental within the preceding one year is converted to rental)	\$3,500	\$2,500

Resolution 14-0569 was unanimously adopted.

Approved December 8, 2014

DON NESS, Mayor

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MOTIONS AND RESOLUTIONS

At this time, Councilor Fosle moved to consider Resolution 14-0575, amending Resolution 13-0593, adopting license, permit, fine, penalty and other charges for 2014, to reduce the conversion fee for single tenant rental housing from \$1,000 to \$500, which motion was seconded and carried unanimously.

Resolution 14-0575 was adopted as follows:

RESOLVED, that Resolution 13-0593 adopting license, permit, fine, penalty and other charges for 2014, be amended to reduce the conversion fee for single tenant rental housing from \$1,000 to \$500, effective immediately.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Fire		
Fee Name	Previous Fee	New 2014 Fee
Rental Housing - Conversion Fee - Single Tenant License (when dwelling that has not been licensed for rental within the preceding one year is converted to rental usage)	\$1,000	\$500

Resolution 14-0575 was unanimously adopted.
Approved December 8, 2014
DON NESS, Mayor

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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 amend Agreement C21447 with Microsoft licensing GP and SHI to add true-up for additional licensing in the amount of \$138,803, payable as follows:

\$5,583.47 - Capital Equipment 250, Public Administration 015, Fiscal Year 2010, 2010-Capital Equipment 5580; Project: CE250-E1004 - Capital Equipment Fund 250, software conversions;

\$133,219.53 - Capital Equipment 250, Public Administration 015, Fiscal Year 2013, 2013-Capital Equipment 5580; Project: CE250-E1301 - Capital Equipment Fund 250, software implementation.

Resolution 14-0591 was unanimously adopted.
Approved December 8, 2014
DON NESS, Mayor

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RESOLVED, by the city council of the city of Duluth that the following-named individuals are hereby appointed as members to the advisory board for Development District No. 17 pursuant to the provisions of Minnesota Statutes § 469.132:

1. Patrick Boyle;
2. Kerry Leider;
3. Nancy Norr;
4. David Ross;
5. David Sarvella.

Resolution 14-0597 was unanimously adopted.
Approved December 8, 2014
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept a grant from the state of Minnesota, commissioner of public safety, office of justice programs, in the amount of \$300,813 for the grant term beginning 1/1/2015 and ending 12/31/2015, and to execute a grant agreement, substantially the same as that on file in the office of the city clerk as Public

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Document No. 14-1208-04 for the purpose of supporting the operations of the Lake Superior drug and violent crime task force, funds to be deposited in Fund 215-200-2208-4220-02 (Duluth police grant programs, police, violent crime enforcement teams, state of Minnesota operation).

Resolution 14-0574 was unanimously adopted.
Approved December 8, 2014
DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to accept a grant from the St. Luke's Foundation in the amount of \$8,248 for the Duluth police department crisis intervention "train the trainer" project and to execute a grant agreement; 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).

Resolution 14-0595 was unanimously adopted.
Approved December 8, 2014
DON NESS, Mayor

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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 December 31, 2015.

Resolution 14-0601 was unanimously adopted.
Approved December 8, 2014
DON NESS, Mayor

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RESOLVED, city and the Arrowhead Zoological Society, Inc. (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 zoo.

FURTHER RESOLVED, the parties desire to amend the agreement to (i) extend the term of the agreement for a period for one year through 2015, (ii) modify the reimbursement procedures of the agreement to reduce society staff time utilized to compile back-up documentation, and (iii) define a working capital dollar amount of \$100,000 to assist the society with cash flow in the interim between the society's submission of reimbursement paperwork and the release of reimbursement funds by the city.

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. 14-1208-10.

Resolution 14-0604 was unanimously adopted.
Approved December 8, 2014
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to execute and implement a three year agreement with Duluth entertainment convention center authority (DECC) for the production, promotion, coordination and management of events at Bayfront Festival Park, substantially the same as that on file with the city clerk as Public Document No. 14-1208-05,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

and providing for the base payment of \$60,000 per year, payments to be made from Fund 258-030-5310 (tourism taxes, finance department, contract services).

Resolution 14-0607 was unanimously adopted.

Approved December 8, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute a three-year license agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 14-1208-06, with the Lake Superior Center authority (LSCA), to allow the city to use LSCA-owned property adjacent to Bayfront Festival Park (park) for park-related purposes, at no cost to the city.

Resolution 14-0608 was unanimously adopted.

Approved December 8, 2014

DON NESS, Mayor

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The following resolutions were also considered:

Resolution 14-0602, approving the reconveyance of certain conditional use deed lands in the city of Duluth by the city of Duluth, was introduced by Councilor Russ for discussion.

Councilor Russ moved to amend the resolution as follows:

- (a) In the first line of the first paragraph, delete "108" and insert "106";
- (b) Delete Parcel Nos. "010-3300-04620" and "010-2746-00550,"

which motion was seconded and carried unanimously.

Resolution 14-0602, as amended, was adopted as follows:

RESOLVED, that the city of Duluth approves the reconveyance of 106 tax forfeited parcels conveyed by conditional use deed to the city and located within the city of Duluth to the state of Minnesota. Parcels to be reconveyed include the following described parcels:

010-2746-00200	450-0060-03050	010-2710-00030
010-2730-00491	450-0060-03570	010-0081-00010
010-2746-00680	450-0010-03890	010-1600-00110
010-2746-00770	450-0010-03910	010-1600-00130
010-2746-01220	450-0010-03880	010-2520-01690
010-2730-00591	450-0010-04050	010-2420-04920
010-2730-00661	450-0010-04060	010-2420-04940
010-2730-00842	450-0110-00330	010-2420-06490
010-2730-00730	450-0110-02250	010-2420-06500
010-2730-00890	450-0120-00011	010-2420-05355
010-2730-00590	450-0120-00121	010-2420-06520
010-2730-00601	450-0110-00650	010-2520-01700
010-2730-00611	450-0110-00970	010-2550-04370
010-2730-00621	450-0110-01610	010-2420-04910
010-2730-00730	450-0110-02570	010-2420-04930
450-0010-05020	450-0110-02850	010-2550-04160
450-0010-05070	450-0110-03410	010-2746-00260
450-0010-05130	450-0120-00071	010-2746-00280
450-0010-05120	450-0110-00010	010-2730-01090

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

450-0010-05030	450-0110-01290	010-2730-00980
450-0010-05050	450-0110-01930	010-2730-01100
450-0030-00100	450-0110-03130	010-3160-00500
450-0030-00060	450-0120-00461	010-3160-00505
450-0030-00050	450-0120-00531	010-3160-00040
450-0030-00090	450-0120-00591	010-3300-04630
450-0060-00010	450-0120-00711	010-3304-00070
450-0060-00230	450-0120-01231	010-3304-00090
450-0060-02090	450-0120-01051	010-4330-04340
450-0060-00130	450-0120-00981	010-4330-04210
450-0060-00850	450-0120-01111	010-4330-04190
450-0060-02730	450-0120-01481	010-4330-06710
450-0060-03230	450-0120-01551	010-4330-06720
450-0060-03370	450-0120-01671	010-4330-06730
450-0060-00570	450-0120-01541	010-4330-06740
450-0060-00900	450-0120-01591	010-4330-06750
450-0060-01630	450-0120-01791	010-4330-06800
450-0060-02410	010-2730-00625	010-4330-03860
450-0060-01450	010-2730-00735	010-4330-04180
450-0060-00290	010-2710-00080	010-4330-04200
450-0060-01130	010-2710-00090	010-2520-12670
450-0060-01770	010-2710-00020	
010-2420-06660		

Lots 26 through 29, Block 31, Hunter and Markells Grassy Point Addition, according to the recorded plat thereof, St, Louis County, Minnesota.

010-4330-04020

Lots 1 through 8, Block 29, Triggs and Kennedys Addition to Duluth.

Resolution 14-0602, as amended, was unanimously adopted.

Approved December 8, 2014

DON NESS, Mayor

- - -

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 2015 through 2019 which has been presented to the Council in the section entitled "Capital Improvement Bond Summary" in the document entitled "2015-2019 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 8, 2014, 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;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

- (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 8, 2014, 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 \$1,800,000 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 \$1,800,000 (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 furnace replacements and masonry repair, modernization/remodeling, roof replacements, ADA compliance, overhead door replacements, energy conservation measures, upgrades of Firehalls and preparation of a consolidation study for public works facilities, and for the payment of costs of issuance of the Bonds.

(d) If, within 30 days after December 8, 2014, 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.

Section 3.

(a) The City has also previously issued its \$1,870,000 General Obligation Capital Improvement Bonds, Series 2011A, dated November 29, 2011 (the "Series 2011 Bonds"). Up to \$300,200 of the proceeds from the Series 2011 Bonds allocated to the capital

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

improvement projects described in the bond resolution for the Series 2011 Bonds shall be reallocated to improvements to City Hall, including generator replacement.

(b) The Council also held a public hearing on December 8, 2014, after notice of public hearing required by the Act, on the City's reallocation of proceeds of the Series 2011 Bonds. All persons who desired to speak at the public hearing were heard and written comments were considered.

(c) The City will reallocate up to \$300,200 of the proceeds of the Series 2011 Bonds if no petition requesting a vote on the reallocation of the Series 2011 Bonds signed by voters equal to five percent of votes cast in the city in the last general election is filed with the city clerk within 30 days after the date of the public hearing described in Section 3(c) of this resolution.

Resolution 14-0593 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved December 8, 2014

DON NESS, Mayor

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Resolution 14-0594, of the city of Duluth, Minnesota, stating the intent to issue general obligation capital equipment notes, Series 2015, and approving the capital equipment list associated with the notes in the approximate amount of \$4,550,000, was introduced by Councilor Julsrud for discussion.

Councilor Fosle expressed concern that the city should not purchase new vehicle stock until after it has received the fleet study currently being prepared by a consultant.

Resolution 14-0594 was adopted as follows:

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 2015 in an amount up to \$4,416,000 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 \$134,000.

Section 3. The capital equipment to be financed includes those items of equipment set forth on the list (Public Document No. 14-1208-07), which list of equipment is hereby approved for purchase in 2015.

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.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Resolution 14-0594 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved December 8, 2014

DON NESS, Mayor

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Resolution 14-0598, distributing the estimated 2015 tourism taxes of hotel-motel and food and beverage, was introduced by Councilor Julsrud for discussion.

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

Dan Hartman spoke regarding the Glensheen Mansion and its operations within the city and that the allocation of tourism tax dollars will be used as matching funds for needed repairs at Glensheen.

Councilor Fosle expressed concerns of: how does the council determine which entities receive tourism tax dollars; there are many tourism attractions that will now be requesting dollars; it is concerning because the zoo and Spirit Mountain have needs that should be addressed compared to these other entities and Glensheen already receives state funding through the university system.

Resolution 14-0598 was adopted as follows:

RESOLVED, that the 2015 tourism taxes of hotel-motel and food and beverage, as estimated, be distributed in the following manner:

	3% Hotel	1% Hotel-Motel	2.25% Food & Beverage	Add'l 2.5% Hotel-Motel	Total
DECC Amsoil Arena debt service	1,327,600		1,671,400		\$2,999,000
Advertising and publicity	714,900	237,700	741,000	222,800	\$1,916,400
Transfer to general fund	107,500	272,600	287,000	160,800	\$827,900
Lake Superior Zoo fund			403,800	106,200	\$510,000
Spirit Mountain debt/capital				645,700	\$645,700
Glensheen matching funds			50,000		\$50,000
Great Lakes Aquarium operations		102,000	145,300	112,700	\$360,000
Business improvement district			200,000		\$200,000
Heritage and Arts Center		81,500	80,300	15,000	\$176,800
Capital projects			95,000	24,300	\$119,300
DECC - Bayfront Park		21,200	76,800		\$98,000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

	3% Hotel	1% Hotel-Motel	2.25% Food & Beverage	Add'l 2.5% Hotel-Motel	Total
Undesignated fund balance			89,400		\$89,400
Public arts fund			20,000	20,000	\$40,000
Duluth Sister Cities International			20,000	20,000	\$40,000
Lake Superior and Mississippi Railroad			20,000		\$20,000
West Duluth debt service			1,115,000	335,000	\$1,450,000
Rail alliance				12,500	\$12,500
Totals	2,150,000	715,000	5,015,000	1,675,000	\$9,555,000

Resolution 14-0598 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved December 8, 2014

DON NESS, Mayor

- - -

Resolution 14-0599, adopting license, permit, fine, penalty and other charges for 2015, was introduced by Councilor Julsrud for discussion.

Councilor Hanson moved to amend the 2015 "street system maintenance utility fee (per month) - residential" fees portion of the resolution's public document to change the following fees:

- (a) 1 unit (single family) from "\$6.75" to "\$2.50";
- (b) 2 units (duplex) from "\$13.50" to "\$5.00";
- (c) 3 units (triplex) from "\$20.25" to "\$7.50";
- (d) 4 units (fourplex) from "\$27.00" to "\$10.00";
- (e) 5 units (fiveplex) from "\$33.75" to "\$12.50";
- (f) 6 units (sixplex) from "\$40.50" to "\$15.00";
- (g) In the "006 to 019.99 equivalent residential units" category, delete "nonresidential" and change the fee from "\$40.50" to "\$15.00";
- (h) In the "020 to 099.99 equivalent residential units" category, delete "nonresidential" and change the fee from "\$100.00" to "\$45.00";
- (i) In the "100+ equivalent residential units" category, delete "nonresidential" and change the fee from "\$260.00" to "\$120.00";

which motion was seconded and failed as follows:

Yeas: Councilors Fosle and Hanson -- 2

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Councilor Julsrud moved to amend the 2015 “street system maintenance utility fee (per month) - residential” fees portion of the resolution’s public document to change the following fees:

- (a) 1 unit (single family) from “\$6.75” to “\$8.50”;
- (b) 2 units (duplex) from “\$13.50” to “\$17.00”;
- (c) 3 units (triplex) from “\$20.25” to “\$25.50”;
- (d) 4 units (fourplex) from “\$27.00” to “\$34.00”;
- (e) 5 units (fiveplex) from “\$33.75” to “\$42.50”;
- (f) 6 units (sixplex) from “\$40.50” to “\$51.00”;
- (g) In the “006 to 019.99 equivalent residential units” category, delete “nonresidential” and change the fee from “\$40.50” to “\$51.00”;
- (h) In the “020 to 099.99 equivalent residential units” category, delete “nonresidential” and change the fee from “\$100.00” to “\$126.00”;
- (i) In the “100+ equivalent residential units” category, delete “nonresidential” and change the fee from “\$260.00” to “\$327.00”;

which motion was seconded and failed as follows:

Yeas: Councilors Julsrud and Krug -- 2

Nays: Councilors Filipovich, Fosle, Gardner, Hanson, Russ, Sipress and President Larson -- 7

Councilors Sipress and Filipovich moved to amend the 2015 “street system maintenance utility fee (per month) - residential” fees portion of the resolution’s public document to change the following fees:

- (a) 1 unit (single family) from “\$6.75” to “\$5.00”;
- (b) 2 units (duplex) from “\$13.50” to “\$10.00”;
- (c) 3 units (triplex) from “\$20.25” to “\$15.00”;
- (d) 4 units (fourplex) from “\$27.00” to “\$20.00”;
- (e) 5 units (fiveplex) from “\$33.75” to “\$25.00”;
- (f) 6 units (sixplex) from “\$40.50” to “\$30.00”;
- (g) In the “006 to 019.99 equivalent residential units” category, delete “nonresidential” and change the fee from “\$40.50” to “\$30.00”;
- (h) In the “020 to 099.99 equivalent residential units” category, delete “nonresidential” and change the fee from “\$100.00” to “\$90.00”;
- (i) In the “100+ equivalent residential units” category, delete “nonresidential” and change the fee from “\$260.00” to “\$240.00”;

which motion was seconded for discussion.

Councilors Filipovich, Fosle, Gardner, Russ, Hanson, Sipress and President Larson expressed the following concerns regarding raising the fees: street funding decisions should be made throughout the budgetary process starting in September; although streets and infrastructure is critically important increasing the fee at this time is not the appropriate way to fund it at this time; the method of raising fees is harmful to a lot of people who are barely making it; fees are not as transparent as property taxes; about 54 percent of Duluth citizens make less than \$40,000 a year, raising fees adds up for people and we need to be sensitive to that; this is the kind of expense that belongs in the levy; \$8.50 is a dollar amount is the correct amount for getting the work done but it is not the right amount at this time; a price point also needs to be gauged on what is appropriate and practical; it is clear that the price point is neither \$6.75 nor \$8.50 at this time; maintaining a fee at \$5.00 is still a huge step forward; people in the western districts are hurting and the more appropriate place for this funding is

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

from the tax rules; it is unfair that the administration has shifted the burden of finding funding to the city council; this fee was reluctantly adopted in the spring and this is not a long-term solution for funding street repairs; it is a flat fee which is an unfair form of taxation; additionally this tax does not have to go through the type of accountability steps that establishment of the levy goes through; most citizens feel that their general taxes are to pay for street repairs; this is a wants versus needs issue and the budget needs to be better analyzed and this fee should be a temporary measure during a broader discussion.

Councilors Julsrud and Krug expressed support for raising the fees as follows: the city is underinvesting in its infrastructure, the budgeting process is thoughtful but needs to be approached with a pragmatic lens, raising the fee is unpopular but needs to be done to address city infrastructure needs; streets are vitally important; after review at the task force meetings, a small percentage of people were more willing to pay a fee than a property tax, additionally fees can be quickly removed so if the casino litigation were settled this fee could be lifted; if the fee is absorbed in the levy and the casino litigation were ended, the tax would remain and be diverted to other needs; the clean water fee was very successful in addressing sewage overflows and was designed to sunset and the clean water fee solved the problem, so this fee could solve this problem.

The amendment of councilors Sipress and Filipovich was carried upon the following vote:

Yeas: Councilors Filipovich, Gardner, Russ, Sipress and President Larson -- 5

Nays: Councilors Fosle, Hanson, Julsrud and Krug -- 4

Councilors Sipress and Filipovich moved to amend the 2015 "street lighting system utility fee (per month)" fees portion of the resolution's public document to change the following fees:

- (a) 1 unit (single family residential) from "\$5.00" to "\$4.50";
- (b) 2 unit (duplex) from "\$10.00" to "\$9.00";
- (c) 3 unit (triplex) from "\$15.00" to "\$13.50";
- (d) 4+ unit (multi family) from "\$18.00" to "\$16.20";
- (e) Commercial from "\$18.00" to "\$16.20";

which motion was seconded for discussion.

Councilor Fosle expressed concerns of: the street light fee should be repealed in its entirety; this is a double taxation in consideration of the Minnesota Power franchise fee; at some point people's property taxes will be raised because of the repeal of this fee and the reality is that the street lights need to be paid for in some way.

The amendment of councilors Sipress and Filipovich was carried upon the following vote:

Yeas: Councilors Filipovich, Gardner, Julsrud, Russ, Sipress and President Larson -- 6

Nays: Councilors Fosle, Hanson and Krug -- 3

Resolution 14-0599, as amended, was adopted as follows:

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 Public Document No. 14-1208-08 are hereby established as those set forth in said public document, effective as of January 1, 2015.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

RESOLVED FURTHER, that any fees established by any prior resolution inconsistent or conflicting with those set forth in said public document are hereby superseded as of January 1, 2015, and of no future effect.

Resolution 14-0599, as amended, was adopted upon the following vote:

Yeas: Councilors Filipovich, Gardner, Julsrud, Russ, Sipress and President Larson -- 6

Nays: Councilors Fosle, Hanson and Krug -- 3

Approved December 8, 2014

DON NESS, Mayor

[Editor's Note: Resolution 14-0599 was reconsidered at the December 15 council meeting.]

- - -

BY COUNCILORS SIPRESS AND FILIPOVICH:

WHEREAS, the city council voted to eliminate the street lighting system utility effective December 31, 2019, via Ordinance 14-037; and

WHEREAS, to accomplish this council's goal to eliminate all street lighting fees, an alternative source of revenue to fund street lighting and signal lighting operations must be identified; and

WHEREAS, the shift in funding for street lighting and signal lighting operations is best accomplished in a gradual and planned manner; and

THEREFORE, BE IT RESOLVED, that the city council endorses a five year phase-out of the street lighting fees as outlined in Attachment A, a copy of which is on file in the office of the city clerk as Public Document No. 14-1208-09.

Resolution 14-0611 was adopted upon the following vote:

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

Nays: Councilors Fosle and Krug -- 2

Approved December 8, 2014

DON NESS, Mayor

- - -

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 2015:

General obligation bonds and notes to be issued in 2015	\$8,800,000
General obligation bonds and notes scheduled to be retired in 2015	\$17,563,465
Net anticipated decrease in general obligation bonding for 2015	(\$8,763,465)

Resolution 14-0605 was adopted upon the following vote:

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

Nays: Councilor Fosle -- 1

Approved December 8, 2014

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

RESOLVED, that the proper city officials are hereby authorized to contract with Ray Riihiluoma, Inc., for the City Hall renovation first floor Phase One, located at 411 West First Street, in accordance with plans and specifications prepared by John Ivey Thomas Associates, Inc., the consultant, dated October 14, 2014, and the contractor's low bid of \$1,143,939; payable as follows: Capital Improvements 450, Stimulus Act (ARRA) 025, Buildings and Structures 5520, and Project: CP2009-0929b capital projects, City Hall remodeling.

Resolution 14-0600 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 December 8, 2014

DON NESS, Mayor

- - -

Resolution 14-0606, authorizing an amendment to Agreement C22321 with Meyer, Scherer & Rockcastle, LTD., for a library facility alternatives study, increasing the amount by \$10,200 for a new total of \$62,596, was introduced by Councilor Hanson for discussion.

Councilor Hanson expressed concerns of: paying the consultant at this rate for the minimum amount of work they are providing is not appropriate; while the work they have been doing is appreciated, this is a lot of money for one meeting; it is too much and too late and the consultants should have anticipated these costs at the beginning.

Resolution 14-0606 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to amend Agreement C22321 with Meyer, Scherer & Rockcastle, Ltd., for additional citizen steering committee meetings, an increase of \$10,200, and a total contract amount not to exceed \$62,596, payable from Orlich Estate Library Trust Fund 242, Library 300, Other Professional Services 5319.

Resolution 14-0606 was adopted upon the following vote:

Yeas: Councilors Filipovich, Gardner, Krug, Russ, Sipress and President Larson -- 6

Nays: Councilors Fosle, Hanson and Julsrud -- 3

Approved December 8, 2014

DON NESS, Mayor

- - -

RESOLVED, that the city council of the city of Duluth hereby authorizes the discharge by One Roof Community Housing of the repayment of NHS Housing Rehabilitation CDBG loan current balance of \$4,054.58, which is the amount remaining of the original \$9,246.82 loan provided to Ann Lockwood for property improvements at 627 East Eighth Street in Duluth.

Resolution 14-0603 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 December 8, 2014

DON NESS, Mayor

- - -

RESOLVED, that Resolution 14-0253, awarding a contract to Sinnott Contracting, LLC, for the 2014 citywide bituminous patch project, be amended to increase in the amount by \$107,248.39 for a new total of \$435,852.14. This increase is due to the large number of watermain breaks in 2014 resulting in an increase in the number of bituminous patches

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

needed. Of the total contract, \$341,222.51 is payable from Water Fund 510, Department 500 (public works and utilities), Division 1945 (utility operations), Object 5310 (contract services); \$7,464.24 is payable from Gas Fund 520, Department 500 (public works and utilities), Division 1945 (utility operations), Object 5310 (contract services); \$53,316.02 is payable from Sanitary Sewer Fund 530, Department 500 (public works and utilities), Division 1945 (utility operations), Object 5310 (contract services); \$24,525.37 is payable from Stormwater Fund 535, Department 500 (public works and utilities), Division 1945 (utility operations), Object 5310 (contract services); and \$9,324 is payable from Permanent Improvement Fund 411, Department 035 (capital projects), Object 5530 (improvements other than buildings), City Project No. 1358.

Resolution 14-0596 was unanimously adopted.

Approved December 8, 2014

DON NESS, Mayor

- - -

BY PRESIDENT LARSON:

WHEREAS, methadone is a prescription medication used to treat addiction to opiates and heroin; and

WHEREAS, it is imperative for public safety and successful medical intervention that methadone treatment be administered by facilities which adhere to best practices in regards to caseload, dosing and medical supervision; and

WHEREAS, Lake Superior Treatment Center, a methadone treatment clinic operating in Duluth, Minnesota, has been the subject of numerous violations from the Minnesota department of human services ("MDHS"), which resulted in its chemical dependency treatment services license being revoked; and

WHEREAS, that although an appeal of the MDHS revocation decision has not been resolved, the clinic has been allowed to continue operating.

THEREFORE, BE IT RESOLVED, that the Duluth City Council requests that the MDHS take action to revoke the chemical dependency treatment services license for the Lake Superior Treatment Center and authorizes the president of the Duluth City Council to send a letter to the MDHS urging such action.

Resolution 14-0610 was unanimously adopted.

Approved December 8, 2014

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances are to be read for the first time:

INTRODUCED BY COUNCILOR JULSRUD

14-078 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL PARKS FUND LEVY FOR THE YEAR 2015.

- - -

INTRODUCED BY COUNCILOR JULSRUD

14-079 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2015.

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

INTRODUCED BY COUNCILOR JULSRUD

14-080 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2015.

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

Bob Woods spoke regarding the street utility fee and stated that these types of fees will still be discussed 30 years from now. He added that if the fee gets absorbed into the levy, the administration will use those funds any way they want and there will be no transparency.

Don Hoag stated that he felt the Council was being responsive to citizens and working for the people.

Councilor Krug moved to amend the ordinance as follows:

(a) In Section 1, change the levy amount from "\$19,868,800" to "\$20,088,800";

(b) Add a new Section 3 to read as follows:

"Section 3. That there will be levied for the support of the street system maintenance utility fund the sum of \$220,000";

which motion was seconded and failed as follows:

Yeas: Councilors Hanson and Krug -- 2

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

Councilors Sipress and Filipovich moved to amend the ordinance as follows:

(a) In Section 1, change the levy amount from "\$19,868,800" to "\$20,088,800";

(b) Add a new Section 3 to read as follows:

"Section 3. That there will be levied for the support of the street lighting fund the sum of \$220,000";

which motion was seconded.

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

Matt Rosendahl spoke in support of the Duluth public library and requested the council support the amendment to sustain the library.

The amendment was carried upon the following vote:

Yeas: Councilors Filipovich, Gardner, Hanson, Russ, Sipress and President Larson -- 6

Nays: Councilors Fosle, Julsrud and Krug -- 3

President Larson moved to amend the ordinance as follows:

(a) In Section 1, change the amended levy amount from "\$20,088,800" to "\$20,118,800";

(b) In Section 2, change the sum from "\$13,014,500" to "\$13,044,500";

which motion was seconded for discussion.

Councilors Sipress, Russ, Krug, Filipovich and Gardner expressed concerns of: the funding of the library's positions specifically, but there have been assurances from the administration that the library will be able to absorb the loss of a position; that there are a lot of uses for these funds within the city; Duluth has a great library but there are many other needs for the funds; the library is an essential service to the city but this allocation should have been brought up in September for additional vetting.

President Larson's amendment failed upon the following vote:

Yeas: Councilors Hanson, Julsrud and President Larson -- 3

Nays: Councilors Filipovich, Fosle, Gardner, Krug, Russ and Sipress -- 6

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

INTRODUCED BY COUNCILOR JULSRUD

14-081 - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2015 APPROPRIATING MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

Councilors Sipress and Filipovich moved to amend Section 7 of the ordinance to change the appropriation for the "street system maintenance utility" from "\$3,876,900" to "\$3,023,200" to coincide with amended Resolution 14-0599, 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

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR JULSRUD

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

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

Nays: Councilors Fosle and Julsrud -- 2

- - -

INTRODUCED BY COUNCILOR HANSON

14-075 (10343) - AN ORDINANCE AMENDING SECTION 27-18 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO LICENSE PERIODS FOR MOBILE FOOD CARTS AND VEHICLES.

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

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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 table the resolution for and upcoming committee meeting on the issue, which motion was seconded and unanimously carried.

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The meeting was adjourned at 10:49 p.m.

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

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

ORDINANCE NO. 10343

AN ORDINANCE AMENDING SECTION 27-18 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO LICENSE PERIODS FOR MOBILE FOOD CARTS AND VEHICLES.

The city of Duluth does ordain:

Section 1. That Section 27-18 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 27-18. Same--fees.

License applications under this Article shall be submitted to the city clerk with the designated license fee, said fee shall be set by city council resolution in accordance with Section 31-6(a) of this Code. Said fee is in lieu of the peddler license fee required pursuant to Section 27-8. All licenses under this Article shall expire on the 31st day of December each year. Licenses approved in 2014 will not expire until the end of the day of December 31, 2015. Licenses are non-transferable.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: January 11, 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 December 8, 2014
Approved December 8, 2014
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 15, 2014, 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

14-1215-01 The following communications regarding the proposed 2015 fee schedule (14-0599R): (a) Frank Bolos; (b) Richard Paulson. -- Received

14-1215-02 The following communications regarding horseback riding trails (14-0557R, 14-0628R and 14-0629R): (a) Carol Koos; (b) John Ipsen; (c) Russ Stover. -- Received

14-1215-08 The following communications regarding state seed saving and sharing laws (14-0630R): (a) Jamie Harvie; (b) Linda Riddle; (c) Nancy Sudak. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

14-1215-03 Civil service board minutes of October 7, 2014, meeting. -- Received

14-1215-04 Commission on disabilities minutes of November 5, 2014, meeting. -- Received

14-1215-05 Duluth transit authority: (a) Minutes of September 24, 2014, meeting; (b) Financial statement of September 2014. -- Received

14-1215-07 Entertainment and convention center authority minutes of: (a) July 29; (b) August 26; (c) September 30, 2014, meetings. -- Received

14-1215-06 Housing and redevelopment authority of Duluth minutes of September 30, 2014, meeting. -- Received

- - -

At this time, 7:02 p.m., President Larson announced that the public hearing on proposed 2015 liquor fees would begin.

No one appeared who wished to be heard.

At this time, 7:03 p.m., the public hearing was declared closed and the regular order of business resumed.

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Jim Johnson and Jim Perlman commented about the Duluth Poet Laureate Project, noting that Mr. Johnson has recently been appointed as the newest Duluth poet laureate. Mr. Perlman reviewed the history of this project and Mr. Johnson recited a poem about the history of Duluth.

- - -

Wendy Ruhnke, Duluth Sister Cities International board member, thanked the council for recently approving funding for them and updated them about Rania, Iraqi Kurdistan, being the newest sister city in 24 years.

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

RESOLUTION FOR RECONSIDERATION

Councilor Julsrud moved to reconsider Resolution 15-0599, adopting license, permit, fine, penalty and other charges for 2015, which motion was seconded and carried upon the following vote:

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

Nays: Councilor Fosle -- 1

President Larson noted that this being done as a procedural issue, due to the need to have the hearing on alcoholic beverage license fee increases this evening.

Resolution 14-0599 was adopted as follows:

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 Public Document No. 14-1215-18 are hereby established as those set forth in said public document, effective as of January 1, 2015.

RESOLVED FURTHER, that any fees established by any prior resolution inconsistent or conflicting with those set forth in said public document are hereby superseded as of January 1, 2015, and of no future effect.

Resolution 14-0599, as amended, was adopted upon the following vote:

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

Nays: Councilors Fosle and Krug -- 2

Approved December 15, 2014

DON NESS, Mayor

- - -

RESOLUTION TABLED

Councilor Fosle moved remove Resolution 14-0557, requesting the city administration designate and re-open the Magney-Snively trails and the 1.5 miles of Amity Trail for horseback riding and the preservation of historic multi use on Mission Creek Trail from the table, which motion was seconded and unanimously carried.

- - -

MOTIONS AND RESOLUTIONS

At this time, Councilor Fosle moved to also consider Resolution 14-0628, of support to commission a Magney Snively Trail study to evaluate the suitability of equestrian use; and Resolution 14-0629, of support to commission a Mission Creek Trail study to evaluate the suitability of equestrian use, by Councilor Fosle and President Larson, at this time, which motion was seconded and unanimously carried.

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

Lisa Nicholson, Penny Christensen and Jerry Brost spoke in support of resolutions 14-0628 and 14-0629 for reasons of: before the recent closings, horseback riders had been using these trails for years; it will not take much work to make these trails ready to be used; members who are certified on horse trail sustainability are available; there was no authority to initially close the trails and good compromise has been reached as to when the Magney Snively and Mission Creek trails can be used.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Councilor Fosle move remove Resolution 14 0557 from the agenda, which motion was seconded and unanimously carried.

Resolutions 14-0628 and 14-0629 were adopted as follows:

BY COUNCILOR FOSLE AND PRESIDENT LARSON:

WHEREAS, the city council-approved management plan for Magney Snively Park provides specific direction for equestrian trail use in Magney Snively Park:

“Horseback riding may be permitted under certain conditions at Magney Snively, but in restricted locations. Determine designated areas for horseback riding, taking the above ecological concerns [soil compaction, soil erosion, and invasive weed propagation] into consideration. Consider involving horseback riders in an adopt-a-trail program to maintain, repair, and restore areas that this new use may impact.”

THEREFORE, BE IT RESOLVED, that the city council encourages administration to commission a Magney Snively trail study to be completed by July 1, 2015, by a qualified trail designer with specific expertise in designing, building, and maintaining environmentally sustainable equestrian and cross country skiing trails to:

(a) Assess the potential for environmentally sustainable equestrian use of the main loop, the Ely Peak loop, and portions of the snowmobile trail in Magney Snively; and

(b) Identify trail improvements, realignments, maintenance practices, and potential seasonal trail restrictions necessary to support environmentally sustainable trail use in Magney Snively and prevent unacceptable soil compaction, soil erosion, and invasive weed propagation.

FURTHER RESOLVED, that upon completion of a sustainable equestrian trail plan and all prescribed trail improvements, the selected trails shall be designated for equestrian use.

FURTHER RESOLVED, that the city of Duluth continue to work in partnership with the Duluth Area Horse Trail Alliance and the Minnesota department of natural resources to secure funding and permits to implement the improvements identified in the trail study.

Resolution 14-0628 was unanimously adopted.

Approved December 15, 2014

DON NESS, Mayor

- - -

BY COUNCILOR FOSLE AND PRESIDENT LARSON:

WHEREAS, the equestrian trail in the Mission Creek area has sustained severe flood damage; and

WHEREAS, the equestrian trail in the Mission Creek area was the only trail in West Duluth officially designated for equestrian use; and

WHEREAS, the Minnesota department of natural resources (DNR) has indicated that it is unlikely to grant permits to reconstruct the trail in its historic location because of the number of stream crossings, steep grades, and soils subject to erosion; and

WHEREAS, the Duluth Area Horse Trail Alliance (DAHTA) and the city of Duluth have been working together for more than one year to develop a new equestrian trail across the Mission Creek area that is intended to connect to the equestrian trail network adjacent to Jay Cooke State Park; and

WHEREAS, construction of the trail, referred to as the Jay Cooke connector, requires permits and funding for trail segments in the city of Duluth and in Jay Cooke State Park.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

THEREFORE, BE IT RESOLVED, that the city of Duluth continues to work in partnership with DAHTA and DNR to secure funding and permits for the construction of the Jay Cooke connector trail.

FURTHER RESOLVED, that, upon its eventual completion, the Jay Cooke connector will be designated for equestrian use.

Resolution 14-0629 was unanimously adopted.

Approved December 15, 2014

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 addendum to Agreement C21646, Public Document No. 14-1215-19, with Ever-Green Duluth, LLC, for the leasing of steam system vehicles. This addendum addresses in detail the ownership, operation, use, replacement and insurance of said vehicles.

Resolution 14-0612 was unanimously adopted.

Approved December 15, 2014

DON NESS, Mayor

- - -

RESOLVED, that the operation budget for the fiscal year January 1, 2015, to December 31, 2015, in the amount of \$7,663,634 the Duluth Airport Authority is hereby approved.

FURTHER RESOLVED, that the authority included in the resolution shall submit to the city council its proposed budget in a prescribed format on or before November 30 of each year.

Resolution 14-0617 was unanimously adopted.

Approved December 15, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a five-year contract agreement with Accruent, LLC, substantially in the form of that on file in the office of the city clerk as Public Document No. 14-1215-09, for professional services for a computerized maintenance management system for a total amount not to exceed \$86,708, and payable from the General Fund 110-Public Administration 121-Facilities Management 1222-Software Licenses and Maintenance Agreements 5414, to be paid annually as follows:

11/15/14- 12/31/14	01/01/15- 12/31/15	01/01/16- 12/31/16	01/01/17- 12/31/17	01/01/18- 12/31/18	01/01/19- 12/31/19	Total Amount
\$14,874	\$13,000	\$13,650	\$14,333	\$15,049	\$15,802	\$86,708

Resolution 14-0632 was unanimously adopted.

Approved December 15, 2014

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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) Scott Smith, of the city of Duluth, Minnesota, whose term shall commence on January 1, 2015, and shall expire on the first business day of January, 2018.

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.

Resolution 14-0618 was unanimously adopted.

Approved December 15, 2014

DON NESS, Mayor

- - -

WHEREAS, the chief administrative officer upon the direction of the mayor has appointed Bryan Bushey to the position of fire chief effective January 1, 2015; 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 Bryan Bushey to the position of fire chief of the city of Duluth.

Resolution 14-0625 was unanimously adopted.

Approved December 15, 2014

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

WHEREAS, Section 2-176 of the Duluth City Code, 1959, as amended, requires that prior to any city-owned property being offered for sale or conveyance the city council shall, by resolution, state its intention to sell or convey such property.

NOW, THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby states its intention to offer for sale or conveyance property in the city of Duluth shown on Public Document No. 14-1215-10.

Resolution 14-0609 was unanimously adopted.

Approved December 15, 2014

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. 14-1215-11, with Duluth-Superior Public Access Community Television, Inc. (PACT) for providing cablecasting, training and production and administrative services in 2015 relating to public access television in the net amount of \$181,640, to be paid from 110-700-1414-5441 (general, transfers and other functions, public access television).

Resolution 14-0626 was unanimously adopted.

Approved December 15, 2014

DON NESS, Mayor

- - -

RESOLVED, that Resolution No. 14-0177 awarding the construction contract for the 2012 flood repair - Bridge 69K19 on Toledo Street project to Watters & Sons, Inc., is hereby rescinded and the award of said contract is hereby revoked.

FURTHER RESOLVED, that the contract for the 2012 flood repair - Bridge 69K19 on Toledo Street, City Project No. 1233, S.A.P. 118-080-046, is hereby awarded to the next lowest bidder, Northland Constructors of Duluth, LLC, on their bid of \$251,706, payable from Disaster Recovery Fund 225, Agency 125 (finance), Organization 1803 (roads and bridges), Object 5303 (engineering services).

Resolution 14-0582 was unanimously adopted.

Approved December 15, 2014

DON NESS, Mayor

- - -

THE CITY COUNCIL FINDS:

(a) That the local road improvement program was established in Minnesota Statute 174.52 to provide funding assistance to local agencies on transportation projects that address a transportation deficiency;

(b) That the intersection of County State Aid Highway 4 (Rice Lake Road) and Airport Road, located within the city of Duluth, is experiencing significant delay for vehicles turning from Airport Road;

(c) That the St. Louis County public works department has completed an intersection control evaluation analysis that concluded that a traffic signal is the best alternative;

(d) That the St. Louis County public works department intends to submit a project application to the local road improvement program to secure funding to install a traffic signal at the intersection of Rice Lake Road and Airport Road.

RESOLVED, that the city of Duluth supports the project application to the Local road

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

improvement program to secure funding to install a traffic signal at the intersection of County State Aid Highway 4 (Rice Lake Road) and Airport Road located within the city of Duluth.

Resolution 14-0613 was unanimously adopted.

Approved December 15, 2014

DON NESS, Mayor

- - -

THE CITY COUNCIL FINDS:

(a) That the local road improvement program was established in Minnesota Statute 174.52 to provide funding assistance to local agencies on transportation projects that address a transportation deficiency;

(b) That many serious collisions within the city of Duluth and the city of Hermantown occur at intersections controlled by a traffic signal;

(c) That a safety strategy recommended by the Minnesota strategic highway safety plan identifies confirmation lights, when coupled with enforcement, to be effective at reducing the running of red lights;

(d) That the St. Louis County public works Department intends to submit a project application to the local road improvement program to secure funding to install traffic signal confirmation lights at 14 intersections located on county state aid highways within the city of Duluth and the city of Hermantown.

RESOLVED, that the city of Duluth supports the project application to the local road improvement program to secure funding to install traffic signal confirmation lights at 14 intersections located on county state aid highways within the city of Duluth and the city of Hermantown.

Resolution 14-0614 was unanimously adopted.

Approved December 15, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to amend Resolution 14-0089 to include the following language:

BE IT FURTHER RESOLVED, the city of Duluth hereby assures the trail will be maintained for a period of no less than 20 years.

Resolution 14-0619 was unanimously adopted.

Approved December 15, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute a joint powers agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 14-1215-12, with the state of Minnesota, department of agriculture for the sampling of Ash trees during the non-flight season for Emerald Ash Borer, to contribute to a study on detection methods for EAB through June 30, 2016; and accept reimbursement for said services in an amount not exceed \$10,000, funds to be deposited in Fund Number 110-121-1217-2145-4654 (general fund - park maintenance).

Resolution 14-0620 was unanimously adopted.

Approved December 15, 2014

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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RESOLVED, that the proper city officials are authorized to execute and implement a three-year agreement with Boys and Girls Club of the Northland (B&GCN) to provide outside of school time youth programming in the city's Lincoln Park neighborhood, substantially the same as that on file with the city clerk as Public Document No. 14-1215-13, and providing for the payment of \$20,000 per year, payments to be made from Fund 205-130-1219-5310 (parks, community resources, parks operating, contract services).

Resolution 14-0621 was unanimously adopted.

Approved December 15, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to execute and implement a three-year agreement with Myers Wilkins Community School Collaborative (MWCSC) to provide outside of school time youth programming in the city's East Hillside neighborhood, substantially the same as that on file with the city clerk as Public Document No. 14-1215-14, and providing for the payment of \$20,000 per year, payments to be made from Fund 205-130-1219-5310 (parks, community resources, parks operating, contract services).

Resolution 14-0622 was unanimously adopted.

Approved December 15, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to execute and implement a three-year agreement with St. James Home of Duluth, dba Neighborhood Youth Services (NYS), to provide outside of school time youth programming in the city's Central Hillside neighborhood, substantially the same as that on file with the city clerk as Public Document No. 14-1215-15, and providing for the payment of \$20,000 per year, payments to be made from Fund 205-130-1219-5310 (parks, community resources, parks operating, contract services).

Resolution 14-0623 was unanimously adopted.

Approved December 15, 2014

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to execute and implement a three-year agreement with Valley Youth Center (VYC) to provide outside of school time youth programming in the city's West Duluth neighborhood, substantially the same as that on file with the city clerk as Public Document No. 14-1215-16, and providing for the payment of \$20,000 per year, payments to be made from Fund 205-130-1219-5310 (parks, community resources, parks operating, contract services).

Resolution 14-0624 was unanimously adopted.

Approved December 15, 2014

DON NESS, Mayor

- - -

The following resolutions were also considered:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

Resolution 14-0616, approving the fiscal year January 1, 2015 to December 31, 2015, operation budget of the Duluth transit authority, was introduced by Councilor Julsrud.

Councilor Hanson stated that he has a business conflict with this resolution and would be abstaining from voting.

Resolution 14-0616 was adopted as follows:

RESOLVED, that the operation budget for the fiscal year January 1, 2015, to December 31, 2015, in the amount of \$14,825,074 for the Duluth Transit Authority is hereby approved.

FURTHER RESOLVED, that the authority included in the resolution shall submit to the city council its proposed budget in a prescribed format on or before November 30 of each year.

Resolution 14-0616 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

Approved December 15, 2014

DON NESS, Mayor

- - -

RESOLVED, that the DEDA operating fund, debt service fund, capital project fund, storefront loan funds and NWA maintenance facility fund budgets on file in the office of the city clerk as Public Document No. 14-1215-17 are hereby approved.

Resolution 14-0627 was unanimously adopted.

Approved December 15, 2014

DON NESS, Mayor

- - -

WHEREAS, CC VIII Operating, LLC, d/b/a Charter Communications (hereinafter referred to as "grantee"), currently holds a cable television franchise ("franchise") granted by the city of Duluth, Minnesota ("city"); and

WHEREAS, grantee owns, operates, and maintains a cable television system in the city ("system") pursuant to the terms of the franchise; and

WHEREAS, on February 12, 2014, Comcast Corporation ("Comcast") and Time Warner Cable Inc. ("TWC") entered into an agreement and plan of merger; and

WHEREAS, on April 25, 2014, Charter Communications, Inc., ("Charter") the parent entity of grantee and Comcast entered into the Comcast/Charter transactions agreement, and contingent upon Comcast's consummation of its acquisition of TWC, Charter shall undertake a pro forma corporate restructuring pursuant to which Charter will merge with and into a wholly owned indirect subsidiary of Charter which will become "New Charter," which shall become the ultimate parent of grantee ("transaction"); and

WHEREAS, the ultimate control of grantee will not change as a result of this corporate restructuring, and the stockholders of Charter shall become the stockholders of New Charter; and

WHEREAS, on or about August 29, 2014, the city received from grantee, FCC form 394 - application for franchise authority consent to assignment or transfer of control of cable television franchise ("application"); and

WHEREAS, federal law and the terms of the franchise require that the city take action to consider the application within 120 days of the date of receipt, or on or before December 27, 2014; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

WHEREAS, Section 7(d) of the franchise requires the city's advance written consent prior to the grantee's change in ownership; and

WHEREAS, as a result of the proposed transaction grantee has requested consent from the city to the proposed change in ownership; and

WHEREAS, the city has reviewed the proposed transaction, and based on information provided by grantee and Comcast and on the information received by the city, the city has elected to approve the proposed transaction subject to certain conditions as set forth herein.

NOW, THEREFORE, BE IT RESOLVED that the above recitals are hereby incorporated by reference as if fully set forth herein.

FURTHER RESOLVED, that the franchise is in full force and effect and grantee is the lawful holder of the franchise.

FURTHER RESOLVED, that the city hereby consents and approves of the proposed transaction.

FURTHER RESOLVED, that the grantee will be the lawful holder of the franchise after completion of the transaction.

FURTHER RESOLVED, that the city's consent to the transaction shall not serve to waive any rights city may have to hold grantee liable for any and all liabilities, known and unknown, under the franchise.

FURTHER RESOLVED, that in the event the proposed transaction contemplated by the foregoing resolution is not completed, for any reason, the city's consent shall not be effective.

FURTHER RESOLVED, that this resolution shall take effect and continue and remain in effect from and after the date of its passage, approval and adoption.

Resolution 14-0615 was unanimously adopted.

Approved December 15, 2014

DON NESS, Mayor

- - -

Resolution 14-0630, by President Larson and councilors Gardner and Sipress, supporting seed saving within the city of Duluth and requesting changes in state seed law to allow seed sharing without cost or germination testing, was introduced for discussion.

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

Kristin Stuches, Michael Gabler, Rheunna Letsos, Francois Medion, Charlie Danielson, president of Sustainable Farming Association, Lake Superior Chapter, Jahn Hibbs, director of the Community Garden Program, Allen Richardson and Jamie Harvie, executive director of the Institute for Sustainable Futures, expressed support for the resolution for reasons of: it is an excellent teaching means; Duluth does not have a long growing season; most food is linked back to seeds; seeds were the most prized possession of immigrants to this country; there is a food access movement now in this state; seeds are the foundation of healthy living; having access to seeds is a right; we have lost the connection to fresh healthy foods; this issue is causing fire in the imagination of the public and all societies have been brought up on the growing of seeds.

Councilors commented on the background of this issue and support for the resolution.

Resolution 14-0630 was adopted as follows:

BY PRESIDENT LARSON AND COUNCILORS GARDNER AND SIPRESS:

WHEREAS, seed libraries are a nonprofit repository of seed for the benefit of the public where free seed is distributed to promote seed sharing, provide increased access to healthy

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

food, strengthen local food security, improve the health of our community members, preserve and promote our local biodiversity, celebrate local varieties that are important to our community's cultural heritage and provide seed that is locally adapted to local soils and climate; and

WHEREAS, the Duluth public library began operating a seed library in 2013; and

WHEREAS, residents of Duluth and Minnesota have long engaged in interpersonal seed sharing; and

WHEREAS, the Duluth public library has been informed by the Minnesota department of agriculture that its seed library is in violation of the Minnesota Seed Law (2014 Minn. Stat. §§21.80 et. seq) the purpose of which is to protect consumers who purchase seed from inadequately or illegally labeled seed and to promote fair competition; and

WHEREAS, seed libraries do not "sell" seeds, as that term is commonly defined, nor are the members of seed libraries "customer"; and

WHEREAS, the sharing of seeds between individuals is a voluntary non-commercial activity; and

WHEREAS, strict compliance with the Minnesota Seed Law, as currently written could result in the closure of the Duluth seed library and prevent citizen gardeners, schools, and community organizations from engaging in interpersonal seed sharing.

NOW, THEREFORE, BE IT RESOLVED, that the city council of Duluth supports and encourages seed sharing between community members without legal barriers of labeling fees and germination testing.

FURTHER RESOLVED, that the city council of Duluth supports and encourages the Duluth seed library's efforts to facilitate sharing of locally grown and saved seed.

FURTHER RESOLVED, that the city council of Duluth supports changes to the Minnesota Seed Law that support the sharing of seeds between individuals and through seed libraries by removing application of any labeling, testing, and permitting requirements to interpersonal or seed library seed sharing.

FURTHER RESOLVED, that the city council of Duluth seeks to work in cooperation with our state legislative delegation to achieve such changes to Minnesota Seed Law, which currently designate our Duluth seed library and Duluth citizens to be in violation.

Resolution 14-0630 was unanimously adopted.

Approved December 15, 2014

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR JULSRUD

14-078 (10344) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL PARKS FUND LEVY FOR THE YEAR 2015.

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

Jessica Schiff, program coordinator for Neighborhood Youth Services, expressed support for the ordinance which funds their out of school programming.

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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

Nays: Councilor Fosle -- 1

- - -

INTRODUCED BY COUNCILOR JULSRUD

14-079 (10345) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2015.

Councilor Julsrud 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 JULSRUD

14-080 (10346) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2015.

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

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

Nays: Councilors Fosle and Krug -- 2

- - -

INTRODUCED BY COUNCILOR JULSRUD

14-081 (10347) - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2015 APPROPRIATING MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

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

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

Nays: Councilors Fosle and Krug -- 2

- - -

COUNCILOR QUESTIONS AND COMMENTS

President Larson announced her candidacy for the office of city council president for 2015.

Councilor Julsrud announced her candidacy for the office of city council vice president for 2015.

- - -

The meeting was adjourned at 8:22 p.m.

JEFFREY J. COX, City Clerk

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

ORDINANCE NO. 10344

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL PARKS FUND LEVY FOR THE YEAR 2015.

The city of Duluth does ordain:

Section 1. That the sum to be raised by taxation for the year 2015 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, 2015.

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

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

Nays: Councilor Fosle -- 1

Passed December 15, 2014
Approved December 15, 2014
DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

ORDINANCE NO. 10345

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2015.

The city of Duluth does ordain:

Section 1. That the sum to be raised by taxation for the year 2015 for Duluth Transit Authority taxing district's operations is hereby determined to be the sum of \$1,391,900 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 \$1,391,900.

Section 3. That this ordinance shall take effect January 1, 2015.

Councilor Julsrud 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 December 15, 2014
Approved December 15, 2014
DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

ORDINANCE NO. 10346

**AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY
TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2015.**

The city of Duluth does ordain:

Section 1. That the sum to be raised by taxation for the year 2015 for general operations is hereby determined to be the sum of \$20,088,800 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 \$13,014,500.

Section 3. That there will be levied for the support of the street lighting fund the sum of \$220,000.

Section 4. That for the pay 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, 2015.

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

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

Nays: Councilors Fosle and Krug -- 2

Passed December 15, 2014
Approved December 15, 2014
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10347

**AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL
YEAR 2015 APPROPRIATING MONIES FOR THE SUPPORT OF
THE CITY GOVERNMENT, PUBLIC UTILITIES AND PUBLIC
ENTERPRISE FUNDS AND FOR OTHER PURPOSES.**

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 laws supplementary thereto, and for the fiscal year beginning January 1 and ending December 31, 2015, 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 probable 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 hereinafter 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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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 by 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.

Section 2. That the city auditor be authorized to approve the payments of \$3,931,100 from the gas and steam public utility funds to the general fund for administrative services; comprised of \$3,778,400 or seven percent of the gross revenues of the gas utility fund to the general fund; and \$152,700 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 numbered 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, and 505 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 2015.

GENERAL FUND		
110	Legislative and executive - total	\$2,943,800
121	Public administration - total	\$22,805,400
125	Finance - total	\$2,527,900
132	Planning and construction services -total	\$2,386,600
135	Business and economic development - total	\$611,200

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

150	Fire - total	\$14,797,200
160	Police - total	\$19,662,300
500	Public works - total	\$1,784,200
700	Transfers and other functions - total	\$10,149,400
	Total general fund	\$77,668,000
PARKS FUND		
130	Community resources	\$2,683,500
PUBLIC ENTERPRISE		
503	Golf fund - total	\$2,059,300
505	Parking fund - total	\$4,336,400
PUBLIC UTILITIES		
510	Water fund - total	\$12,071,800
520	Gas fund - total	\$46,579,200
530 & 532	Sewer and clean water fund - total	\$17,872,200
535	Stormwater fund - total	\$4,745,700
540	Steam fund - total	\$7,620,300
550	Street lighting - total	\$2,118,400
290	Street system maintenance utility - total	\$3,023,200

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 revenues 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, 2015.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2014

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

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

Nays: Councilors Fosle and Krug -- 2

ATTEST:
JEFFREY J. COX, City Clerk

Passed December 15, 2014
Approved December 15, 2014
DON NESS, Mayor

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